

Office of Te Minita Whanaketanga Māori

Chair

Cabinet Social Wellbeing Committee

United Nations Declaration on the Rights of Indigenous Peoples: Next Steps for a Declaration Plan

Proposal

1. This paper seeks agreement to further progress the development of a national plan to implement the United Nations Declaration on the Rights of Indigenous Peoples (the Declaration).

Relation to Government priorities

2. This proposal aligns with the Government's priority to lay the foundations for the future. It will contribute to our priority to strengthen Māori-Crown relations and promote equity and fairness in the Māori-Crown partnership. The development of a national Declaration plan will comply with our international obligations and enhance New Zealand's reputation internationally on indigenous issues, at a time when we are forging country-to-country relationships with other indigenous peoples to support trade-led recovery.

Executive Summary

3. In 2010, New Zealand expressed its support for the Declaration. In moving to support the Declaration, New Zealand both affirmed the rights and principles contained in the Declaration and reaffirmed the legal and constitutional frameworks that underpin New Zealand's legal system. In 2014, as a result of New Zealand's acceptance of a Universal Periodic Review recommendation on the Declaration, New Zealand committed to "take concrete measures to ensure the implementation and promotion" of the Declaration [CAB Min (14) 17/5].
4. Subsequently, the Attorney-General and te Minita Whanaketanga Māori directed the Crown Law Office and Te Puni Kōkiri to start a work programme on a possible Declaration plan. A stocktake was undertaken on the Government's response to the Declaration up until that point. The stocktake identified low public sector understanding of the Declaration and low understanding of the connection between the Declaration and the Treaty of Waitangi.
5. Draft guidelines on the connection between the Declaration and the Treaty of Waitangi were developed in 2017 by Te Puni Kōkiri and the Crown Law Office but were not finalised. In 2017, te Minita Whanaketanga Māori decided to progress a Declaration plan. A first draft Cabinet paper was produced in 2018 and finalised in 2019. In March 2019, Cabinet agreed to the proposal from te Minita Whanaketanga Māori to develop a national plan to implement the Declaration, and to report back on a preferred option for engagement with iwi, hapū, whānau and Māori.
6. Subsequently, a technical working group was established to look at the options for engagement and what form a Declaration plan might take. The group reported its advice on next steps for the development of a Declaration plan in late 2019. The

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group noted its work only formed the first step towards the creation of a Declaration plan, as it considered any plan must be developed in partnership with Māori.

7. Further progress on the development of a Declaration plan was slowed, because of resources being prioritised to respond to COVID-19. It is now time to further progress this work and our commitment for New Zealand to be amongst the first states to establish a national plan to implement the Declaration.
8. The National Iwi Chairs Forum has identified the development of a Declaration plan amongst its priorities to be progressed under Pou Tikanga. Working through the Pou structure may assist with identifying the mutual priorities of Government and Māori that contribute to the realisation of the Declaration.
9. I seek your agreement to a two-step engagement process to develop the plan, which includes:
 - 9.1. targeted engagement with key iwi and significant Māori organisations to inform the process for the development of a Declaration plan; and
 - 9.2. wider public consultation on a draft Declaration plan.
10. I will work with Pou Tikanga representatives of the National Iwi Chairs Forum to help inform the targeted engagement phase. In parallel with the targeted engagement, I expect to also engage with a small group of independent legal experts with links to the New Zealand Human Rights Commission and expertise in public law.
11. I anticipate feedback from the targeted engagement will inform proposals to Cabinet for the process of drafting a Declaration plan. This may include any relevant parameters for actions to be included in a plan, the regularity of any subsequent review and updating of such a plan, and the key success indicators to measure progress against meeting our obligations. The proposals will also canvas the most appropriate working arrangements for drafting in light of feedback from targeted engagement and any costs and oversight needed during the drafting process.
12. Following implementation of the targeted engagement, I will report back to Cabinet Māori-Crown Relations: Te Arawhiti Committee in December 2021 with feedback on the targeted engagement and a proposed process for drafting a Declaration plan. I will then report back to Cabinet Māori-Crown Relations: Te Arawhiti Committee in April 2022 with a draft Declaration plan and proposed public consultation process for approval. The draft Declaration plan will be the basis for wider public consultation in 2022.
13. Following this wider public consultation, I will report back to Cabinet Māori-Crown Relations: Te Arawhiti Committee with a final Declaration plan for approval in late 2022.
14. This approach is consistent with the advice of the technical working group, guidance from the United Nations Expert Mechanism on the Rights of Indigenous Peoples, and our own best practice guidelines for engagement with Māori.
15. I seek agreement for myself, in consultation with the Minister for Māori-Crown Relations: Te Arawhiti, the Minister of Foreign Affairs and the Minister of Justice to work with Pou Tikanga representatives of the National Iwi Chairs Forum to help formulate the targeted engagement, to consider the feedback from that process and to report back to Cabinet with a draft Declaration plan and proposed public consultation process for approval.

