



OIAD-565

S9(2)(a)

Dear S9(2)(a)

Thank you for your email of 13 February 2023 to the Minister for the Environment, Hon David Parker, requesting the following under the Official Information Act 1982 (the Act):

...copies of all advice, reports and work produced by the Ministerial Advisory Board referred to in [this release](#).

This includes, but is not limited to work provided to the Minister's office and to MfE.

On 24 February 2023, your request was transferred to the Ministry for the Environment (the Ministry) for response in accordance with section 14 of the Act.

On 21 March 2023, the Ministry extended the timeframes to respond to your request by 10 working days under section 15A(1)(b) of the Act, as consultations necessary to make a decision on the request were such that a proper response could not reasonably be made within the original timeframe.

The Ministry has identified 11 documents in scope of your request, as listed in the attached document schedule. Six documents are being released to you in full.

The remaining five documents are being released to you in part, with some information withheld under the following sections of the Act:

9(2)(ba)(i) to protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information would be likely to prejudice the supply of similar information, or information from the same source, and it is in the public interest that such information should continue to be supplied.

9(2)(g)(i) to maintain the effective conduct of public affairs through the free and frank expression of opinions by or between or to Ministers of the Crown or members of an organisation or officers and employees of any public service agency or organisation in the course of their duty.

9(2)(f)(iv) to maintain the constitutional conventions for the time being which protect the confidentiality of advice tendered by Ministers of the Crown and officials.

In terms of section 9(1) of the Act, I am satisfied that, in the circumstances, the withholding of this information is not outweighed by other considerations that render it desirable to make the information available in the public interest.

You have the right to seek an investigation and review by the Office of the Ombudsman of my decision to withhold information relating to this request, in accordance with section 28(3)

of the Act. The relevant details can be found on their website at:

www.ombudsman.parliament.nz.

Please note that due to the public interest in our work the Ministry for the Environment publishes responses to requests for official information on our [OIA responses page](#) shortly after the response has been sent. If you have any queries about this, please feel free to contact our Ministerial Services team: ministerials@mfe.govt.nz.

Yours sincerely



Clare Maihi

Director – Treaty Settlements and Resource Management Reform

Released under the Official Information Act 1982

Document schedule

Document no.	Document date	Content	Decisions	OIA sections applied
1	13 July 2022	Meeting Minutes: Confirmed 13 June 2022 minutes Formal Meeting	Released in part	S9(2)(g)(i)
2	18 July 2022	Meeting Minutes: Confirmed 18 July 2022 minutes Formal Meeting	Released in full	N/A
3	15 August 2022	Meeting Minutes: Confirmed Minutes 15 August 2022 Formal Meeting	Released in full	N/A
4	19 September 2022	Meeting Minutes: Confirmed 19 September 2022 minutes Formal Meeting	Released in part	S9(2)(ba)(i)
5	3 October 2022	Meeting Minutes: Confirmed 3 October 2022 minutes Formal Meeting	Released in full	N/A
6	17 October 2022	Meeting Minutes: Confirmed 17 October 2022 minutes Formal Meeting	Released in full	N/A
7	14 November 2022	Meeting Minutes: Confirmed 14 November 2022 minutes Formal Meeting-combined	Released in full	N/A
8	12 December 2022	Meeting Minutes: Confirmed 12 December 2022 minutes Formal Meeting	Released in part	S9(2)(f)(iv)

9	9 February 2023	Technical Advice: MAB_RM reform Treaty settlement impact report SPB NBEB 2023-02-09	Released in part	S9(2)(f)(iv)
10	13 February 2023	Meeting Minutes: Confirmed Minutes 13 February 2023 Formal Meeting	Released in part	S9(2)(f)(iv)
11	24 February 2023	Technical Advice: MAB_ RM reform Treaty settlement impact report NPF 2023 02 24	Released in full	N/A

Released under the Official Information Act 1982



MEETING INFORMATION

Members	Lisa Tumahai, Chair Maui Solomon. Anaru Luke
Support	Georgia McCrory-Bowick (Business Support Coordinator) Rachel Ropiha (Senior Analyst, Ministerial Advisory board Secretariat)
Attendees	<u>Ministry for the Environment</u> Vicky Robertson, Secretary for the Environment (part meeting) Janine Smith, Deputy Secretary Natural and Built System & Climate Mitigation (part meeting) Liz Moncrieff, Director Resource Management Reform Clare Maihi, Director - Treaty Settlements and RM Reform Kate Mitchell, Team Manager Paul O'Sullivan, Senior Project Manager Paul Beverley, Buddle Findlay <u>Te Arawhiti</u> Warren Fraser – Deputy Chief Executive - Strategy and Policy Anaru Mill
Apologies	Karen Vercoe <i>Official</i> Glen Webber, Acting Chief Executive Officer, Te Arawhiti
Time and venue	Tuesday 07 June 2022, 10.00am – 2.35 pm Environment House, Kate Shepherd Place, Wellington

1. WELCOME

		Lead	Start time	Page #
1.1	Karakia	All	10:00am	-
1.2	Opening and Welcome	Vicky		
1.3	Declare any new conflicts of interest	All		

2. GENERAL

		Lead	Start time
2.1	Election of chair	Rachel	10.15
2.2	Overview of RM Reforms Presentation <i>Includes: Key framework of proposed reform. Policy direction in new resource management system Indicative timeframe and process</i>	Liz Moncrieff Kevin Guerin Anaru Mill	10.25
2.3	Terms of Reference	Anaru Mill	11.00
2.4	Treaty settlement programme of work <i>Includes: Programme structure, Timeline, Engagement leads</i>	Clare Maihi Kate Mitchell	12.00
2.5	Legislative process for upholding Treaty settlements <i>Includes: Proposed legislative approach – letter of commitment, Deed instrument and Omnibus, Discussion on timing of Treaty settlement work and reform</i>	Paul Beverley Kate Mitchell	12.30
	Lunch		1.00
2.6	Communicating the function of the Board to NICF PSGEs	Clare Maihi	1.30
2.7	Setting meeting schedule	Rachel Ropiha	1.50

3. CLOSE

		Lead	Start time	Page #
5.1	Confirmation of next meeting date	All	2:15	
5.2	Karakia	Maui	2:30	

1. Welcome

1.1 Karakia

1.2 Welcome

1.3 Declare any (new) conflicts of interest

- Nil

2. General

2.1 Election of Chair

- Lisa Tumahai (Acting Chair) until the item can be discussed with the full Board

2.2 Overview of RM Reforms | Presentation

Liz Moncrieff, Director Resource Management Reform presented an overview of the reform.

Discussion:

- The enormity of the reforms and the task ahead for the Ministry is significant, particularly noting the timeframe is tight for achieving change.
- The role of the board is to look across and advise Ministers if the Crown is following through on its intention to uphold Treaty settlements in the RM reform. To do this the board needs to have a clear view of the crown's intent, engagement process, and line of site on emerging issues.
- A recommendation to Ministers that a letter of commitment is sent (from Ministers) to each PSGE to provide that level of assurance.
- Support is required in the regions to ensure expectations are met – particularly when it comes to Local Government and Māori.
- Local Government Steering Group has been positive about the proposed changes. Main issue will be how local government are supported within the transition – including capability and capacity issues.
- Must ensure Māori capability and capacity to participate at all levels of the system.
- There will be opportunity to raise issues to Ministers regarding decisions already made as the process of drafting has not been completed - there is still room to rework this.
- Deliberate decision was made to develop policy first, and then look at how this affects Treaty settlements.
- S9(2)(g)(i)
- MfE remains open to elaborating on Treaty principles if required to ensure legislation works as intended. This could be done in the NPF.

2.3 Terms of Reference (ToR)

- The purpose of this item was to review amendments received from Board members and as a follow on from the 9 June meeting.
- Previous feedback and further amendments were discussed.
- After discussion general agreement was reached on the form of the ToR.
- The ToR was flagged to Ministers as an agenda item for the 3.00pm meeting.

2.4 Treaty settlement programme of work

Clare Maihi, Director Treaty Settlements and RM Reform and Paul O'Sullivan, Project Manager presented on the Treaty settlement programme of work.

Key points:

- Te Arawhiti and MfE are working in partnership on Treaty settlement transitions.



- The programme is overseen by a Governance Steering Group who meet monthly.
- The Steering Group consists of senior leadership from both Te Arawhiti and MfE
- It is intended that the Steering Group will have a close working relationship with the Board.
- Engagement Leads (previous Crown negotiators) are leading the engagements with PSGEs, supported by Te Arawhiti and MfE officials.

Discussion:

- Good to see the identified Crown negotiators involved to lead engagement with PSGEs
- Reiterate that the Board are not here to be responsible for upholding settlements. That this is the Crown's role but that the Board can assist with advice to the Crown in this regard
- Some engagement leads are at the point where discussions cannot move forward until critical decisions are made.
- There is an across government board of Chief Executives (the SPR Board). This governance board has ultimate accountability for the delivery of the reform. The Board has reached out, wanting to build a relationship between itself and the (Ministerial Advisory) Board.

2.5 Legislative process for upholding Treaty settlements

Presentation by Kate Mitchell and Paul Beverley

Discussion:

- Engagement via the Treaty settlement programme of work has included initial meeting, letters, and phone calls.
- Point made to not try to collectivise iwi into groups unless it is asked for during engagement process.
- Note to deliver comms which ensure that iwi know where and to what level to be seeking engagement.
- Proposals for amendments will be very discreet, to be discussed between Crown and PSGE's.
- No formal agreement yet on timeframes for NBA or SPA select committee meetings.
- An Omnibus Bill is considered the most efficient method to transition Treaty settlements and Bills to the new system.
- Implementation period is critical – relationships built are important here – need training and development of all involved within this period if reform is to succeed.
- Some local councils have zero regard for RMA in relation to Treaty obligations. Would be good to have some incentive for local councils to meet these obligations. The reforms will indicate that this responsibility sits with decision makers at all levels.

2.6 Communicating the function of the Board to NICF and PSGEs

- Discussion around communicating the MAB outputs to the National Iwi Chairs Forum. The next meeting is August (and are held quarterly).
- Comms to PSGE's is MfE's responsibility, not the panels.

2.7 Setting meeting schedule

- The following meeting schedule was approved, with meetings being held virtually unless otherwise agreed.

