

Office of the Minister for Māori Development

Cabinet Legislation Committee

## Māori Purposes Bill: Approval for Introduction

### Proposal

- 1 This Cabinet Paper seeks approval for the introduction of the Māori Purposes Bill (the Bill). The Bill has a category 5 priority on the 2024 Legislation Programme (to proceed to Select Committee by the end of 2024).
- 2 A Māori Purposes Bill is an omnibus bill that enables minor, technical, and non-controversial amendments to be made to Māori affairs legislation. All amendments in the Bill are considered minor, technical, and non-controversial.

### Executive Summary

- 3 On 27 June 2023, the former Cabinet Māori Crown Relations – Te Arawhiti Committee authorised the Minister for Māori Development to issue drafting instructions to the Parliamentary Counsel Office for the Māori Purposes Bill [MCR-23-MIN-0016 refers]. Cabinet confirmed this decision on 3 July 2023 [CAB-23-MIN-0281 refers].
- 4 The Bill has two distinct purposes. Firstly, it amends eight Acts and five Regulations. These are:
  - 4.1 the Maori Community Development Act 1962 and the Maori Community Development Regulations 1963;
  - 4.2 the Maori Purposes Fund Act 1934–35 and Maori Purposes Fund Regulations 1937;
  - 4.3 the Maori Soldiers Trust Act 1957;
  - 4.4 the Maori Trust Boards Act 1955;
  - 4.5 the Māori Trustee Act 1953 and the Māori Trustee Regulations 2009;
  - 4.6 Te Ture mō Te Reo Māori 2016/the Māori Language Act 2016;
  - 4.7 the Māori Television Service (Te Aratuku Whakaata Irirangi Māori) Act 2003; and
  - 4.8 Te Ture Whenua Maori Act 1993, the Maori Incorporations Constitution Regulations 1994, and the Maori Reservations Regulations 1994.
- 5 Secondly, the Bill repeals the Maori Purposes Act 1939, the Maori Purposes Act 1945, and the Maori Purposes Act 1973 as they have no operative provisions.

## Policy

- 6 The Māori Purposes Bill seeks to make legislation more efficient and fit-for-purpose, reduce unnecessary administrative burdens on Māori entities and enable increased autonomy by making minor, technical and non-controversial amendments to the following legislation.

*Amendments to Te Ture Whenua Maori Act 1993, the Maori Reservations Regulations 1994, and Maori Incorporations Constitution Regulations 1994*

- 7 Te Ture Whenua Maori Act 1993 is the primary Act for whenua Māori (Māori land). It facilitates and promotes the retention, use, development, and control of Māori land as taonga tuku iho by Māori owners, their whānau, their hapū, and their descendants, and it protects wāhi tapu. The Act also outlines special rules and duties when dealing with some types of whenua Māori, including Māori freehold land. It also confers jurisdiction on the Māori Land Court.

- 8 The Bill amends the Act and regulations in line with policy approvals:

- 8.1 to clarify that the trustees and beneficiaries of Māori land trusts may meet electronically and that meetings of Māori incorporations can be held electronically;
- 8.2 to provide for the appointment of co-chairpersons for Māori incorporations and Māori reservations and validate prior co-chairperson appointments;
- 8.3 so that the Māori Land Court may exercise its powers under the Property Law Act 2007 in relation to easement and covenant provisions whether or not there is an application made to the court;
- 8.4 to clarify the powers of the Māori Land Court when considering contractual matters before it, and amend the definition of court in the Contract and Commercial Law Act 2017 so that the Māori Land Court can consider the same matters in relation to minors; and
- 8.5 to modernise language in sections 273 and 279, and in the regulations.

*Amendments to the Māori Trustee Act 1953 and Māori Trustee Regulations 2009*

- 9 The Māori Trustee Act 1953 establishes and regulates the Māori Trustee, who can act as a trustee to administer Māori freehold land and other assets on behalf of beneficial owners.

- 10 The Bill amends the Act and Regulations in line with policy approvals:


- 10.1 so that trading expenses associated with the purchase or disposal of an investment for the Common Fund are factored into the calculation for distributable income;
- 10.2 to introduce a \$50 threshold for when the Māori Trustee must report to account holders on their distributable income;

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- 10.3 to provide that account holders receive interest based on the time money is in their account;
  - 10.4 to allow the Māori Trustee to charge management fees as a proportion of costs against the Common Fund as a whole, rather than costs specifically charged to individual accounts;
  - 10.5 by providing that the Māori Trustee is not obliged to report to Common Fund account holders where the Māori Trustee is unable to contact account holders (previously provided for in the Regulations but more properly a matter for the Act);
  - 10.6 to change instances of the term 'Maoris' to Māori; and
  - 10.7 to update sections that refer to repealed legislation (for example, the Maori Affairs Act 1953).
- 11 These amendments have been requested by the Māori Trustee.

