

21 March 2025

Te Minita Whanaketanga Māori

## **HE PĀRONGO | AIDE MEMOIRE**

### **Waitangi Tribunal Legislation Review – Progress, Next Steps & Roadmap**

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TPK tracking no: TPK-72047

#### **Purpose**

1. To provide an update on the Waitangi Tribunal Legislation Review, including immediate next steps and the phased approach to the Review. Given the significant Māori and broader public interest in the Review, Te Puni Kōkiri considers that it is essential that the Review processes include Ministerial roles are well-defined, engagement is well-structured, and the review remains aligned with Government priorities.

#### **Ministerial Leadership & Governance over the phased approach to the Review**

2. You will chair the Ministerial group, which has been established to monitor progress, provide strategic direction, and ensure alignment with Government priorities.
3. Your role includes:
  - Setting the engagement approach and approving the communications strategy.
  - Providing Ministerial oversight at all key decision points, ensuring the review reflects Government priorities.
  - Chairing Ministerial group meetings to drive decision-making on policy direction while maintaining alignment with timeframes and key milestones.
4. Te Puni Kōkiri will work to the Ministerial Group, ensuring structured reporting and coordination between agencies. Engagement with the Ministerial group will be coordinated via your office, ensuring you are briefed ahead of key discussions and can drive the direction of the review.
5. With Cabinet approval expected on 7 April, you, as Minister for Māori Development, will play a central role in leading this review, ensuring it progresses in line with Government priorities while managing significant public and Māori interest, specifically as:
  - Chair the Ministerial group, ensuring clear direction-setting and oversight.
  - Leading engagement on key phases, ensuring consistency in messaging and strategic alignment.
6. Receive structured monthly updates, with clear decision points outlined ahead of time
7. A summary of the phased approach is overleaf.

## Phased Approach & Ministerial Engagement

|   | Phase  | Timeframe             | Minister's Role  |
|---|--|-----------------------|--|
| <b>Pre-Legislative Preparation &amp; Governance Setup</b> | Phase 1 – Prior to Cabinet Approval & Announcement                       | March–April 2025      | <ul style="list-style-type: none"> <li>• Approve the communications plan and key messages.</li> <li>• Prepare for public and Māori engagement post-announcement.</li> <li>• Ensure alignment with coalition commitments and Treaty policy priorities.</li> <li>• Sign off on Technical Advisory Panel criteria.</li> <li>• Confirm the Technical Advisory Group's role, responsibilities, and engagement framework.</li> </ul> |
|   | Phase 2 – Post-Announcement: Establish Governance & Engagement Framework | April–May 2025        | <ul style="list-style-type: none"> <li>• Chair the Ministerial group's first meeting, agreeing on engagement approach and reporting structures.</li> <li>• Approve the structured reporting framework to ensure regular Ministerial oversight.</li> </ul>  |
|   | Phase 3 – Initial Policy Engagement: Defining Key Issues                 | May–July 2025         | <ul style="list-style-type: none"> <li>• Receive and review engagement reports from Iwi, hapū, claimants, and Māori organisations.</li> <li>• Approve the problem definition, ensuring consistency with Treaty principles and legal considerations.</li> <li>• Provide Ministerial direction on emerging policy themes and risks.</li> </ul>   |
| <b>Policy Development &amp; Refinement</b>                | Phase 4 – Build & Test Policy Options                                    | August–September 2025 | <ul style="list-style-type: none"> <li>• Review draft policy options, ensuring they align with Government priorities.</li> <li>• Sign off on options before they go to targeted consultation.</li> <li>• Engage with key Ministers to ensure cross-government coordination and alignment.</li> <li>• Meet with Māori and targeted sector representatives to discuss the implications of potential reforms.</li> </ul>          |
|   | Phase 5 – Build Formal Policy Advice                                     | October–November 2025 | <ul style="list-style-type: none"> <li>• Review consolidated engagement feedback and refined policy recommendations.</li> <li>• Approve the draft Cabinet paper before submission.</li> <li>• Ensure all legislative recommendations are legally robust and politically sustainable.</li> </ul>  |
|   | Phase 6 – Ministerial Group Approval of Next Steps                       | December 2025         | <ul style="list-style-type: none"> <li>• Chair the Ministerial group meeting to confirm final legislative recommendations.</li> <li>• Sign off on any final adjustments before the paper is lodged for Cabinet approval.</li> </ul>  |
| <b>Legislative Process &amp; Implementation</b>           | Phase 7 – Cabinet Approval & Drafting of Legislation                     | January–March 2026    | <ul style="list-style-type: none"> <li>• Lead Ministerial advocacy in securing Cabinet approval of legislative changes.</li> <li>• Review initial drafting of legislative provisions to ensure they reflect agreed policy direction.</li> <li>• Ensure a coordinated approach with the Parliamentary Counsel Office (PCO) and Crown Law.</li> </ul>  |
|   | Phase 8 – Parliamentary Process  | April 2026 onwards    | <ul style="list-style-type: none"> <li>• Support the Bill through the legislative process, including public messaging.</li> <li>• Lead Ministerial engagement in securing cross-party support.</li> <li>• Work with key Māori stakeholders to manage expectations and engagement during the Select Committee process.</li> </ul>   |