July - Monday 18th at 1pm

August - Monday 15 at 1pm

September – Monday 19 at 1pm

October – Monday 17 at 1pm

November – Monday 14 at 1pm

December – Monday 19 at 1pm

3. Close

3.1 Confirmation of next meeting date – Monday 18 July

3.2 Karakia

Action Points

#	Description	Raised	Responsible	End date	Status
1	Terms of Reference to be updated at the June 13 Meeting to reflect discussion.	09/06/22			Open
2	Agenda to be sent to Board prior to Monday 13th Meeting	09/06/22	Rachel	13/06/2022	Closed
3	<p>Include information on:</p> <ul style="list-style-type: none"> — Overview of Treaty settlement programme of work — Overview of Reform including policy and functional changes 	09/06/22	Treaty settlements	13/06/2022	ongoing
4	MfE to draft an effective Comms strategy on the role of the panel in upholding Treaty settlements on RM reform	13/06/22	MfE officials		
5	MfE to send link to the <i>New Directions for Resource Management (Randerson Report)</i>	13/06/2022	Georgia		
6	<p>Provide sessions and more detail on:</p> <ul style="list-style-type: none"> • Māori in the system • Governance and plan making 	13/06/2022	Rachel		Open
7	Development of a communications strategy	13/06/2022	Kerry/TST		Open
8	Send out forward meeting schedule invites	13/06/2022	Rachel		Open
9	Arrange mtg in latter end of week 20 June to elect Chair	13/06/2022	Rachel		Closed



MEETING INFORMATION		
MEMBERS	Lisa Tumahai - Chair	Karen Vercoe (MNZM)
	Anaru Luke	
SUPPORT	Rachel Ropiha, Senior Analyst / Secretariat Maggie Trapp, Business Support Coordinator	
ATTENDEES	Vicky Robertson – Secretary for the Environment (part mtg) Janine Smith – Deputy Secretary Natural and Built System and Climate Mitigation (part mtg) Clare Maihi – Director Treaty Settlements and RM Reform Keita Kohere – Director RM te ao Māori Policy (part mtg) Kate Mitchell – Manager Treaty Settlements and RM Reform Isabella Wilson – Policy Analyst (part mtg) Michal Akurangi – Senior Policy Analyst (part mtg) Sarah King - Manager Allocations (part mtg) Niki Lomax Principal Advisor (part mtg) Glenn Webber – Tumu Whakarae, Te Arawhiti (part mtg) Warren Fraser – Deputy Chief Executive – Strategy and Policy, Te Arawhiti Anaru Mill – Te Arawhiti	
TIME & VENUE	Monday 18 July, 1.00pm – 5.00pm, Teams (virtual meetings)	

1.	OPENING	Lead	Start time
1.1	Karakia		1.00pm
1.2	Opening and welcome	Chair	
1.3	Apologies	Chair	
1.4	Declare any (new) conflicts of interest – verbal	Chair	
1.5	Verbal update Secretary for the Environment	Vicky	1.10pm
1.6	Previous minutes – document	Rachel	1.20pm
1.7	Administration – verbal update	Rachel	1.35pm

2.	GENERAL	Lead	Start time
2.1	Report from Steering Group – document	Janine	1.45pm
2.2	Māori in the system	Keita	2.00pm
2.3	Legislative and timeframes updates – document (timeline)	Kate	2.25pm
2.4	Update Treaty Settlements programme of work – verbal	Clare	2.45pm
2.5	Governance and Decision-Making in the new resource management system	Sarah King/Niki Lomax	3.00pm
	Break		3.45pm
2.6	Update: Wai2358 and the reforms - verbal	Isabella/Kate	3.55pm
2.7	BRF-1714 RM Reform 187 – Upholding statutory acknowledgements and Treaty Settlement Joint Entities in the new resource management system	Kate	4.05pm
2.8	Other business		4.35pm
	Karakia		5.00pm

1. OPENING

1.1 Karakia

1.2 Welcome

1.3 Apologies

Maui Solomon

Officials: Paul O'Sullivan, Project Manager MfE and Paul Beverley, Buddle Findlay

1.4 Declare any (new) conflicts of interest

- Lisa Tumahai noted that Ngāi Tahu (and others) are a party to WAI2358 but considers this does not preclude her from discussion about ITEM 2.6 as she is not on the board to represent her iwi.

1.5 Update: Secretary for the Environment

The following matters were presented by the Secretary for the Environment, Vicky Robertson:

- Engagement programme moving forward until the select committee phase
- WAI2358 – evidence being filed today
- Looking at opportunities to build trust and confidence (in the upholding of Treaty settlements) and exploring ways to achieve this, such as tags/hooks in the primary legislation (SPA/NBA)

Key Discussion points

- Hesitancy and loss of trust and confidence due to protracted process thus far
- Need to ensure messaging to PSGEs is clear, timely and relevant
- How do we build on the pool of engagement leads and their relationships
- WAI2358 application by NZMC encroaches on existing settlement rights
- We need to ensure the level of engagement across PSGEs is fair and equitable, this is particularly relevant for smaller iwi (referring to funding and engagement)
- Need to have the Terms of Reference signed off by Ministers and preparation of a comms approach

Action	Assigned
Development of a communications approach for the Boards use, including key messages / FAQ – required for August quarterly meeting of NICF	Kerry Thomas Rachel Ropiha
Contact Minister Parker's office to check on the progress of agreeing the amended Terms of Reference	Janine Smith Rachel Ropiha

1.6 Confirmation of previous minutes

Minutes agreed by consensus

- 9 June Karen, Anaru and Lisa
- 13 June Lisa and Anaru - *noting Karen was an apology for this meeting*
- 21 June Karen, Lisa and Anaru

1.7 Administration

- Action sheet reviewed (TOR and Comms covered under ITEM 1.5)

2. General

2.1 Report from the Steering Group

Presented by Janine Smith

- Overall status of the programme is based on engagement progress with PSGEs

- Current health of the project is sitting at red – due in part to timeliness of information release to PSGEs and some PSGEs not wanting to engage in the process at this point in time
- To help re-establish trust in the process, we are considering mechanisms to uphold settlements such as Letters of commitment (LOC) and (we are also considering) what (if anything) what could be placed in the Reform legislation when they are introduced to help with confidence in the process
- As part of this we would like to test the LOC - narrative and mechanisms - with you
- Also need to ensure sufficient resourcing is available to enable engagement – this includes how we support PSGEs to engage (such as considering technical support, commissioning of advice)

Key discussion points

- There is a need to communicate to the Minister issues being raised to ensure timeliness of information and process
- Has a desktop exercise been done to analyse current arrangements in the RMA system and overlay them over the new system to see how these will carry through? (If yes, the Board would like to see copies)
- We also need to consider how settlement has advanced beyond what is written in legislation – PSGEs do not want to lose this traction
- In regard to the resource scarcity has thought been given to the role of the iwi technicians moving forward and whether they could assist this programme of work, particularly providing independent advice to PSGEs
- (regarding queries around Te Ohu Kaimoana) Work on aquaculture in the new system is being led by MPI, supported by MfE, with provisions relating to allocation and authorisations being led by MfE.
- Work on upholding Takutai moana rights is being led by Te Arawhiti supported by MfE)
- In regard to the PSGE engagement report, it would be good to get some further information to help us understand the escalation values, what is causing the red scenario
- Additional risks identified were, cross iwi boundaries, local government boundaries not aligning with iwi boundaries and at place council and/or people issues

Action	Assigned
Consider the use of technical support (eg ILG) to provide independent advice to PSGEs	Clare Maihi Lisa Tumahai
Request for two engagement leads to speak at the next meeting	Rachel Ropiha
Provision of information <ul style="list-style-type: none"> • Summary of Takutai Moana and Aquaculture decisions • Analysis tables 	Rachel Ropiha
More detail in the engagement tracker explaining the red status coding	Project group
Assess additional Risks to be added to the risk register	Project group

2.2 Māori in the System

Presented by Keita Kohere

- The 'who' is the system is what we would like your feedback on
- We note the capacity and capability issues being faced by iwi/Māori and local government
- Noted the model project would help work through some of the issues we face and that are being articulated

Key discussion points

- Board members expressed concern with the current approach to the role of Māori in the system and that partnership should involve Māori designing the system



- The current policy approach will cause tension between iwi; and between hapū/iwi and PSGEs
- There is a risk to the Board if they are not seen to be having a hand in policy design as this will impact Treaty settlements

BREAK: secretarial note: order of agenda was rearranged as follows

2.5 Governance and Decision-Making in the new resource management system

2.3 Legislative and timeframes updates

2.4 Update Treaty settlement programme of work

2.7 BRF-1714 RM Reform 187 – Upholding statutory acknowledgements and Treaty Settlement Joint Entities in the new resource management system

2.8 Other business (including WAI2358)

2.5 Governance and decision-making in the new resource management system

Presented by Sarah King and Niki Lomax

- New governance arrangements will see three big shifts in the future system
 - i. Plan making will be undertaken at a regional level rather than by individual councils
 - ii. Decision-making on plans and strategies would be done jointly between local authorities and Māori
 - iii. Central government will be involved in decision-making for Regional Spatial Strategies
- Governance arrangements will mould these together using a framework that recognises different regional processes – with the legislation having flexibility to allow for regional differences
- Joint Committee(s) (now referred to as Regional Planning Committees) will employ a Director, who in turn, will employ a secretariat to service the strategy and plan development

Key discussion points

- Board considers the new direction to be reflective of the status quo where the power resides with local government
- The membership ratio is problematic and does not reflect a Tiriti based relationship
- We need to consider this new framework and how Treaty settlements will interact with this decision-making model
- The proposed model will again cause tension between iwi Māori and PSGEs and with Councils
- Query: did government give thought to the secretariat being hosted by an iwi

2.3 Legislative and timeframe updates

Presented by Kate Mitchell

- Update on indicative timeframes scenarios for the RM Reforms and Omnibus
- Through transition care is needed so that we don't inadvertently impact Treaty settlements
- A briefing on options for addressing some of the transition lag has gone to Ministers for consideration
- NEXT STEPS
 - Wait for Ministerial decisions
 - Communicating decisions to PSGEs and Ngā Hapū o Ngāti Porou
 - Provide further information on how commencement will work (for Ministers)
 - Consider how to proceed if agreement is not reach (with PSGEs) by backup date

Key discussion points:

- The Board would like more time to digest this information and implications for this work programme
- More information and in the context of the system and what the implications are – plus time - will be needed in order to formulate any good advice

Item 2.3 continued

Action	Assigned
Further information and clarity around ITEM 2.3 Legislative and Timeframe updates	Kate Mitchell
Provide briefing on Legislative Options to Board members	Rachel Ropiha

2.4 Update: Treaty settlement programme of work

Presentation by Clare Maihi

- Process letters will be sent to PSGEs by mid-week updating them on the progress and identifying next steps / stages moving forward
- It has been challenging getting decisions through Ministers and getting sign off on policy which has delayed the delivery of these letters to PSGEs
- Currently working on a Briefing about the outcome of discussions with PSGEs about representation on Joint Committees (JC) – in particular – advice on direct appointments on to JCs in some instances
- The Briefing will also contain advice on existing arrangements such as Joint Management Agreements (outside of settlement) and Mana Whakahono a Rohe Arrangements
- Ongoing work looking at consequential amendments that might be needed for Treaty settlements
- PSGEs have sought clarification on how references to the RMA in their settlements will be addressed
- *(in response) there is a project where we are searching settlement legislation for any reference to the RMA and considering what that will now look like in the new system*

Action	Assigned
Briefing on governance appointments, JMAs and MWR to be circulated to the Board for review	Rachel Ropiha
Investigate a secure portal for receiving documents with external access	Ngawai Terry

2.7 BRF-1714 RM Reform 187 – Upholding statutory acknowledgements and Treaty Settlement Joint Entities in the new resource management system

Presented by Michal Akurangi

- This paper has been sent to Ministers and we are awaiting decisions
- The recommendations sought confirmation on how Statutory Acknowledgements will be upheld in the new system and policy direction on Treaty settlement joint committees to enable greater discussion with PSGEs
- At this stage we have not had discussions with PSGEs on these matters

Key discussion point

- If we are looking at a shift and this requires additional work by PSGEs is there an opportunity to revisit funding and resourcing – particularly as there looks to be more complexity

2.8 Other business

- There was no further business and ITEM 2.6 was covered in the Update from Secretary for the Environment.