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Background

16. In 2014, as a result of New Zealand's acceptance of a Universal Periodic Review recommendation on the Declaration, New Zealand committed to "take concrete measures to ensure the implementation and promotion" of the Declaration [CAB Min (14) 17/5].
17. In March 2019, Cabinet Māori-Crown Relations: Te Arawhiti Committee agreed for te Minita Whanaketanga Māori to lead a process to develop a national plan of action, strategy or other measure to progress the realisation of the Declaration. At the same time, it invited the Minister, in consultation with the Minister for Māori Crown Relations: Te Arawhiti, the Minister of Justice, the Attorney-General, the Minister of Commerce and Consumer Affairs and the Minister of Conservation, to establish a technical working group to provide advice and recommendations on:
 - 17.1. the form and content of a Declaration plan that focuses the Government's priority activities into actions representing the mutual priorities of Government and Māori, that contribute to the progressive realisation of the Declaration; and
 - 17.2. an engagement process with iwi, hapū and whānau that embodies New Zealand's best practice under Te Tiriti o Waitangi and the Declaration.
18. Cabinet also invited te Minita Whanaketanga Māori to report back to Cabinet Māori Crown Relations: Te Arawhiti Committee seeking initial decisions on a Declaration plan, and a preferred option for engagement with iwi, hapū, whānau and Māori [MCR-19-MIN-0003 refers].
19. The United Nations Expert Mechanism on the Rights of Indigenous Peoples¹ (EMRIP) visited New Zealand in May 2019. Following its country engagement mission, EMRIP provided guidelines to support the drafting of a strategy, action plan or other measure, and on an appropriate engagement strategy to this effect.
20. In August 2019, te Minita Whanaketanga Māori appointed a technical advisory group, the Declaration Working Group (DWG), to provide advice on the form and content of a Declaration plan and engagement process. The DWG was a combination of human rights experts, officials and technical advisors identified by the Government, the National Iwi Chairs Forum and the Aotearoa Independent Monitoring Mechanism². The DWG worked intensively and on 1 November 2019 provided a report to te Minita Whanaketanga Māori, entitled *He Puapua*.
21. Progress on the development of a Declaration plan was subsequently put on hold during the initial response to COVID-19 so that Te Puni Kōkiri and other Government agencies could focus their efforts on supporting communities. As the situation around COVID-19 has stabilised, officials have re-engaged with the DWG and identified potential next steps towards the development of a Declaration plan.
22. I recently attended a virtual session of the United Nations Permanent Forum on Indigenous Issues where many countries, as well as EMRIP, were keen to see the

¹ EMRIP is one of three UN expert bodies that focus specifically on the rights of indigenous peoples. It is made up of seven independent experts who are appointed by the UN Human Rights Council to provide advice and expertise on Indigenous Peoples' rights.

² The Aotearoa Independent Monitoring Mechanism (IMM) was established in 2015. Its members are identified by their iwi and have been endorsed by the National Iwi Chairs Forum to act as independent experts. The IMM is supported by a number of technical advisers and its objective is to promote and monitor the implementation of the Declaration in New Zealand.

progress Aotearoa makes in relation to a Declaration plan, given we need to comply with our international obligations.