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s9(2)(f)(iv)



*Amendments to the Maori Trust Boards Act 1955*

- 13 The Maori Trust Boards Act 1955 sets out the functions, duties, and powers of Māori Trust Boards. Māori Trust Boards represent iwi (or multiple iwi). The main function of each Māori Trust Board is to manage the assets vested in the Board for the general benefit of beneficiaries. The Act provides the legal framework in which each Trust Board operates. These trusts were used before the creation of post-settlement governance entities, and some trusts have taken on additional responsibilities as needed. There are currently eight Māori Trust Boards.
- 14 The Bill amends the Act in line with policy approvals:
- 14.1 to clarify that Māori Trust Boards and committees can meet electronically, including Māori Trust Board annual general meetings;
  - 14.2 to clarify the process to fill extraordinary vacancies on a Māori Trust Board;
  - 14.3 to remove the requirement that Board Secretary remuneration receive Ministerial approval;
  - 14.4 to remove an obsolete reference to cheques;
  - 14.5 to make the use of Board seals optional, and update currency references from pounds to dollars; and

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- 14.6 to change the requirement for advertising of the call for Board nominations so that the Board may determine whether to advertise in a newspaper or an internet site and the Board may determine the newspaper in which to place an advertisement.
- 15 The change to the requirements for advertising of Board nominations differs slightly from the wording of the policy approval but is one that I have approved consistent with Cabinet's authorisation for me to clarify and develop policy matters consistent with the policy approvals. The original policy approval is to: "reduce the requirement that Board nominations must be listed over two consecutive days in a local daily newspaper, to listing it once."
- 16 While the Bill will remove the requirement for advertising over two consecutive days, it will also provide Boards with internet sites with the option of advertising on that site, rather than newspaper advertising. After further consultation with the Māori Trust Boards, it was decided that this change would modernise the legislation and provide the Boards with more flexibility, while still ensuring that the calls for nominations were sufficiently well advertised.

*Amendments to the Maori Purposes Fund Act 1934–35 and Maori Purposes Fund Regulations 1937*

- 17 The Maori Purposes Fund Act 1934–35 established the Māori Purposes Fund and Māori Purposes Fund Board. The Māori Purposes Fund provides for a wide range of activities including the promotion of the health, education, and social and economic welfare of Māori. Members of the Māori Purposes Fund Board include the Minister for Māori Development, the Chief Executive of Te Puni Kōkiri and the members of Parliament for the Māori electorates.
- 18 The Bill amends the Act in line with policy approvals:
- 18.1 to remove the requirement that the annual general meeting (AGM) be held in Wellington, change when the AGM must be held, and clarify that all meetings can be held electronically;
- 18.2 to clarify the rules regarding the calling of special meetings;
- 18.3 to modernise the requirements for written resolutions;
- 18.4 to modernise the language used in the Act;
- 18.5 to modernise the requirements about presenting the annual report and associated documents to the House of Representatives;
- 19 The Bill also modernises the rules in the Maori Purposes Fund Regulations 1937 about notices of meetings.
- 20 A Cabinet policy approval was obtained to remove the Māori Purposes Fund Board's power to acquire land or chattels because this seemed to be a defunct provision. As the Board may wish to exercise this power in future, it was decided to retain this power. However, the Bill repeals an obsolete power for the Board to agree to land vested in it being subject to a consolidation or development scheme.

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*Amendments to the Maori Soldiers Trust Act 1957*

- 21 The Maori Soldiers Trust Act 1957 established a trust for World War I Māori veterans and their dependants, and a scholarship fund to commemorate Sir Apirana Ngata. Funding for the scholarship comes from Hereheretau Station, Wairoa – the major asset of the Māori Soldiers Trust.
- 22 The Bill amends the Act in line with policy approvals:
- 22.1 to allow appointed members of the Trust Committee to continue in office until their successor is appointed;
  - 22.2 to clarify that the Trust Committee and district committees can meet electronically;
  - 22.3 to change quorum requirements for the Trust Committee and district committees so that half, or a majority of, appointed members is a quorum;
  - 22.4 to amend the limit for payments district committees may authorise from £50 to \$5000;
  - 22.5 to update how the public can access reports on the Trust’s annual activities; and
  - 22.6 to modernise language in the Act.
- 23 Te Tumu Paeroa administers the affairs of the Trust in a support role for the Māori Trustee, who is the deputy chair. Te Tumu Paeroa supports the proposed amendments to the Maori Soldiers Trust Act 1957.