3. Close

3.1 Confirmation of next meeting date – Monday 15 August 1 – 5pm via Teams

3.2 Karakia



MEETING INFORMATION		
MEMBERS	Lisa Tumahai - Chair	Karen Vercoe (MNZM)
	Anaru Luke	Maui Solomon
SUPPORT	Rachel Ropiha, Senior Analyst / Secretariat Maggie Trapp, Business Support Coordinator	
ATTENDEES	Vicky Robertson – Secretary for the Environment (part mtg) Janine Smith – Deputy Secretary Natural and Built System and Climate Mitigation (part mtg) Clare Maihi – Director Treaty Settlements and RM Reform (part mtg) Kate Mitchell – Manager Treaty Settlements and RM Reform Paul O’Sullivan – Senior Project Manager (part mtg) Ngawai Terry – Senior Analyst (part mtg) Isabella Wilson – Policy Analyst (part mtg) Paul Beverley – Buddle Findlay (part mtg) Daran Ponter – Regional Engagement Lead (Upholding Treaty Settlements) Ben Bunting – Principal Analyst (Model Project) (part mtg) Glenn Webber – Tumu Whakarae, Te Arawhiti (part mtg) Warren Fraser – Deputy Chief Executive – Strategy and Policy, Te Arawhiti (part mtg) Anaru Mill – Te Arawhiti	
TIME & VENUE	Monday 15 August, 1.07pm – 5.00pm, Teams (virtual meetings)	

1.	OPENING	Lead	Start time
1.1	Karakia		1.07pm
1.2	Opening and welcome	Chair	
1.3	Apologies	Chair	
1.4	Declare any (new) conflicts of interest – verbal	Chair	
1.5	Previous minutes – document	Rachel	
1.6	Record of Actions – paper	Rachel	

2.	GENERAL	Lead	Start time
2.1	Report from Chair – update on meeting with Minister and actions - verbal	Chair	1.30pm
2.2	Report from Steering Group – paper	Janine	1.45pm
2.3	Update: Treaty Settlements and RM Reform programme of work - verbal	Clare	2.00pm
2.4	Further support for Post Settlement Governance Entities - paper	Paul/Ngawai	2.15pm
2.5	Treaty settlements and delayed commencement - paper	Kate	2.25pm
2.6	Model Project - paper	Ben Bunting	3.25pm
2.7	Engagement Leads – open discussion	Daran Ponter Paul Beverley	4.10pm
2.8	General Business – open discussion	Kate	4.30pm
	Karakia		5.00pm

1. OPENING

1.1 Karakia

1.2 Welcome

1.3 Apologies

Maui Solomon for lateness

1.4 Declare any (new) conflicts of interest

- Nil (Lisa Tumahai and Karen Vercoe).

1.5 Confirmation of previous minutes

Minutes of the previous meeting were receipted.

Refer: ITEM 2.3 (from the minutes)

Query: Did the government give thought to the secretariat being hosted by an iwi organisation

This was a recommendation from the last meeting, has there been any follow up to this?

- To be added to the record of actions
- Response to be provided as soon as possible
- Response during the meeting was that the secretariat does not have a role for Māori, rather it stipulates that specific skills are required such as - te ao Māori and mātauranga Māori – and therefore there hasn't been consideration of an iwi or collective of iwi housing the secretariat function

Action	Assigned
<p>Recommendation: That the Government consider whether or not the secretariat function could be housed within an iwi organisation.</p> <p>Response required as soon as possible.</p>	Rachel

1.6 Record of Actions

Receipted and updated.

- Rachel to circulate link the panel report "New Direction for Resource Management in New Zealand".

2. General

2.1 Report from the Chair

Meeting with the Minister

Overall a good meeting. It was an opportunity to build the relationship between the Ministerial Advisory Board and the Minister(s). Agreed outcomes of note were:

- Regular monthly meetings will be scheduled (action for Minister's Office)
- Access to independent technical advice for the Board to assist with drafting of directions of which we have considered - Whaia Legal
- Sharing of the Ministers speeches to review narrative and language
- Secretariat support on the day to capture a record of the meeting, particularly actions

NICF August quarterly hui

- There remain a number of concerns which were debated with Ministers at the hui, about the ability of the Crown to uphold Treaty settlements. In particular:



- There is an assumption that there will be Treaty and Treaty settlement breaches – this is leading to the disquiet and reports of legal action being considered
- This assumption is being fuelled by a void of information which is being filled by speculation
- In general, there is a loss of trust and confidence that the Crown will adhere to Treaty settlements
- The Minister had a lot of good information and that needs to be shared more widely and more often to dispel fears and for the avoidance of speculation
- So what is next? – an action from NICF hui and the letter from NICF to Minister Parker - a leader to leader meeting is being arranged (tentative date - week of 29 August)
 - Vicky queried ‘what role does the Ministerial Advisory Board play in this’
 - It was noted by Karen, that the Board can assist in facilitating this process
 - Three outstanding issues – how do we resolve or agree a process on, Māori rights and interests freshwater (MR&I), Treaty settlements and allocation.
 - To inform the meeting, some background work will happen before it (a working group of officials from both NICF and MfE)
- At the moment, iwi aren’t confident in the process and question how the new legislation can be introduced when MR&I, allocation and Treaty settlements remain unresolved
- These matters affect the Regional Planning Committee composition and therefore these decisions may need to be revisited
- It would be good to understand MfE officials core concerns around MR&I
- To inform and provide some assurance, an accord might be a way forward

Action	Assigned
Provide formal meeting dates to Minister Parkers office	Rachel
Advise Ministers office the need for the secretariat support to attend future Minister/Board meetings to ensure a record of the meeting is captured	Rachel

2.2 Report from Steering Group

Presented by Janine Smith

- The programme status is still operating at red this is due in part to the progress of engagement
- We are working to ensure that PSGEs have that trust and confidence in the process – with a lot of work happening across this space
- Working through the Regional Engagement Leads to work with PSGEs with a view of reaching general agreement around the process (for upholding Treaty settlements) which will inform the letters of commitment
- Whilst not everything can occur before enactment, there are a number of ways to ensure Treaty settlements are upheld through the various phases – e.g. letters of commitment, delayed commencement, reassurance clause

Key discussion points:

- Janine asked if the process outlined in regard to how we uphold Treaty settlements in the new system – letters of commitment, delayed commencement and specific clauses – will get us to a point of iwi having some confidence that Treaty settlements will be upheld (in the new system)
- These are all good, but no one knows this is happening because of the communication void
- Communication remains a concern – messaging and delivery – it is better to over communicate rather than under communicate otherwise is drives mis-communication

- MfE currently working on what Minister has shared and what can be shared to fill that vacuum – both for PSGE and wider iwi Māori engagement
- Noted that the leader-to-leader meeting (tentatively to occur the week of 29 August) is also an opportunity to help build that trust and confidence in the process being followed

Action	Assigned
An information pack to be developed which shows the full picture and scope of the work being undertaken to ensure Treaty settlements are upheld.	Treaty settlements / Engagement Team

2.3 Update: Treaty settlement and RM Reform programme of work

Presented by Clare Maihi

- Reaffirmed progress outlined in the Steering Group report as the overview of this work programme
- Key things we are traversing are:
 - We now have firm decisions on how statutory acknowledgements will be upheld in the new system, with analysis tables updated and sent to PSGEs (either have or in process)
 - Agreement from Ministers on delayed commencement with a further briefing requested
 - Completed a briefing to Ministers on existing arrangements under the RMA which are outside settlements - Mana Whakahono a Rohe, Joint Management Agreements, Transfer of Power – as these need to be considered in the context of how to ensure these agreements are upheld in the new system
- Query: how are briefings developed – deferred to Item 2.5
- Noted: that the Regional Engagement Leads will provide some context as to the current engagement with PSGEs on the latest decisions and issues and/or themes

Secretarial note: Item 2.5 was brought forward to allow for inclusion of discussion with Paul Beverley as he has another meeting clash for an hour

2.5 Treaty settlements and delayed commencement

Presented by Kate Mitchell

- NB: an explanation was provided on the process of getting approval for a Briefing Note drafted
- We are working very hard pre-introduction and post-introduction to get as many agreements as possible with PSGEs so we can proceed with signing the binding documents which should provide confidence
- Delayed commencement (a 2-year period) to ensure that if a PSGE does not agree to the amendments to their Treaty settlements then this clause will make sure that they are not disadvantaged under the new system even if mutual agreement has not been reached. (Further protected clause)
- Concerns that the delayed commencement will hold up the Model Region Project

Key discussion points:

- Concerns about the process being one sided and need to have open engagement
- Noted that PSGEs have said to MfE, show us how you intend to uphold Treaty settlements, bring this back to us to discuss
- The Crown is committed to upholding settlements and we have heard PSGEs call for us to develop options for how we intend to uphold Treaty settlements, and we are about to engage on these options now
- Noted that this is the narrative that needs to be used – we heard you and we are open to discussion
- Having heard the presentation, we appreciate there is a lot of work being done
- This will go a long way to alleviating concerns by iwi / PSGEs (upholding of Treaty settlements), however do we think the timeframe of two years is realistic, processes like this take some time to traverse particularly given the resource scarcity
- Question from Vicky: does this (various stages and options) address issues of concern raised in the letter from NICF on Treaty settlements – including the need for bespoke arrangements where needed

Action	Assigned
Updated powerpoint to be sent to attendees	Rachel

Secretarial note: return to the open agenda item 2.4

2.4 Further support for Post Settlement Governance Entities

Presentation by Paul O'Sullivan

- Further to discussion at the last meeting, we are looking at options for additional resource to support this programme of work, in particular, supporting PSGEs
- Have developed some criteria to be used to inform a paper to Ministers seeking further resource

Key discussion points:

- Need to ensure consistency and equitable funding of PSGEs
- This might drive a review of the complex, medium, low rating used to determine funding for initial engagement as:
 - larger iwi tend to have more technical resource inhouse to respond
 - settlements are equal therefore funding should be equitable
 - smaller iwi need financial and human resource to more fully participate
 - should be based on capacity / resourcing available to respond, but at the same time larger well-resourced iwi should not be disadvantaged
 - consider what the Crown is spending to resource itself – and look for parity?
 - the cost to hold hui to engage/consultation with beneficiaries to ratify changes needs to be included

2.6 Model Project

Presented by Ben Bunting

- Concept of a Model Project was a recommendation from the panel review
- Focus is about supporting the first regions and working with them to develop first generation Regional Spatial Strategies and Natural and Built Environments Plans – then sharing the experience and findings with other regions as they look to implement the new system (shared learning approach)
- A tranche approach to implementing the reforms will see a selection of regions go first (followed by the next tranche of regions etc) – the first tranche will be the Model Regions
- Development of criteria to help with region selection – has seen a short list of three – Tairāwhiti, Hawkes Bay and Greater Wellington

Key discussion points:

- Who will run the region selection process
 - We have been working with FILG on this, who helped develop the criteria for selection
- Concern again around the language used – Māori organisations – also about timing when there is still a lot to resolved in regard to enactment and upholding Treaty settlements
- Noted that this project could be another building block to building trust and confidence

Action	Assigned
Need to consider this in an overall pack of information for NICF, iwi and PSGEs	Treaty settlements project group

2.7 Engagement Leads

Daran Ponter, Regional Engagement Lead

- He has five settlement arrangements he is engaging on, one being a regional redress mechanism