Purpose of a Declaration plan

23. Developing a Declaration plan will demonstrate we are meeting our obligations under the Declaration. In addition, national action plans have been identified internationally as an important mechanism for improving outcomes for indigenous peoples. Although many Government actions on Māori development and wellbeing are consistent with the aspirations of the Declaration, we do not currently have a way to accurately describe our progress and demonstrate active engagement with the Declaration in our business as usual work. For New Zealand, a plan will provide a clearer narrative about New Zealand's indigenous rights journey, strengthening our ability to influence leadership on indigenous rights.
24. Developing a Declaration plan is also an opportunity to establish greater coherence across Government in delivering beneficial outcomes for Māori on wellbeing and development, and the Government's continuing endeavours to work with Māori for a more equitable and prosperous future for everyone.
25. A Declaration plan is also an opportunity to work in partnership with Māori and report on how the Government is fulfilling its obligations under Te Tiriti o Waitangi and its corresponding aspirations in the Declaration. New Zealand's support for the Declaration recognises that the Declaration is consistent with the duties and principles inherent in Te Tiriti o Waitangi and confirms the special cultural and historical position of Māori as tangata whenua of New Zealand.

Report of the Declaration Working Group

26. The DWG provided advice to the Minister for Māori Development in late 2019 on options for engagement and the form a Declaration plan might take. The report (attached as **Appendix 1**) does not represent Government policy but provides a backdrop to prompt further conversation about the Declaration.
27. *He Puapua* considers each of the Declaration articles, as required for a Declaration plan consistent with the guidance from EMRIP. The DWG divided up its consideration of the articles of the Declaration into the following thematic areas: self-determination/rangatiratanga; participation in kāwanatanga Karauna; lands, territories, and resources; culture; and equity and fairness. The report draws on the contemporary thinking that has emerged from academic sources, the Waitangi Tribunal, research reports from non-Government bodies, the views of independent panels, international precedents and constitutional conversations in canvassing the future landscape for the Declaration in New Zealand.
28. The report outlines the DWG's vision, and their view, for realising the Declaration by 2040, with considerable attention paid to progressively realising Māori self-determination/rangatiratanga, outlining ideas for constitutional transformation and how to give effect to these over the next two decades. The DWG formed a view that a Declaration plan needed to focus on rangatiratanga as a central pillar, given our strong relative performance internationally in relation to Māori participation in the Government sphere of influence and decision-making.
29. *He Puapua* comments on the application of the Declaration articles to New Zealand, and the progress that has been made since the establishment of the Declaration in 2007. The report provides a roadmap using examples of practical and incremental actions that could be taken towards realising Declaration compliance.

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30. A short summary of the DWG's vision for 2040 under each of the key themes of *He Puapua* is provided below.

<p>1. Rangatiratanga</p>	<ul style="list-style-type: none"> • Māori will be exercising authority over Māori matters as agreed by Māori and including exclusive and/or shared jurisdiction over their lands, territories and resources and over matters to do with taonga tuku iho and culture. • Iwi and hapū will have agreed and established their governance structures, with their authority recognised. • Tikanga Māori will be functioning and applicable across Aotearoa under Māori (national, iwi, hapū, whānau) authority and also, where appropriate, under Crown/kāwanatanga authority.
<p>2. Participation in kāwanatanga Karauna</p>	<ul style="list-style-type: none"> • Māori participation in central and local government will be strong and secure. • Māori will have a meaningful, and sometimes dominant voice in resource management decisions. • The kāwanatanga Karauna sphere will be bicultural. • There will be strong protection for te Tiriti o Waitangi and human rights in state law and policy. • Māori will be providing for Māori.
<p>3. Lands, Territories and Resources</p>	<ul style="list-style-type: none"> • The nation will know and appreciate iwi tribal boundaries, where the practice of mana whakahaere is evident. • There will be an enlarged iwi/hapū/whānau estate, supported by significantly increased return of Crown lands and waters, including takutai moana, to Māori ownership (in addition to Treaty of Waitangi settlements). • Law, policy and processes will support flourishing iwi territories, including where iwi/hapū/whānau can positively contribute towards the control of, access to, and management of all lands and resources within their rohe, in accordance with tikanga and mātauranga Māori. • There will be greater relinquishment of Crown-assumed exclusive kāwanatanga authority over land, resources and taonga. • Law, policy, processes and entities will support a successful bicultural joint sphere of governance and management of resources, taonga and Crown lands.
<p>4. Culture</p>	<ul style="list-style-type: none"> • Iwi, hapū and whānau will be exercising authority over all aspects of their culture, including the ability to control, protect and develop their cultural and natural heritage – ngā taonga tuku iho. • Te reo Māori will be flourishing, its use will be widespread, and its integrity will be protected – te reo kia tika, te reo kia rere, te reo kia Māori. • All Māori will have the opportunity to access, practise and develop their culture and reo, connect with their whakapapa, and be confident in their Indigenous identity. • All New Zealanders will embrace and respect Māori culture as an integral part of national identity, and this will also be reflected in a bicultural, mātauranga-informed state service/kāwanatanga Karauna.
<p>5. Equity</p>	<ul style="list-style-type: none"> • Aotearoa will be a nation where Māori will be thriving and prosperous in all aspects of life, including across generations.