## Risks & Mitigation Strategies

8. The Waitangi Tribunal Legislation Review carries high public, political, and operational risks. Proactive management is essential to maintain credibility, Treaty alignment, and policy integrity. The table below outlines key risks, their impact, and mitigation strategies to ensure successful delivery.

| Risk Category                             | Risk Description  | Impact  | Risk Level    | Mitigation Strategy  |
|---|---|---|---------------|--|
| <b>Legitimacy and Perception Risks</b>    | The Review is seen as predetermined or politically driven.                            | Loss of trust from Iwi, hapū, and Māori organisations; disengagement from the process.        | ● High        | Clear, transparent engagement demonstrating that Māori perspectives inform outcomes.   |
| <b>Legal and Judicial Risks</b>           | Legal challenges if findings or legislative changes restrict Māori rights to justice. | Litigation, delays in implementation, potential rulings against the Crown.                    | ● High        | Robust legal analysis to ensure Treaty compliance; proactive consultation with Treaty law experts to anticipate and mitigate potential legal risks.  |
| <b>Māori Engagement Risks</b>             | Insufficient consultation time and scope leading to exclusion of Māori perspectives.  | Resistance to the Review, strained Crown-Māori relations, reduced legitimacy of reforms.      | ● Medium-High | Prioritise early and ongoing engagement with Iwi, hapū, and Māori organisations; ensure sufficient lead time for input.  |
| <b>Tribunal Independence Risks</b>        | The Review is perceived as Crown interference in the Tribunal's role.                 | Reduced confidence in the Tribunal's ability to hold the Crown accountable.                   | ● Medium-High | Ensure the Review focuses on enhancing effectiveness rather than restricting Tribunal powers; clearly communicate intent.  |
| <b>Ministerial and Cross-Agency Risks</b> | Lack of alignment between TPK, Ministry of Justice, and other agencies.               | Conflicting policy positions, fragmented decision-making, reduced efficiency.                 | ● Medium      | Strengthen cross-agency collaboration through structured governance mechanisms and clear policy alignment.   |
| <b>Resource and Capacity Risks</b>        | TPK's policy teams may lack capacity to absorb the Review's demands within baselines. | Staff burnout, major delays in delivery, reduced policy quality, inability to meet deadlines. | ● High        | Prioritise resourcing as an urgent issue; explore additional staffing and secondments.<br>- Identify external expertise to supplement capacity gaps.<br>- Monitor workload regularly to mitigate risks of burnout and policy slippage. |

## Conclusion & Immediate Next Steps

9. The table below summarises key decisions over the next four weeks:

| Action  | Timeframe           |
|---|---------------------|
| Provide final Ministerial & coalition feedback on TPK-72004 Cab Paper | By 26 March         |
| Approve final refinements to Cabinet Paper before lodgement           | By 27 March         |
| Chair first Ministerial group meeting & set engagement priorities     | April 2025          |
| Approve communications approach                                       | Before announcement |
| Approve engagement framework & governance structure                   | April 2025          |
| Sign off on Technical Advisory Panel criteria                         | April 2025          |

**Bernard Te Paa**  
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**NOTED**

Hon Tama Potaka  
Te Minita Whanaketanga Māori

Date: \_\_\_\_ / \_\_\_\_ / 2015