- Provided an overview of hurdles such as seeking and waiting for decisions to engage on and competing interest of time for PSGEs – three waters etc.
- Earlier settlements with statutory acknowledgements are easier to engage on however, newer settlements that include functions pertaining to natural redress require a different conversation and will likely require a tailored approach to addressing how to uphold the settlement arrangement
- Because of this, it's not a straightforward approach to engagement, it is very much 'case by case'
- Understand the sentiment that Treaty settlements were meant to be full and final and now we have change (in reference to other legislative changes that impact Treaty settlements)

Key discussion points:

- Good to hear about the work on the ground
- It would be good to get a list of sensitive areas for us as a Board to better understand issues
- Concern still about decisions that will be made at place (in the new system) that will mean Treaty settlements won't upheld
- Need to have some options in place to mitigate possible legal challenge, perhaps scenario planning and mitigating planning is something that should be considered
- Has there been any updates on the Governance options presented by Keita Kohere at the last meeting

Action	Assigned
The role of Māori in the new system to be recirculated to Board members – including any updates to what was presented at the last meeting	Rachel

2.8 Other business

- There was no further business

3. Close

3.1 Confirmation of next meeting date – Monday 19 September, 1 – 5pm via Teams

3.2 Karakia



MEETING INFORMATION		
MEMBERS	Lisa Tumahai - Chair	Karen Vercoe (MNZM)
	Anaru Luke	Maui Solomon
SUPPORT	Rachel Ropiha, Senior Analyst Maggie Trapp, Business Support Coordinator	
ATTENDEES	Nadeine Dommissie – Acting Secretary for the Environment (part mtg) Clare Maihi – Director Treaty Settlements and RM Reform Kate Mitchell – Manager Treaty Settlements and RM Reform Paul O’Sullivan – Senior Project Manager Isabella Wilson – Policy Analyst Dianna Easton – Project Coordinator Treaty Settlements Paul Beverley – Buddle Findlay Warren Fraser – Deputy Chief Executive – Strategy and Policy, Te Arawhiti Anaru Mill – Te Arawhiti	
TIME & VENUE	Monday 19 September, 4.07pm – 5.15pm, Teams (MAB members @5.37)	

1.	OPENING	Lead	Start time
1.1	Karakia		4.07pm
1.2	Opening and welcome	Chair	
1.3	Apologies	Chair	
1.4	Declare any (new) conflicts of interest – verbal	Chair	
1.5	Previous minutes – document	Rachel	
1.6	Record of Actions – paper	Rachel	

2.	GENERAL	Lead	Start time
2.1	Report from Chair – update on meeting with Minister and actions - verbal	Chair	4.15pm
2.2	Report from Steering Group – paper	Janine	4.20pm
2.3	Update: Treaty Settlements and RM Reform programme of work – verbal - Update on legislative provisions with respect to upholding TS	Paul/Clare	4.30pm
	Karakia		5.00pm

1. OPENING

1.1 Karakia

1.2 Welcome

1.3 Apologies

Nadeine Dommissie – Acting Secretary for the Environment (will arrive late)
Vicky Robertson, Secretary for the Environment
Glenn Webber – Tumu Whakarae, Te Arawhiti

1.4 Declare any (new) conflicts of interest

Maui Solomon:

- Acting as technical advisor Te Kahu Aronui
- Member of Ngā Toki Whakarurunga

1.5 Confirmation of previous minutes

A. Minutes of the previous meeting, 15 August 2022 were received

Action: Consideration that the Secretariat be housed by an iwi authority (# 20 record of actions)

- A number of options for where the secretariat would sit within the new system were considered during policy development, including, housing this function within an iwi organisation. However, given issues based around the functional relationship with and responsibilities to, the host council, officials advised and Ministers agreed that this function should sit within a host council

Discussion:

- How are Māori appointed to the secretariat and how is their participation funded
- How will Māori be supported in their roles in the secretariat
- Need to ensure these roles (Māori secretariat roles) have independence from local government
- How will existing environmental management plans be impacted
- These matters, and where the secretariat sits, need to be communicated to iwi to provide them with an understanding of what planning and resourcing looks like
- The delayed implementation (two years), how will this assist PSGEs

Noted:

- Secretariat members will effectively be employees of the host council therefore secretariat members will not be 'appointed'
- Initial policy proposal did not stipulate that there must be Māori seats within the secretariat, rather, direction notes the need for skills in the areas of mātauranga Māori and Te Ao Māori
- Decision on funding Māori in the new system are still to be made, however, it is intended that the secretariat will be funded by local government
- Environmental management plan provisions will carry through to the new legislation but with a higher weighting
- Delayed commencement will be discussed in item 2.3

Action	Assigned
Provide further information around funding Māori in the new system	Rachel

B. Meeting notes of the Minister / Board meeting, 31 August 2022, were received

Update on actions:

- The Ministers speech was postponed, and a new date has yet to be scheduled
- It was noted that due to this further postponement and given time constraints, unfortunately, there is unlikely to be any leeway for providing advice on an appropriate date or venue
- Board to provide input to speech once a new date is confirmed

Noted:

- MAB raised concerns that this is the second time the speech has been postponed

Action	Assigned
Request an update on the proposed date of the Ministers speech	Rachel

Secretary note: Nadeine Domnisse joined the meeting at 4.20pm (part way through this item)

1.6 Record of Actions

Discussed with the receipt of minutes

2. General

2.1 Report from the Chair

Meeting with the Minister

- Lisa recapped discussion from the meeting
- See actions under item 1.5 B above

2.2 Report from Steering Group

Presented by Clare Maihi

- The programme status remains at red level
- Significant work since the last meeting on strengthening provisions and processes to provide PSGEs greater comfort around upholding settlements
- Ministry for the Environment (MfE) have made a number of new appointments and growing internal capacity to ensure we are resourced to service this programme of work
- Working on securing funding for PSGEs to engage in this process
- Engaging with National Iwi Leaders (NICF) and Freshwater Iwi Leaders Group (FILG) has resulted in changes to several project health indicators

Key discussion points:

- What is the progress of bullet point 3 (*key messages - Concerns raised by S9(2)(ba)(i) around the need to see drafting of SPA and NBA – following up with legal to see what can be shared*)
- S9(2) technicians have advised that the draft bills will be shared – sharing of information is lacking and communication of changes is concerning
- MAB need to be informed on what has been discussed with NICF and Ministers and what commitments are made (by the Minister) to NICF/FILG
- Reminder that the Board are here to support the Minister in his endeavours with NICF so MAB need to have access to the same information being shared with NICF/FILG

Noted:

- The current funding being sought is a second tranche (initial funding has already been provided)

- There is a reluctance to share the Bills but there is acceptance that we need to share parts that are specific to Treaty settlements with PSGEs however we need to go through a formal waiver process
- Sharing the draft Bills extends to NICF only at this stage (via two named persons under strict confidence)

Action	Assigned
Request clarity on what commitments the Minister made and agreed at the meeting with NICF around sharing drafting	Rachel
Check waiver to include a request to share drafting with MAB	Kate

2.3 Update: Treaty settlement and RM Reform programme of work

Presented by Paul Beverley and Clare Maihi

- A lot of work be undertaken by technicians/officials as a result of issues raised by NICF after the August quarterly meeting and subsequent meetings between NICF and Minister – with good progress
- Have reached a positive position on Treaty settlement work with a further NICF hui scheduled for 6 October
- Work sought to bolster protections for Treaty settlements with recommendations that commitments be included in the legislation, including such measures as; assurance clause, process to reach agreements and monitoring, review and reporting
- Also includes a mechanism for delayed commencement – allied with this is protection in the SPA and NBA
- Key part is that regional planning committees will only commence under joint recommendation from Minister of Māori Crown Relations and the Minister for the Environment
- Proposed protection clause - Treaty settlements must be upheld in the new system as applied in the RMA

Key discussion points:

- It is very difficult to provide advice on whether the measures will provide confidence and trust to PSGEs when we are only hearing this via officials
- We are only seeing part of the picture so need to see drafting and information so we can make informed assessments on processes
- What if PSGEs can't agree as this is a potential issue as the fall back is a default state with councils
- Concerning to hear 'as far as possible' for protection clause as this leaves it to local government and planning committees to 'uphold' at their discretion where historically interpretation has been narrow
- Is there quality and consistency of information (and engagement) about processes and options with PSGEs
- MfE needs to provide messages to PSGEs and keep them abreast of decisions to ensure trust and confidence (in decisions)
- Providing NICF with drafting and greater information will find its way to PSGEs not affiliated to NICF and they will wonder why they are not privy to the same information
- What is the progress for the provision of technical support for MAB (as discussed with the Minister) as we will need this to engage independent advice on the draft legislation (funding)
- MAB also need MfE to provide the Board (at the same time) what is being provided to FILG, in particular, we want to be provided with what you are providing FILG on 6 October at our 3 October meeting
- Acknowledge the amount of work that the team has done given the share size of this work programme

Noted:

- MfE acknowledges MAB concerns that we haven't been able to share drafting with you



- The ‘as far as possible’ takes into account those functions in the RMA that won’t exist as applicable mechanisms in the new system - eg references to regional policy statements - but the RSS and NBA plans must give the same weighting and effect
- MfE were in a unique situation where we needed to move ahead to ensure inclusion of some elements/mechanisms in the drafting of the new legislation – for example statutory acknowledgements
- The process ahead, MfE need to consider how we channel decisions up to Ministers in a short time in an efficient and effective way and would like to test this with you before sending to PSGEs
- With regards to technical support for the Board, officials are still waiting on a request for funding

Action	Assigned
Check provision for technical advice for MAB	Paul O

3. Close

Meeting closed at 5.15pm

3.1 Confirmation of next meeting date – Monday 03 October, 4 – 5pm via Teams

3.2 Karakia

Released under the Official Information Act 1982



MEETING INFORMATION		
MEMBERS	Lisa Tumahai – Chair	Karen Vercoe (MNZM)
	Anaru Luke	Maui Solomon
SUPPORT	Rachel Ropiha – Senior Analyst / Secretariat Dianna Easton – Project Coordinator / Business Support Coordinator	
ATTENDEES	Vicky Robertson – Secretary for the Environment Kate Mitchell – Manager Treaty Settlements and RM Reform Sam Ritchie – Manager Treaty Settlements and RM Reform Paul O’Sullivan – Senior Project Manager Isabella Wilson – Policy Analyst Paul Beverley – Buddle Findlay Anaru Mill – Te Arawhiti	
TIME & VENUE	Monday 03 October, 4.00pm – 5.00pm, Teams	

1.	OPENING	Lead	Start time
1.1	Karakia		4.00pm
1.2	Opening and welcome	Chair	
1.3	Apologies	Chair	
1.4	Declare any (new) conflicts of interest – verbal	Chair	
1.5	Previous minutes – document	Rachel	
1.6	Record of Actions – paper	Rachel	

2.	GENERAL	Lead	Start time
2.1	Update: Treaty Settlements programme of work • Draft legislation and Treaty settlement provisions		4.15pm
2.2	Any other items		4.40pm
2.3	Karakia		5.00pm

1. OPENING

1.1 Karakia

1.2 Welcome

1.3 Apologies

Anaru Luke, Maui Solomon and Karen Vercoe
Clare Maihi, Director Treaty Settlements and RM Reform