	<ul style="list-style-type: none"> • There will be equity between peoples, which means that rangatiratanga and Māori authority is recognised and respected. • There will be genuine partnership bodies in the relational sphere. • All Māori will enjoy equity in opportunity and outcomes. • New Zealand’s understanding of wellbeing will incorporate a holistic te Ao Māori and mātauranga Māori perspective.³
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31. While *He Puapua* is not the base of a Declaration plan and only provides information for discussion, the report proposes actions that could be implemented over the next 20 years.
32. Successive Governments, through normal government business, have already introduced a series of measures, through a desire to focus on ways that demonstrate true and practical steps towards partnership and the need for the Crown and Māori to move forward together. Initiatives include:
- 32.1. Whānau Ora, an approach that supports whānau and families to achieve their aspirations in life. It places whānau at the centre of decision making and supports them to build a more prosperous future;
- 32.2. the passage of the Public Service Act 2020 which explicitly recognises the role of the public service in supporting the Crown’s relationships with Māori under the Treaty of Waitangi and outlines responsibilities of senior leadership to develop and maintain the capability of the public service to engage with Māori and under Māori perspectives; and the establishment of a statutory Māori advisory committee to advise on the implementation of the new provisions in the Act;
- 32.3. the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014, vesting 14 maunga in the Tāmaki Collective, to be held in for the common benefit of the iwi/hapū of the Tāmaki Collective and all other people of Auckland;
- 32.4. the Te Urewera and Te Awa Tupua and Treaty settlement legislations (in 2014 and 2017) providing for the recognition of legal personality to certain natural features;
- 32.5. Te Arawhiti programme of work on Māori engagement guidance and capability frameworks to provide direct support to agencies;
- 32.6. Te Puni Kōkiri work to incorporate te Ao Māori and mātauranga Māori perspective to the Living Standards Framework which is used by Treasury in budget processes and wider thinking about policy impacts across different dimensions of wellbeing;
- 32.7. Te Pae Tawhiti – Wai 262⁴, the whole-of-government work programme to respond to the Waitangi Tribunal’s report on Māori culture and identity in New Zealand law and policy, *Ko Aotearoa Tēnei*;

³ This extends beyond people to include te mauri o te taiao (the environment).

⁴ The approach for Te Pae Tawhiti (Wai 262) and the development of a Declaration plan may present similarities in terms of governance structure and process.

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- 32.8. the establishment of an independent Māori Health Authority with joint decision-making rights to agree national strategies, policies and plans that affect Māori at all levels of the health system;
- 32.9. the reform of Māori language legislation to implement a partnership approach to the revitalisation of the Māori language and the Maihi Karauna strategy and implementation plan to support the Māori language revitalisation; and
- 32.10. the establishment of independent advisory groups in a range of fields of importance to Māori, including on rights to water, family, and criminal justice.
33. These steps help us fulfil our obligations under Te Tiriti, build the Māori-Crown relationship and align with the aspirations outlined in the Declaration.
34. I recommend Cabinet note that *He Puapua* will be released publicly, that I do not intend to pursue or use the report as a draft, and recommend instead the approach outlined in paragraph 9 to draft a Declaration plan that can be used for wider public consultation.
35. I will also make the timeline outlined in paragraph 54 available to the public to provide further information on the process for developing a Declaration plan.