1.4 Declare any (new) conflicts of interest

Item 1.4 carried over until the next formal meeting, 17 October 2022

1.5 Confirmation of previous minutes

Item 1.5 carried over until the next formal meeting, 17 October 2022

1.6 Record of Actions

Item 1.6 carried over until the next formal meeting, 17 October 2022

2. General

2.1 Update: Treaty Settlements programme of work

- **draft legislation and Treaty settlement provisions**

Summary information | Upholding takutai moana rights and commercial aquaculture settlement commitments in the new resource management system

- Happy with the paper and information – and the reference group that was established
- Can MfE please confirm if the Reference Group [ref para 5] were happy with the final outcome

Action	Assigned
Te Arawhiti to check if the reference group reviewed and agreed the final recommendations	Te Arawhiti

Draft legislation and Treaty settlement provisions

Chair

- Chair thanked officials for sending through the draft legislation on Friday
- Noted the legislation did not have all provisions contained in it at this point in time
- For the Board to be effective, members need to receive drafting before, or at the least at the same time as, National Iwi Chairs Forum (NICF) and its advisors, Freshwater Iwi Leaders Group (FILG)
- Also noted that in order to be better positioned to assist the process and alleviate concerns where they can with NICF, they need to be forewarned or provided with information at the same time
- The Chair noted she had received a call from Minister Allan advising they would be receiving drafting soon
- Need to look at holding another meeting this week for 30 minutes to discuss next iteration of the Bills

Noted

- The general approach that was provided to the last Board meeting [19 September] on how Treaty settlements will be upheld has been carried through, and you should see that reflected in the next iteration you receive

Technical Advice

- The Chair noted the Board had confirmed Tom Bennion (Principal, Bennion Law) as the independent technical advisor for the Board
- The MAB sought confirmation of the process moving forward to formalise this arrangement

Noted

- No formal process, however it was noted there isn't any funding provision for this at present
- Need to assess time and role (assume it's advising on provisions) in order to fully consider this action

Action	Assigned
Next iteration to be sent to Karen and Lisa (once received)	Rachel
Contact Maui and Anaru – re confidentiality agreements (sending draft legislation once received)	Rachel
Email to Board members for new meeting date this week	Rachel
Contact Maui with a view to drafting parameters for technical advice	Rachel

2.3 Further business

Nil

3. Close

Meeting closed at 4.19pm

3.1 Confirmation of next formal meeting date – Monday 17 October, 4 – 5pm via Teams

3.2 Karakia



MEETING INFORMATION (Agenda)		
MEMBERS	Lisa Tumahai – Chair	Karen Vercoe (MNZM)
	Anaru Luke	Maui Solomon
SUPPORT	Rachel Ropiha – Senior Analyst / Secretariat Dianna Easton – Business Support Coordinator / Project Coordinator	
ATTENDEES	Janine Smith – Deputy Secretary Natural and Built System and Climate Mitigation Keita Kohere – Director RM Te Ao Māori Policy Kate Mitchell – Manager Treaty Settlements and RM Reform Sam Ritchie – Manager Treaty Settlements and RM Reform Paul O’Sullivan – Senior Project Manager Ngawai Terry – Senior Analyst Isabella Wilson – Policy Analyst Niki Lomax – Principal Advisor RM Reform Levi Rona – Principal Advisor RM Te Ao Māori Policy Paul Beverley – Buddle Findlay Warren Fraser – Deputy Chief Executive Strategy, Policy & Legal, Te Arawhiti Anaru Mill – Te Arawhiti	
TIME & VENUE	Monday, 17 October 2022, 4:00pm – 5:00pm, Teams (virtual meeting)	

1.	OPENING	Lead	Start time
1.1	Karakia		4.00pm
1.2	Opening and welcome	Chair	
1.3	Apologies	Chair	
1.4	Declare any (new) conflicts of interest – verbal	Chair	
1.5	Previous minutes – document	Rachel	
1.6	Record of Actions – paper	Rachel	

2.	GENERAL	Lead	Start time
2.1	Update: Treaty settlements programme of work	Chair	4.10pm
2.2	Draft Letter of Commitment – paper	Janine	4.20pm
2.3	RM Reform updates – verbal <ul style="list-style-type: none"> • Regional governance • Funding 	Niki Lomax Levi Rona	4.30pm
2.4	RM Reform updates – verbal <ul style="list-style-type: none"> • Funding Māori in the system 	Keita Kohere	4.40pm
2.5	Any further queries on draft legislation	Paul/Kate	4.50pm
2.6	Karakia		5.15pm



1. OPENING

1.1 Karakia

1.2 Welcome

1.3 Apologies

Officials:

Janine Smith – Deputy Secretary Natural and Built System and Climate Mitigation

Clare Maihi – Director Treaty Settlements and RM Reform

1.4 Declare any (new) conflicts of interest

1.5 Confirmation of previous minutes

- A. Carried over from the previous meeting, minutes of the meeting 19 September 2022 were received
- B. Minutes of the previous meeting 03 October 2022 were received

1.6 Record of Actions

Verbal update:

- Role of Māori in the system speech has been cancelled
- Funding Māori in the system will be discussed as part of item 2.4
- Meeting to discuss technical advice completed with the following additional actions:
 - Maui to progress discussions on scope with the Board's preferred supplier and
 - MfE to draft up confidentiality undertaking in preparation

2. General

2.1 Update: Treaty settlements programme of work

Moved to item 2.2

2.2 Draft letter of Commitment

Presented by Paul Beverley

- Letter will be from Ministers to PSGEs and will confirm the Crown's commitment in upholding Treaty settlements in the RM Reform
- In brief the letters cover: Crown commitment statement, commitment to be recorded in SPA and NBA, further protection clause, and the process to reach agreement or no agreement reached

Discussion

- Need to ensure the right clause is the only clause included and letters go to correct group
- Is there an ability to tailor the letter to cater for different needs?
- Would be good to include the Engagement Leads names as a touchpoint moving forward
- Query on the engagement thus far with PSGEs and how it is being received by PSGEs

Noted:

- Remove extra clause to avoid incorrect information being sent

- Letter to include a statement around the weighting of Treaty settlement legislation when SPA/NBA is inconsistent with Treaty settlement legislation
- Engagement Leads to provide input to tailor letters to individual needs and nuance
- Noted engagement to date, and the suite of tools to ensure Treaty settlements are upheld has (by in large) been received well by those engaging with the programme
- Role of Māori in the system speech raised and noted that this will be replaced by a letter to PSGEs

Action	Assigned
Ministerial letter to PSGEs to be reviewed by MAB	Rachel

2.3 RM Reform update: Regional Governance

Presented by Niki Lomax and Levi Rona
please see attached presentation material

- Explanation of the current state of draft legislation and confusion with the use of terminology, and that this will be fixed by the time the bills are introduced
- Presentation covered process for agreeing composition arrangements, circuit breaker where a region cannot agree composition and for iwi and hapū if they cannot reach agreement, and timeframes for composition and appointment process

Key discussion points:

- Concern with the use of terminology to define iwi and hapū – that Māori is an ethnicity – and that iwi and hapū should be used
- The need to reflect Treaty obligation rather than 'Māori interests'
- Capacity and capability will be a significant issue in navigating the new system so need to plan for this now, including how to facilitate capacity and capability within iwi and hapū in order for them to participate effectively
- How will Māori participation be funded?
- How to ensure appropriate Māori with the necessary skills, are employed in the secretariat process – can't give effect to Te Tiriti o Waitangi if Māori are not included in the system (secretariat)

Noted:

- Concerns about terminology used
- Concerns about the use of Māori and Māori interest / areas of interest with an explanation of the origins of the policy
- A programme of work is underway in the Policy Implementation and Development directorate looking specifically at capacity and capability
- There will be a provision that the Director (regional planning committee) must ensure there are appropriate skills and knowledge in te ao Māori and mātuaranga Māori

2.4 RM Reform update: Funding Māori in the system – verbal

Presented by Keita Kohere

- Noted not all decisions have been finalised – however, funding will be available for those roles at the national level by central government, with regional roles funded by local government
- Working on funding to assist transition for things like environmental management plans, the detail of which we can present to the Board at a later meeting, once work has been completed on assessing this



Secretarial note, Lisa Tumahai left meeting at 5.00pm

2.5 Any further queries on draft legislation

Nil

3. Close

Meeting closed at 5:15pm

3.1 Confirmation of next meeting date – Monday, 31 October 2022, 4:00 – 5:00pm via Teams

3.2 Karakia

Released under the Official Information Act 1982



MEETING INFORMATION (Agenda)		
MEMBERS	Lisa Tumahai – Chair	Karen Vercoe (MNZM)
	Anaru Luke	Maui Solomon
SUPPORT	Rachel Ropiha – Senior Analyst / Secretariat Dianna Easton – Business Support Coordinator / Project Coordinator	
ATTENDEES	Janine Smith – Deputy Secretary Natural and Built System and Climate Change Mitigation Nadine Dommissie – Deputy Secretary Policy Information and Delivery Mark Vink – Executive Director Natural and Built System Clare Maihi – Director Treaty Settlements and RM Reform Caroline Hart – Director Policy Implementation Kate Mitchell – Manager Treaty Settlements and RM Reform Sam Ritchie – Manager Treaty Settlements and RM Reform Tom White – Principal Advisor Natural and Built System Stephen Church – Engagement Lead Treaty Settlements Isabella Wilson – Senior Policy Analyst Warren Fraser – Deputy Chief Executive Strategy, Policy & Legal, Te Arawhiti Anaru Mill – Te Arawhiti	
TIME & VENUE	Monday, 14 November 2022, 4:00pm – 5:00pm, Teams (virtual meeting)	

1.	OPENING	Lead	Start time
1.1	Karakia		4.00pm
1.2	Opening and welcome	Chair	
1.3	Apologies	Chair	
1.4	Declare any (new) conflicts of interest – verbal	Chair	
1.5	Previous minutes – document	Rachel	
1.6	Record of Actions – paper	Rachel	

2.	GENERAL	Lead	Start time
2.1	Update: Treaty settlements programme of work – paper	Chair	4.10pm
2.2	Update: Model Project – verbal	Caroline / Sam	4.15pm
2.3	Omnibus bid – verbal	Stephen	4.30pm
2.4	Select committee process – verbal	Tom / Charles	4.40pm
2.5	General business	Chair	4.50pm
2.6	Karakia		5.00pm

1. OPENING

1.1 Karakia

1.2 Welcome

1.3 Apologies

Officials:

Vicky Robertson – Secretary for the Environment

Glenn Webber – Tumu Whakarae, Te Arawhiti

1.4 Declare any (new) conflicts of interest – nil

1.5 Confirmation of previous minutes

Minutes of the previous meeting, 17 October 2022, received as true and correct

- Action point: To circulate draft letter on role of Māori in the new system to Board members. Action completed

1.6 Record of Actions

No outstanding actions:

2. General

2.1 Update: Treaty settlements programme of work

Paper taken as read: *secretarial note, please see [attachment 1](#) with correction*

Janine Smith

- Overview of current progression of draft legislation with the bills to be introduced to the House 15 November
- PSGEs will be called and notified of introduction on 14 November
- Acknowledged the work and contribution of the Board
- Summarised select committee process and queried what role the Board saw themselves playing in this next phase

Discussion

- Disappointment the Board were not given more notice about introduction – we are just hearing about this now
- Queried why introduction is taking place when the Board are in the process of receiving independent advice on the draft legislation, with a view of providing relevant advice to Ministers
- Feel blindsided and disappointed with the process

Key points

- Not the intent of the Ministry or Ministers to blindside the Board
- Acknowledged while the Minister intends to call the Chair directly, the process could have been better
- The Ministry will provide a mechanism for the technical feedback and we welcome it
- Due to the Chair's availability, Maui will receive the call from the Minister, which will occur after 7pm, 14 November

Action	Assigned
Maui to provide phone number to Janine who will pass on the contact details	Janine

2.2 Update: Model Project

Presented by Caroline Hart and Sam Ritchie. See [attachment 2](#) for presentation material

NOTE: The Board were asked, if in light of the previous conversation, they wanted to hear about the Model Project at this point. Agreed for discussion to continue.