Considerations for developing a Declaration plan

36. A number of elements to guide the development of a Declaration plan have already been identified.
37. In 2010, in moving to support the Declaration, New Zealand noted the dual character of the Declaration, comprising both legally binding principles in the form of existing international conventions and new principles. In general terms, particularly in its restatement of rights and responsibilities set out in other human rights treaties⁵, the Declaration is broadly consistent with New Zealand's legal, policy and constitutional parameters.
38. New Zealand's position has continued to be that the Declaration must satisfy several fundamental requirements including:
- 38.1. being consistent with international law, and New Zealand law and policy;
- 38.2. protecting the rights of all citizens; and
- 38.3. safeguarding territorial integrity and political unity, as well as the responsibility of all democratically elected governments to govern for the welfare of all their citizens⁶.
39. As a consequence, New Zealand's 2010 statement of support for the Declaration affirmed the rights and principles contained in the Declaration and reaffirmed the legal and constitutional frameworks that underpin New Zealand's legal system.
40. In 2010, while confirming its support for the Declaration, Cabinet reaffirmed the importance of Te Tiriti o Waitangi as a unique feature of indigenous rights in New

⁵ Such as the Convention on the Elimination of all forms of Racial Discrimination, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the Convention for the Elimination of all forms of Discrimination Against Women.

⁶ Article 46 of the Declaration states that the rights and freedoms recognised in the Declaration do not provide a right of secession from States and should be interpreted in accordance with the principles of justice, democracy, respect, equality, non-discrimination, good governance, and good faith.

Zealand, alongside our other legal and constitutional frameworks [CAB Min (10) 10/11 refers].

41. EMRIP's 2019 guidelines recommended that in developing a national plan of action, New Zealand and/or Māori should "consider how to engage with Māori on implementing their right to autonomy or self-government in matters relating to their internal and local affairs within the context of the State".
42. Those existing frameworks define the bounds of New Zealand's engagement with the aspirational elements of the Declaration. There is, however, an acknowledgement that the frameworks will continue to evolve in accordance with New Zealand's domestic circumstances. The statement of support recognised that Māori have an interest in all policy and legislative matters and acknowledged that Māori custom, worldviews and cultural heritage should be reflected in the laws and policies of New Zealand.
43. Māori have been, and continue to be, active in developing innovative responses to issues with a strong indigenous perspective and engaging with successive governments on possible paths forward. Developing a Declaration plan will therefore need to be in partnership with Māori. This is consistent with EMRIP's 2019 guidelines and Cabinet-agreed guidelines on engagement with Māori.

Two-step process for developing a Declaration plan

44. There is no previous example of developing a Declaration plan at a national level. While the timeframe for the outcomes envisaged by a Declaration plan is yet to be determined, as a roadmap to realisation of the Declaration in New Zealand, it may need to be reviewed and refined at regular intervals over the next few years. Consequently, we should not aim for a Declaration plan that is overly complex, and instead focus on actions representing the priorities of the Government and Māori.
45. Engagement and the involvement of diverse Māori groups⁷, as well as the general public, will be critical if we are to distil a set of Māori priorities and expectations on the process of developing the plan. This can be time consuming and create complexity, so it will be important to balance the need to make progress on a plan with capturing the broad perspectives of Māori. It will also be important that we keep any plan simple and focused on practical actions.
46. The Declaration recognises the rights of indigenous peoples to free, prior and informed consent, consultation and participation in decision-making on matters affecting them. The process will allow for the discussion of concepts like self-determination/rangatiratanga and for the form and content of the plan to focus on progressive realisation of the Declaration.
47. I seek your agreement to the following two-step approach:
 - 47.1. targeted engagement with key iwi and significant Māori organisations to inform the process for the development of a Declaration plan; and
 - 47.2. wider public consultation on a draft Declaration plan.
48. I will work with Pou Tikanga representatives of the National Iwi Chairs Forum to help inform the targeted engagement phase. As part of the targeted engagement, we will work with key iwi and significant Māori organisations to determine Māori aspirations

⁷ This includes Māori elders, Māori women, Māori youth, Māori children, Māori LGBTQI+ people (takatāpui) and Māori disabled persons (tāngata whaikaha).

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for a Declaration plan. In parallel with the targeted engagement, I expect to also engage with a small group of independent legal experts with links to the New Zealand Human Rights Commission and expertise in public law.

49. I anticipate feedback from the targeted engagement will inform proposals to Cabinet for the process of drafting a Declaration plan. This may include any relevant parameters for actions to be included in a plan, the regularity of any subsequent review and updating of such a plan, and the key success indicators to measure progress against meeting our obligations. The proposals will also canvas the most appropriate working arrangements for drafting in light of feedback from targeted engagement and any costs and oversight needed during the drafting process.
50. It is useful to note that any action identified in a Declaration plan will not bind future Governments or limit their right to govern. Cabinet has already agreed that the Declaration plan will include time-bound and measurable actions that should:
 - 50.1. come from the intersect between government priorities, Māori aspirations and international indigenous rights discourse;
 - 50.2. contribute to enhancing the self-determination of Māori as the indigenous peoples of Aotearoa / New Zealand;
 - 50.3. contribute to improving intergenerational Māori wellbeing; and
 - 50.4. demonstrate ambitious action as opposed to business as usual.
51. Following implementation of the targeted engagement, I will report back to Cabinet Māori-Crown Relations: Te Arawhiti Committee with feedback from the targeted engagement and a proposed process for drafting a Declaration plan, including the parameters identified in paragraph 38. It is worth noting that the DWG recommended the establishment of a high-level co-governance body comprised of equal numbers of Ministers and Māori representatives to oversee this process. This will be a point to be discussed as part of the targeted engagement process, as I think it is important that we have appropriate expertise and joint oversight of the development of a Declaration plan.
52. I will then report back to Cabinet Māori-Crown Relations: Te Arawhiti Committee with a draft Declaration plan and proposed public consultation process for approval. The draft Declaration plan will be the basis for the wider public consultation. Following wider public consultation, I will report back to Cabinet Māori-Crown Relations: Te Arawhiti Committee with a final Declaration plan for approval.

Arrangements for Ministerial Oversight

53. I seek Cabinet agreement to delegate authority to myself, in consultation with the Minister for Māori Crown Relations: Te Arawhiti, the Minister of Foreign Affairs and the Minister of Justice, to work with Pou Tikanga representatives of the National Iwi Chairs Forum to help formulate the targeted engagement, consider the feedback from that process and report back to Cabinet with a draft Declaration plan and proposed public consultation process for approval.
54. The table below outlines the key steps and timeframes for the development of a Declaration plan.

Steps	Timeframe
Cabinet approval to undertake targeted engagement	June 2021
Design, approve and implement targeted engagement	July – November 2021
Report back on feedback from targeted engagement and seek approval of proposed process for drafting Declaration plan	December 2021
Drafting Declaration plan	January – March 2022
Seek Cabinet approval of draft Declaration plan and proposal for wider public consultation	April 2022
Public consultation	May – September 2022
Report back to Cabinet for approval of a Declaration Plan	December 2022
Release Declaration Plan	February 2023

Financial Implications

55. Any financial implications associated the costs of targeted engagement and wider public consultation on a Declaration plan will be met from within Vote: Māori Development baselines.

Legislative Implications

56. There are no legislative implications.

Impact Analysis

57. A Regulatory Impact Statement and a Climate Implications of Policy assessment are not required.

Population Implications

58. In line with the Declaration, particular attention needs to be given to the rights and needs of Māori elders, Māori women, Māori youth, Māori children, Māori LGBTQI+ people (takatāpui) and Māori disabled persons (tāngata whaikaha) as the next steps are taken towards developing a Declaration plan. Engagement and consultation will need to occur with these communities and efforts will be made to ensure their participation and representation in decision-making processes.

Human Rights

59. Developing a plan on the Declaration will align with New Zealand’s existing human rights obligations and ensure that these are realised in practice.

Consultation

60. The Crown Law Office, the Department of Conservation, the Department of Corrections, the Department of Internal Affairs, Land Information New Zealand, the Ministry of Business, Innovation and Employment, the Ministry for Culture and Heritage, the Ministry of Education, the Ministry for the Environment, the Ministry for Foreign Affairs and Trade, the Ministry of Health, the Ministry of Justice, the Ministry of Primary Industries, the Ministry of Social Development, the Social Wellbeing Agency, the Ministry for Women, the Ministry for Pacific Peoples, the Ministry for Housing and Urban Development, the New Zealand Defence Force, New Zealand Police, the Office for Māori Crown Relations: Te Arawhiti, Oranga Tamariki Ministry for Children, the Treasury, the Public Service Commission and Statistics New Zealand were consulted on a draft version of this paper. The Department of Prime Minister and Cabinet was informed.
61. I have also consulted on a draft version of this paper with a small group of independent experts with links to the New Zealand Human Rights Commission, the DWG and the Aotearoa Independent Monitoring Mechanism. They have indicated that they welcome the general direction of this paper and the progress it represents.

Communications

62. When arrangements are finalised for targeted engagement on the development of a Declaration plan, I will make a press release outlining the approach.