Discussion

- Has MfE undertaken an analysis of all Treaty settlements to date, what are the existing RMA impacts on those settlements, and how do we ensure they will be treated equally across the board?
 - *Each settlement has been analysed and we are mindful of ensuring each redress type is treated with equity, for example how statutory acknowledgements are incorporated in the new system*
- Need to ensure equity across settlements and how they fit within the design of the new system
- How do we ensure equitable access to relevant information – e.g. the Model Project and the support that might come with this strategy, and in general, access to information, funding and advice
- Need to ensure perception of inequity (particularly for smaller iwi with less resource) is avoided
 - *MfE is aware some groups are not as well resourced and need to be on the same footing as other groups. As such, we are exploring options for further funding and are hopeful of a decision by the end of the year*
- Need to manage conflict and perception with some iwi receiving mention in the bills and others not
- Noted it has been difficult for fulsome technical advice to be procured as the independent advisor does not have all information required to draft informed advice

Questions raised by Maui Solomon (from technical advisor):

1. Have MfE prepared a summary of all co-governance arrangements contained in Treaty settlements – if yes, can this be provided to the Boards advisor
 - *Yes, and we can make this available to you and your advisor*
2. Have the regions for the first tranche Model Project been selected yet – if so, who are they?
 - *No, this is a work in progress, The RM Treaty settlement team is assessing how it can support the project and what is needed to uphold Treaty settlements in those initial regions*
3. Is it the intention for the regional planning committee (RPC) to use subcommittees to address most co/joint governance arrangements?
 - *No, as we need to consider the mechanism – e.g. the Hawkes Bay Planning Committee – and how the mechanism itself would work in the new system*
4. Do you think the new regulation making powers will allow the RPC to create specialist sub-committees
 - *Regulation powers sit with the Minister, not RPC – the intention is to address mechanisms via Treaty settlement legislation (as it is currently), not via a regulation*
5. Does the Ministry see a role for the National Māori Entity in checking the transfer of Treaty settlement commitments to the new system?
 - *No, and we would not consider it appropriate to have a third party in the relationship*

NOTED:

- The Board need to meet to consider more fully, the independent advice they have received
- An offer for Clare Maihi to meet with the independent advisor to answer any questions if that is useful

Action	Assigned
Re-circulate relevant reading material	Rachel

2.3 RM Omnibus bid

Presented by Stephen Church. See [attachment 3](#) for presentation material

- Explanation of omnibus bid process and timeframes
- Looking at two tranches
- Queries around equity if some go early

Noted:

- The Board to consider the omnibus process and what role they might play

2.4 Select committee process

Presented by Tom White

- Next steps – Bills to be introduced to the House 15 November 2022
- Select committee membership has been set
- Looking at week of 21 November 2022 for first reading (of Spatial Planning and Natural and Built Environment Bills)
- We won't know the select committee timetabling until the committee is established but we are assuming
 - Submission period, although typically 6-7 weeks, due to timing of introduction and likely interest in the Bills, will likely run through to the end of January
 - Likely to be numerous hearings due to anticipated large volume of interest
 - Departmental Report summarising submissions and providing recommendations (likely April – May 2023)
 - Select committee reports back to the House and second reading (likely May – June 2023)

Key discussion points:

- If amendments are to be proposed in the Departmental Report, how can transparency be provided to the Board
- How will the Board be able to advise Ministers and the select committee once independent advice on the bills has been received?

Noted:

- The Governance Group has been considering how the Board could play a part in the select committee process alongside the Ministry
- There is a need to ensure the Board's advice feeds into the next steps
- Encourage the Board to discuss directly with the Minister, and we can arrange a meeting if required

Action	Assigned
Governance Group to consider how the Board can inform the Departmental Report as part of the select committee process	Janine

2.5 General Business - nil

3. Close

Meeting closed at 4.59pm

3.1 Confirmation of next meeting date – Monday, 28 November 2022, 4:00 – 5:00pm via Teams

3.2 Karakia



MEETING INFORMATION (Agenda)		
MEMBERS	Lisa Tumahai – Chair	Karen Vercoe (MNZM)
	Anaru Luke	Maui Solomon
SUPPORT	Rachel Ropiha – Senior Analyst / Secretariat Dianna Easton – Business Support Coordinator / Project Coordinator	
ATTENDEES	Melanie Mark-Shadbolt – Deputy Secretary Tūmatākōkiri Clare Maihi – Director Treaty Settlements and RM Reform Kate Mitchell – Manager Treaty Settlements and RM Reform Sam Ritchie – Manager Treaty Settlements and RM Reform Jen Vella – Principal Advisor Natural and Built System Rae-Anne Kurucz – Manager National Planning Framework (part meeting) Kristen Aitken – Principal Advisor (part meeting) Isabella Wilson – Senior Policy Analyst Warren Fraser – Deputy Chief Executive Strategy, Policy & Legal, Te Arawhiti (part meeting) Anaru Mill – Te Arawhiti (part meeting)	
TIME & VENUE	Monday, 12 December 2022, 4:00pm – 5:00pm, Teams (virtual meeting)	

1.	OPENING	Lead	Start time
1.1	Karakia		4.00pm
1.2	Opening and welcome	Chair	
1.3	Apologies	Chair	
1.4	Declare any (new) conflicts of interest – verbal	Chair	
1.5	Previous minutes – document	Dianna	
1.6	Record of Actions – paper	Rachel	

2.	GENERAL	Lead	Start time
2.1	Ministerial Advisory Board Technical Advice	Board	4.10pm
2.2	Update: Treaty settlements programme of work	Caroline / Sam	4.35pm
2.3	National Planning Framework	Rae-Anne Kurucz Kristen Aitken	4.40pm
2.4	First meeting date for 2023	Board	4.55pm
2.5	Karakia		5.00pm

1. OPENING

1.1 Karakia

1.2 Welcome

1.3 Apologies

Officials: Glenn Webber – Tumu Whakarae, Te Arawhiti

1.4 Declare any (new) conflicts of interest

No new conflicts

1.5 Confirmation of previous minutes

Secretarial note: Moved to end of the agenda

1.6 Record of Actions

Secretarial note: Moved to the end of the agenda

2. General

2.1 Ministerial Advisory Board Technical Advice

Presented by Tom Bennion – This item was legally privileged

Key steps

- Advice to be finalised by Friday 16 December and provided to the Board
- The Board will draft an end of year report for Ministers (16 December) for noting, with a meeting to be arranged with Ministers in the new year
- Sam to email Board Chair about action ID #45 and implications of presenting legal advice from Tom Bennion to the Minister (and Ministry)

Action	Assigned
Send draft independent legal advice to Ministry for the Environment (MfE) – 15 December (afternoon)	Lisa
MfE to provide any further feedback on the draft independent legal advice to Board – 15 December (evening)	Clare
Email Minister's office regarding Board's end of year report	Sam
Work with Minister's office to arrange a meeting between Ministers and MAB in new year	Sam / Rachel
Discuss with Chair implications of presenting the Boards advice as technical advice as opposed to legal advice	Sam

2.2 Update: Treaty Settlements

Presented by Clare Maihi

Key points

- **S9(2)(f)(iv)** bid:
 - Since last Ministerial Advisory Board | Upholding Treaty Settlements (MAB) fortnightly meeting, Ministers have considered a briefing on **S9(2)(f)(iv)** bill options (based on previous information provided to the Board)

- Work has begun to develop a process map (to reach agreement on settlement amendments and the legislative process of S9(2)(f)(iv) bills) to show timeframes
- **Funding:**
 - The Ministry has sought a further funding contribution for groups to engage with RM reform
 - If approved, we will send letters to groups advising further funding is available
 - We intend to send letters prior to Christmas
 - This funding is for groups who have settled their historical Treaty of Waitangi claims and other groups with existing resource management arrangements, and does not include funding Māori to participate in the new system
- **Upcoming engagement:**
 - PSGEs are currently, and will continue to be, faced with the pressure of multiple requests from the Crown to engage on reform
 - DIA have commenced engagement on Three Waters with PSGEs on Three Waters
 - In addition to RM reform, MfE are engaging on Climate Change and the National Planning Framework over the coming months

Discussion:

- Communications will be critical over this period in order to avoid misinformation

Action	Assigned
Follow up with Comms and Engagement regarding what MfE communications are planned for PSGEs, iwi and hapū, and ensure relevant and timely engagement	Rachel / Kerry

2.3 National Planning Framework

Presented by Kristen Aitken and Rae-Anne Kurucz (see attached presentation)

Key points

- The National Planning Framework (NPF) will be required by the Natural and Built Environment Act, and will be equivalent to national direction under the Resource Management Act 1991 (RMA) but will consolidate all national direction into one instrument
- The NPF will set requirements for regional spatial strategies and natural and built environment plans, it may also include requirements for processing resource consent applications
- How the NPF is developed is prescribed in the draft legislation, however the process to develop the first NPF differs from the standard process – there is an exemption from some mandatory content being included and a requirement that the first NPF be prepared on the basis of existing RMA national direction
- Ministers have agreed that the priority content for the first NPF will be existing national direction, an overarching layer and new content covering infrastructure, climate change and natural hazards, cultural heritage, outstanding natural features and landscapes, and the relationship of iwi/hapū with their taonga
- This first NPF will be an initial step in an ongoing process to deliver national direction
- S9(2)(f)(iv)

Key discussion points:

- A lot of information to absorb and unable to provide any comment at this stage but would be keen to have this item return to the agenda in the new year to further discussions

- Agree it would be good to have some initial thinking prepared by the independent advisor

Action	Assigned
Discussion on expanding scope of advice to include NPF / Treaty settlement analysis	Sam, Maui and Tom

Secretarial note: Return to deferred items 1.5 and 1.6

1.5 Confirmation of previous minutes

Minutes of the previous meeting, 14 November 2022, received as true and correct

1.6 Record of Actions

Action ID #45 the only outstanding action – will be addressed via an email from Clare to Lisa

2.4 First meeting date for 2023

Confirmed 16 January 2023 via Teams

Secretarial note: this meeting was subsequently moved to Monday 13 February

3. Close

Meeting closed at 5.23pm

3.1 Confirmation of next meeting date – Monday, 13 February 2023, 4:00 – 5:00pm via Teams

3.2 Karakia

9-10 February 2023

NBA WORK - Ministerial Advisory Group Re Treaty Impacts

Third Comment to Advisory Board – Treaty settlements and the NPF

1. This note set out my further comment after reviewing further materials on how Treaty settlements will be upheld in the NPF.
2. I have considered the Bills and a Ministry briefing paper summarising the NPF scheme, and including an outline of the first NPF and indicative timeframes for its development.

Importance of the NPF in the New Scheme

3. The 'system outcomes' approach to environmental management relies on a directive 'top-down' planning approach (this contrasts with the less directive and more local and regional approach of the RMA). The means that the NPF, as the single top-level direction about what is required to achieve the system outcomes is critical to achieving the outcomes of the new regime.
4. All other planning has to follow it. That is, regional spatial strategies and plans must not be 'inconsistent' with anything in the NPF (ref) and the NPF may direct must 'give effect' to any parts of the NPF that the Minister directs.¹
5. It has the legal force of a statutory regulation.²
6. The NPF has 3 major components:
General direction on how to achieve each of the systems outcomes³
7. Direction must be provided on:
 - (a) non-commercial housing on Māori land:
 - (b) papakāinga on Māori land:
 - (c) enabling development capacity well ahead of expected demand:
 - (d) enabling infrastructure and development corridors:
 - (e) enabling renewable electricity generation and its transmission.

But direction can also be provided on xx

¹ NBE Bill cl 59.

² NBE Bill cl 34.

³ NBE Bill cl 57.

8. The Ministry advises that the initial NPF will include some directions that have been seen before in any national level planning documents under the RMA:

New direction on the topics below would only address the minimum required to meet statutory obligations and inform development of RSSs, with additional detail to be developed over time to inform development of NBE plans:

- (a) an overarching layer that provides direction across domains where necessary, and helps to resolve conflicts where best resolved at a national level*
- (b) new content on infrastructure provision (led by Te Waihanga)*
- (c) climate change mitigation, climate change adaptation, and natural hazards*
- (d) outstanding natural features and outstanding natural landscapes (ONFLs)*
- (e) cultural heritage*
- (f) the relationship of iwi and hapū with their taonga, etc*
- (g) recognition of protected customary rights and statutory acknowledgements*
- (h) urban trees*
- (i) criteria for significant biodiversity areas*
- (j) monitoring implementation and effectiveness of the NPF.*

9. All of these matters are quite significant, particularly item (a) with regard to direction on how to resolve conflicts between the different system outcomes, remembering that these include:

5(e) the recognition of, and making provision for, the relationship of iwi and hapū and the exercise of their kawa, tikanga (including kaitiakitanga), and mātauranga in relation to their ancestral lands, water, sites, wāhi tapu, wāhi tūpuna, and other taonga:

And:

5(i) the ongoing and timely provision of infrastructure services to support the well-being of people and communities.

10. Since the NBE Bill prevents any properties obtained through Treaty settlements from being taken for public works,⁴ and otherwise provides that they be given special consideration. NBE Bill cl 498. All groups with Treaty settlements including land may be interested in what this national direction will be.

Limits and targets

11. The intention is to set limits - with the aim of 'holding the line' to prevent the natural environment from degrading any further degradation below its current state. Some limits have to be set, others are optional.
12. It will set targets - with the aim of improving the environment beyond its current state.
13. More on these below.

Rules

14. These will be known as 'framework rules'. They will be direct national requirements for use like existing rules for stock exclusion.

⁴ NBE Bill cl 497(1).

How Limits And Targets Work in the NPF

15. Understanding these is important because they may have implications for some Treaty settlements.

Limits

16. The NPF must set "environmental limits" for all major natural resources ie air, water, soil, and also indigenous biodiversity and estuaries.⁵
17. Limits on other natural resources are optional.⁶
18. Optional limits may also be set to protect human health.⁷
19. The biological limits are to prevent the resources degrading beyond the state they are in when the Act commences. (cl 37) But there is an option to set them lower for a period if it is expected that degradation cannot be reversed in the short term.⁸
20. The same approach applies to any human health limits that may be set.⁹
21. Limits must either spell out a minimum state (eg swimmable without illness), or 'maximum harm or stress' (eg no more than x amount of contaminants)¹⁰
22. Exemptions from environmental limits may be applied for by regional planning committees on grounds that public benefits outweigh the loss of ecological integrity.¹¹ The Minister must refuse if the exemption would lead to 'unacceptable degradation' or 'irreversible loss of ecological integrity'.¹²

Targets

23. These are mandatory for all of the major natural resources against which limits are set.¹³
24. They must be higher than the limits set for the same resources.¹⁴
25. Targets are optional for other matters.¹⁵
26. The Minister must specifically consider the potential impact on customary marine title holders of limits and targets and whether they are 'appropriate'.¹⁶
27. If exemptions from environmental limits are applied for, it is a change to the NPF and must go through a hearing process.¹⁷

⁵ NBE Bill cl 38.

⁶ NBE Bill cl 38(2).

⁷ NBE Bill cl 37(b).

⁸ NBE Bill cl 41.

⁹ NBE Bill cl 42.

¹⁰ NBE Bill cl 40.

¹¹ NBE Bill cl 44 & 45.

¹² NBE Bill cl 46.

¹³ NBE Bill cl 49.

¹⁴ NBE Bill cl 49(3).

¹⁵ NBE Bill cl 51.

¹⁶ NBE Bill cl 52.

¹⁷ NBE Bill cl 44.

The First NPF

28. How the first NPF affects Treaty settlements may differ from subsequent NPFs because the first NPF is not required to include all of the above matters.
29. The bills provide that the first NPF:
- Will include all existing national planning instruments and national environmental standards that have already been issued.
 - Will not include new limits and targets beyond those instruments.
 - Will include new general directions on matters not previously commented on at the national level.

Subsequent NPFs

30. Subsequent NPFs will include the required limits and targets.
31. Ministry advice is that:
- A staged approach is being taken to the development of the NPF, starting with a tightly defined scope for the first NPF and working towards a more comprehensive NPF over subsequent iterations.*
32. The Ministry says that further amendments would add national directions, and limits and targets and required in all future versions of the NPF.
33. This sounds much like the way in which the NPS-FWM was developed, with an initial NPS in 2011 being updated in 2014, amended in 2017, and replaced in 2020.
34. We assume that the amendments would be made by Board of Inquiry
35. The NPF can be amended at any time with new parts being added.

Procedure for Making the NPF

Pre-notification engagement

36. When drafting the NPF or any changes to an NPF, the Minister must engage with "iwi authorities and groups that represent hapū"¹⁸ - this seems to be every group, and would definitely include Treaty settlement groups.
37. Customary title holder groups must be consulted.¹⁹
38. There is no specific requirement to consult Treaty settlement bodies.

¹⁸ NBE Bill cl 2(1)(b)(i) 6th Schedule

¹⁹ NBE Bill cl 4 6th Schedule

39. Contrast with development of regional plans, where plans must be developed "in accordance with" "any relevant iwi and hapū legislation or agreement under that legislation."²⁰

Engagement after public notice

40. Public engagement is via the internet cx8 6x There is no specific provision for settlement groups.

41. The Board of Inquiry members must be selected with knowledge of Te Tiriti and tikanga and mātauranga Maori.

42. There must be public hearings at which all submitters may present - but only as few as 2 board members need to be present.²¹

43. The National Māori Entity has a right to be heard.²² But not Treaty groups or iwi.

44. The Board must consider submissions, purpose of the Act etc.²³ There is no specific requirement to consider Treaty settlements.

45. Minister consider the Board of Inquiry report and any other matters the Minister sees fit and may amend the draft NPF as they see fit.²⁴ No reference to Treaty settlements here either.

Specific Provision for Treaty Settlements

46. In the provisions for the NPF in the main bill, the only specific reference to Treaty settlements is that Treaty settlements affecting the Waikato and Waipa Rivers prevail over the NPF if there is any inconsistency.²⁵

Are Early Engagement Obligations Under Settlements Affected?

47. The Ministry has noted that Treaty settlements may be affected by the NPF that require early engagement:

Several Treaty settlements include obligations for the Crown to provide early opportunities for input and participation in environmental management decisions, policy development, and other issues of interest, and obligations to foster positive co-operative relationships.

There are a wide range of obligations which relate to national direction arising from Treaty settlements set out in legislation, settlement deeds, and other accords and agreements. They include arrangements such as:

- a) *certain documents prevailing over national direction in the event of inconsistency*²⁶
- b) *mandatory considerations for national direction*²⁷

²⁰ NBE Bill cl 4 6th Schedule.

²¹ NBE Bill cl 15 6th Schedule.

²² NBE Bill cl 16 6th Schedule.

²³ NBE Bill cl 19 6th Schedule.

²⁴ NBE Bill cl 21 6th Schedule.

²⁵ NBE Bill cl 35(2)(a) meaning the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010, Ngati Tuwharetoa, Raukawa, and Te Arawa River Iwi Waikato River Act 2010, Nga Wai o Maniapoto (Waipa River) Act 2012.

²⁶ For example, Te Ture Whaimana in respect of the Waikato and Waipā Rivers.

²⁷ For example, Ngāruahine kaiiaki plan, Maru Taiao plan, Te Mana Tupua and Ngā Toka Tupua, and Te Pā Auroa and Te Heke Ngahuru.

- c) procedural obligations, including in relation to participation in, or influence on, decision-making on national direction that, in some cases, amount to shared decision-making²⁸
- d) arrangements relating to monitoring of environmental matters.²⁹

The Crown must ensure that existing Treaty arrangements relating to national direction under the RMA are given the same or equivalent effect, whether procedural or substantive, in the context of the NPF.

48. As noted, this obligation varies between settlements. Working out the requirement in relation to the NPF in each case may be technically fraught and perhaps require a legal opinion in each case.

How Might Statutory Acknowledgments Be Affected?

Not much?

Interim Conclusions

49. The NPF potentially has quite a large impact on Treaty settlements. This is true even of the first NPF.

50. Some settlements require pre-engagement on important RMA matters affecting them. The bills don't specifically require any enhanced engagement with groups with Treaty settlements over the NPF. Presumably it has taken that approach because:

- The NPF is at a national level so it will not affect all Treaty settlements – some not at all, and every one that is potentially affected will be affected in a different way;
- Most Treaty settlement issues arise at the regional planning level and will be part of regional planning;
- Working out under what circumstances Treaty settlements might be directly impacted by the draft NPF and any subsequent changes is best worked out on a settlement by settlement basis by reading the existing settlements (and can be specified when and if each one is updated by agreement under the new regime).
- As a matter of practicality, all PSGEs represent hapu so will be contacted as part of the pre-engagement.

51. S9(2)(f)(iv)

52.

²⁸ For example, arrangements relating to the Waikato and Waipā Rivers.

²⁹ For example, involvement in monitoring the water quality of Lake Taupō.

53. S9(2)(f)(iv)

54.

55.

56. It would be useful to know if there has been specific engagement with any Treaty groups over development of past NPS or other national planning instruments.