Proactive Release

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

Recommendations

I recommend that the Committee:

1. **note** that the Cabinet Māori Crown Relations: Te Arawhiti Committee:
 - 1.1. **agreed** that te Minita Whanaketanga Māori lead a process to develop a national plan of action, strategy or other measure on New Zealand's progress towards the objectives of the Declaration;
 - 1.2. **invited** te Minita Whanaketanga Māori, in consultation with the Minister for Māori Crown Relations: Te Arawhiti, the Minister of Justice, the Attorney-General, the Minister of Commerce and Consumer Affairs and the Minister of Conservation, to confirm terms of reference and establish a technical working group including non-governmental experts on human and indigenous rights, and Government officials to provide advice and recommendations on:
 - 1.2.1. the form and content of a Declaration plan that focuses the Government's priority activities into actions representing the mutual priorities of Government and Māori, that contribute to the progressive realisation of the Declaration; and
 - 1.2.2. an engagement process with iwi, hapū and whānau that embodies New Zealand's best practice under Te Tiriti o Waitangi and the Declaration;
 - 1.3. **invited** te Minita Whanaketanga Māori to report back to the Cabinet Māori Crown Relations: Te Arawhiti Committee seeking initial decisions on a

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- Declaration plan and a preferred option for engagement with iwi, hapū, whānau and Māori [MCR-19-MIN-0003 refers];
2. **note** the technical working group reported to te Minita Whanaketanga Māori in late 2019 and further progress on the work was slowed in response to COVID-19;
 3. **note** the report of the technical working group:
 - 3.1. addressed each of the relevant Declaration articles presenting them thematically under self-determination/rangatiratanga; participation in kāwanatanga Karauna; lands, territories, and resources; culture; and equity and fairness;
 - 3.2. outlined a vision for 2040 for Declaration realisation, providing a roadmap of potential illustrative actions towards realising Declaration compliance; and
 - 3.3. recommended options for further engagement with Māori, co-governance, broader consultation and longer-term review and accountability;
 - 3.4. is not government policy but provides an opportunity for further discussion.
 4. **note** *He Puapua* will be released publicly on the Te Puni Kōkiri website;
 5. **note** I do not intend to pursue, or use, *He Puapua* as a draft Declaration plan and recommend instead the approach outlined in recommendation 9 and 10 to draft a Declaration plan that can be used for wider public consultation;
 6. **note** New Zealand's position has consistently been that the Declaration must satisfy several fundamental requirements and be consistent with our existing legal and constitutional circumstances, including:
 - 6.1. being consistent with international law, and New Zealand law and policy;
 - 6.2. protecting the rights of all citizens; and
 - 6.3. safeguarding territorial integrity and political unity as well as the responsibility of all democratically elected governments to govern for the welfare of all their citizens;
 7. **note** any action identified in a Declaration plan will not bind future Governments or limit their right to govern;
 8. **agree** to a two-step process for the development of a Declaration plan including targeted engagement with key iwi and significant Māori organisations and wider public consultation on a draft Declaration plan;
 9. **agree** to te Minita Whanaketanga Māori, in consultation with the Minister for Māori Crown Relations: Te Arawhiti, the Minister of Foreign Affairs and the Minister of Justice to:
 - 9.1. approve plans for the targeted engagement, including working with Pou Tikanga representatives of the National Iwi Chairs Forum to help formulate the targeted engagement;
 - 9.2. consider feedback from the targeted engagement; and
 - 9.3. report back to Cabinet on the proposed process and arrangements for drafting a Declaration plan; and
 10. **invite** te Minita Whanaketanga Māori to report back to the Cabinet Māori Crown Relations: Te Arawhiti Committee:

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- 10.1. in December 2021 on feedback from targeted engagement and seeking approval of a proposed process for drafting a Declaration plan;
- 10.2. in April 2022 seeking approval of a draft Declaration plan and a proposal for wider public consultation; and
- 10.3. in December 2022 seeking approval of a final Declaration plan.

Authorised for lodgement

Hon Willie Jackson
Te Minita Whanaketanga Māori
____/____/2021

RELEASED BY THE MINISTER
FOR MĀORI DEVELOPMENT

Appendix 1: *He Puapua* – Report of the working group on a plan to realise the UN Declaration on the Rights of Indigenous Peoples in Aotearoa/ New Zealand

RELEASED BY THE MINISTER
FOR MĀORI DEVELOPMENT