DRAFT
Released under the Official Information Act 1982



MEETING INFORMATION (Agenda)		
MEMBERS	Lisa Tumahai – Chair	Karen Vercoe (MNZM)
	Anaru Luke	Maui Solomon
SUPPORT	Rachel Ropiha – Senior Analyst / Secretariat Dianna Easton – Business Support Coordinator / Project Coordinator	
ATTENDEES	Vicky Robertson – Secretary for the Environment (part mtg) Melanie Mark-Shadbolt – Deputy Secretary Tūmatakōkiri Clare Maihi – Director, Treaty Settlements and RM Reform Kate Mitchell – Manager, Treaty Settlements and RM Reform Sam Ritchie – Manager, Treaty Settlements and RM Reform Paul O’Sullivan – Senior Project Manager Paul Beverley – Buddle Findlay Jen Vella – Principal Advisor Martin Workman – Chief Advisor Glenn Webber – Tumu Whakarae, Te Arawhiti Warren Fraser – Deputy Chief Executive, Strategy, Policy & Legal, Te Arawhiti Kurt McLauchlan – Director, Strategy and Policy, Te Arawhiti Anaru Mill – Te Arawhiti Tom Bennion (Solicitor) – Board technical advisor	
TIME & VENUE	Monday, 13 February 2023, 4:00pm – 5:00pm, Teams (virtual meeting)	

1.	OPENING	Lead	Start time
1.1	Karakia		4.00pm
1.2	Opening and welcome	Chair	
1.3	Apologies	Chair	
1.4	Declare any (new) conflicts of interest	Chair	
1.5	Previous minutes – paper	Dianna	
1.6	Record of Actions - paper	Rachel	

2.	GENERAL	Lead	Start time
2.1	Words from the Chair – Farewell: Vicky Robinson Update from national Iwi Chairs Forum	Chair	4.10pm
2.2	Ministerial Advisory Board Technical Advice – National Planning Framework	Chair	4.25pm
2.3	Treaty settlements programme of work	Clare	4.35pm
2.4	National Planning Framework – PSGE engagement	Martin Workman	4.45pm
2.5	Karakia		5.00pm



1. OPENING

1.1 Karakia

1.2 Welcome

1.3 Apologies

Karen Vercoe and Maui Solomon

Officials: Janine Smith

1.4 Declare any (new) conflicts of interest

No new conflicts

1.5 Confirmation of previous minutes

Secretarial note: Deferred to next formal meeting

1.6 Record of Actions

- All actions are closed
- UPDATE: Martin Workman to discuss engagement with post-settlement governance entities (PSGES) under item 2.4

2. General

2.1 Words from the Chair

Farewell Vicky Robertson

- Vicky was thanked for her contribution to the Board
- Acknowledged for her leadership in bringing the Ministry on a journey of cultural awareness and responsiveness
- Vicky responded with acknowledgement of the Board and its work, and of each individual in their work with iwi

National Iwi Chairs Forum Waitangi

- No update as the reforms and upholding Treaty settlements did not feature in discussions

2.2 Ministerial Advisory Board Technical Advice – National Planning Framework

Presented by Tom Bennion

Key points

- S9(2)(f)(iv)
- [Redacted]
- Upcoming engagement:
 - PSGEs are currently, and will continue to be, faced with the pressure of multiple requests from the Crown to engage on reform
 - DIA have commenced engagement on Three Waters with PSGEs
 - In addition to RM reform, MfE are engaging on Climate Change and the National Planning Framework over the coming months

2.3 Treaty settlements programme of work

Presented by Clare Maihi

Key points

- Project sits at an overall red rating, up from amber from the last report
- PSGES are being asked to engage in a number of kaupapa and this is putting stress on their resources
- Many PSGEs have indicated they needed time to digest and engage in the reforms and the submission process
- Recruited a number of new staff to bolster the Treaty settlements team and support engagement
- New funding allocation assistance has been welcomed but still a lot who haven't taken up this offer – work in progress as we re-engage post the submission period (for the Bills)

Key discussion points:

- Are MfE confident of getting to an end point, of getting everyone through the omnibus process?
Difficult to answer, but providing extra funding has helped
Note there will always be things out of our control that will impact our work
Note some PSGES are quite relaxed about the process, and then there are some more complex arrangements requiring further conversations but all in all, we are on track at this stage
- This is a huge kaupapa for Māori – and PSGES – to grapple with and is putting a large strain on groups
- The Board noted if there is anything they can do to assist, please ask

2.4 National Planning Framework – PSGE engagement

Presented by Martin Workman – Chief Advisor

Key points

Secretarial note – refer to item 2.2 where most of the discussion occurred around the NPF

- NPF team is working in tandem with the Treaty Settlements and RM Reform team to engage with PSGES
- Engagement plan is a letter is sent to all PSGES by Vicky Robertson outlining the NPF, process and provision of information
- This will be followed up by a letter to each PSGE sent by the Treaty Settlements team outlining further information and a request to meet to discuss the development of the first generation NPF

3. Close

Meeting closed at 5.07pm

3.1 Confirmation of next meeting date – Monday, 13 March 2023, 4:00pm – 5:00pm via Teams

3.2 Karakia

11 December 2022

NBA WORK - Ministerial Advisory Group re Treaty Impacts

Second Comment to Advisory Board

1. This note set out my further comment after reviewing further materials.
2. I attach a summary of key points that might be useful to raise with officials.
3. Following my earlier written draft comment on the draft bills, and our discussion, I have:
 - Considered the bills as filed;
 - Have had an informal discussion with key officials (Clare Maihi and Paul Beverley);
 - Have been provided by the MfE with key documents recording their efforts so far to assess the impact of the NBA and SPA bills on each Treaty settlement and engage in initial discussions with PSGEs.
4. I would stress once again the very limited time to consider these large matters.
5. The key documents somewhat relieve my earlier concern about not seeing an overarching analysis of the implications across all Treaty settlements, but confirm my earlier thinking that the most difficulty is likely to be experienced in transferring settlements that include the creation of joint entity governance bodies with district and/or regional councils over particular areas and resources, which proceeded on the basis that those bodies were key decision-makers over those resources under the RMA. Their decision-making authority is fundamentally changed by the NBA and SPA bills. These are called in the Cabinet papers "Treaty Settlement Joint Entities" (TSJEs).

The size of the settlement issue

- 67 settlements in total (sched 3 Treaty of Waitangi Act 1975), with 5-10 pending.
 - 61 settlements contain statutory acknowledgments (NBA 14 Sched "Acts that include statutory acknowledgements").
 - 21 settlements contain co-governance and/or co-governance arrangements legislated or in signed or pending deeds of settlement. See diagram attached produced by MfE in August 2021.
6. The problems arise from both the nature and scale of the changes.
 7. There is a change from an 'effects based' approach to environmental regulation, which has been conceptualised as each local authority starting with a relatively 'blank sheet of paper' and

regulating only where adverse environmental effects were not otherwise managed within ordinary commerce. This approach is best encapsulated in the requirement in s32 to provide a cost-benefit analysis for every objective, policy and rule. The setting of objectives, policies and rules was heavily decentralised and bespoke for each district and region, with central government providing a relatively 'light-touch' central policy, except in core areas like the coastal environment (where a national coastal policy statement has always been required).

8. While central government has been more active in promulgating central policy in recent years, the new 'outcomes' regime is a radical change to a new 'top-down' approach, with much more central government policy, just 14 key decision-making bodies at the local level, and relatively swiftly development of regional planning schemes (in particular the spatial planning component) with limited possibilities to influence decision-makers thereafter.
9. My strong impression from the policy and Cabinet papers and discussion is that the government has a relatively well-worked out scheme for carrying over statutory acknowledgments into this radically changed regime, but is much less clear about what will happen with governance, primarily because so many one-to-one engagements with decision-makers in plan-making and consent-issuing have been stripped out under the new planning regime.

Statutory acknowledgments

10. Advice from officials recognises the problem of these radical changes for statutory acknowledgments, stating:

"There is a risk that given the new RM system is stronger in terms of the national direction, and there is intended to be less consenting under the new system, that it might dilute the statutory acknowledgement redress." (BRF-1714 RM Reform 187 – Upholding statutory acknowledgements & Settlement Joint Entities para 45).

11. Officials consider that strengthening references to acknowledgements arguably beyond what is required under the RMA, by requiring them to be included in regional planning documents and regional spatial strategies, and requiring them to be considered at the same level, at least in terms of wording that exists under the RMA, will mitigate this risk.
12. I agree to an extent. But the consideration takes place within a quite different context, particularly when it comes to regional spatial strategies (RSS).
13. Under the RMA, as each new infrastructure project is developed, the relevant statutory acknowledgments are considered and may inform 1) route changes, 2) methods used, 3) the nature and extent of any mitigation. Under the NBA/SPA it is possible that statutory acknowledgments will not receive the same level of consideration in relation to these matters, particularly the first two. This is because the RSS for the entire region, setting out, among other matters "major existing, planned, or potential infrastructure or major infrastructure corridors, networks, or sites (including existing designations) that are required to meet current and future needs" (cl 17(1)(g)) is developed in a reasonably swift and relatively informal process (ie no formal right of appeal and hearings optional) which appears to be intended to be undertaken mainly online (SPA 4th Sched). The regional plan must be consistent with the RSS (NBA cl 109).

14. This potential for 'dilution' may be true to a lesser degree for individual consents because, particularly smaller iwi whose main point of contact for planning may have been a district council, will lose that local level of engagement.

Treaty Settlement Joint Entities

15. For TSJEs, while it should be relatively straightforward to carry over to new regional plans 'work to date' which the TSJEs have accomplished in terms of any local planning documents and the like, it is likely to be much harder to provide for ongoing engagement of the PSGE at roughly the same level as before in some instances.
16. I think that this will vary depending on whether the settling group is a larger iwi or federation of iwi and/or covering a significant area that approaches a regional level geographically in coverage (and therefore likely to be engaging with a similar level body in the regional planning committee or through its subcommittees) as opposed to smaller iwi.

Changing Treaty settlements

17. Officials advise that, because the Crown will not adjust any Treaty settlement without the agreement of the settled iwi, if no agreement is reached with an iwi, the savings clauses will continue to apply (see NBA 2nd Sched and SPA 2nd Sched). These savings require decision-makers under the NBA and SPA to "give a Treaty settlement, the NHNP Act, or other arrangement an effect that is the same or equivalent as it has in relation to the Resource Management Act 1991."
18. It is very hard to see how this will work, particularly in relation to TSJEs, given the radical change to outcomes-based centralised planning under the new regime. There is real uncertainty if a Court would focus on the fact that particular words or phrases were carried over or whether it would also consider the potential 'diluting' effect of the reforms overall.
19. For statutory acknowledgments, in practice, the Crown is likely to get most iwi agreeing to a standard conversion scheme, and I expect that that would be a default that the Courts will look to.

Key points and concerns, options

- 1) The carry over of statutory acknowledgments is likely to be less complex than the carry over of arrangements for Treaty Settlement Joint Entities. The carry over of TSJEs for small iwi and/or relating to relatively localised (ie non-regional) resources is likely to be particularly problematic.
- 2) The potential for statutory acknowledgments to be diluted particularly in the RSS process should be considered.
- 3) Legally, it is hard to see how the Treaty savings clause would be applied particularly if and until TSJE arrangements are converted to the new scheme (probably less problematic for statutory acknowledgments). Given uncertainty whether a Court would focus just on words carried over or whether it would also consider the potential 'diluting' effect of the reforms overall, wording might be amended to make clear that the broader assessment is required.
- 4) Planning assistance, particularly for smaller iwi and hapu with statutory acknowledgments, should be tailored to allow proper engagement early in the development of regional plans and particularly regional spatial plans. If an iwi does not currently have a dedicated planner or team to call on, they will likely struggle with these reforms (regardless of the level of financial assistance). There is a potential for inequity to grow between large and small PSGEs, and earlier and later settling PSGEs.