*Amendments to the Maori Community Development Act 1962 and Maori Community Development Regulations 1963*

- 24 The Maori Community Development Act 1962 established the powers and functions of the New Zealand Māori Council, District Māori Councils, Māori Executive Committees, Māori Committees (collectively defined as Maori Associations) and Māori Wardens.
- 25 The Bill amends the Act in line with policy approvals, to:
- 25.1 clarify that meetings can be held electronically;
  - 25.2 enable co-chairperson arrangements for Māori Associations and validate prior appointments of co-chairpersons; and
  - 25.3 modernise language used in the Act.
- 26 These amendments have the support of the New Zealand Māori Council, who asked Te Puni Kōkiri in September 2022 to review the Act to clarify if these activities are permitted.
- 27 The Bill also makes a related amendment to regulation 3 of the Maori Community Development Regulations 1963 to clarify that public meetings called by Māori

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Committees may be held electronically. The amendments to the Regulations also change the rules about public meetings to take account of Associations having co-chairs and modernise provisions about meetings.

*Amendments to Te Ture mō Te Reo Māori 2016*

- 28 Te Ture mō Te Reo Māori 2016 established Te Mātāwai as an independent statutory entity to provide leadership on behalf of iwi and Māori in their role as kaitiaki of the Māori language. Te Ture mō Te Reo Māori 2016 also provides for Te Mātāwai and the Crown to develop Māori language strategies to support the revitalisation of the Māori language, including by promoting an increase in the number of people speaking the Māori language and improving their fluency in te reo Māori.
- 29 The amendments give effect to minor and technical recommendations from the review of Te Ture mō Te Reo Māori 2016. This review was required by section 44(1) of the Act, which states that the Minister must commence a review on the operations and effectiveness of the Act 3 years after its commencement.
- 30 The Bill amends the Act in line with policy approvals:
- 30.1 to change schedule 5 to provide that resolutions signed or assented to in writing by a quorum of members is as valid or effectual as if it had been passed at a meeting of all members of Te Mātāwai. The change is to enable such decisions to be made in writing by a quorum (rather than all members) in specified circumstances;
  - 30.2 to provide a new regulation-making power to amend, add or remove the name of an iwi from a grouping of iwi;
  - 30.3 to update the English version of the Act so that it more accurately aligns with the reo version of the Act;
  - 30.4 to allow Te Mātāwai to appoint co-chairpersons;
  - 30.5 to update the requirements for undertaking a review of the Act;
  - 30.6 to clarify the meaning of duties under the Act to promote the Māori language;
  - 30.7 to remove the word ‘actual’ from section 23(d) of the Act;
  - 30.8 to clarify that the duty of Te Mātāwai is to iwi and Māori rather than to the public; and
  - 30.9 to amend the reo Māori version of the Act to align with amendments already made to the English version by other Acts, including the Coroners Amendment Act 2023.

*Changes made to Te Ture mō Te Reo Māori 2016 amendments following policy approval*

- 31 When granting policy approval, Cabinet agreed to officials continuing policy work with impacted entities. Further policy work has resulted in the withdrawal of three of the

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twelve proposed amendments to Te Ture mō Te Reo Māori 2016. The withdrawn amendments are:

Proposed amendment	Reason for withdrawal
Update the definition of the word ‘kaitiaki’ in the Act	Te Mātāwai confirmed that they no longer supported this amendment being progressed now.
Ensure that the title of schedule 3 reflects appropriate terminology for Moriori and ta rē Moriori	This approval conflicted with the amendments to the Act to replace all references to clusters of iwi with kāhui-ā-iwi. Also, amending the Act to use Moriori terminology would have been inconsistent with the Act’s overall purpose. Te Mātāwai were consulted on this decision.
Add lifting critical awareness as a purpose of Te Mātāwai	Te Mātāwai confirmed that they no longer supported this amendment being progressed now.

*Dual language amendments*

- 32 Te Ture mō Te Reo Māori 2016 is a dual language Act. This part of the Bill has been translated from English to te reo Māori and has been through a legal peer review process to ensure legal equivalence. The translation has been certified [to be confirmed before introduction].

*Amendments to the Māori Television Service (Te Aratuku Whakaata Irirangi Māori) Act 2003*

- 33 In July 2023 Cabinet provided policy approval to amend the Māori Television Service (Te Aratuku Whakaata Irirangi Māori) Act 2003 to support Whakaata Māori in engaging audiences and utilising new technologies [MCR-23-MIN-0016 and CAB-23-MIN-0281 refer].

- 34 Following further consultation with Whakaata Māori, proposed amendments relating to the functions and responsibilities of Whakaata Māori have been withdrawn from the Bill. Whakaata Māori have instead requested a full review of the Act.

- 35 The Bill consequentially amends the Māori Television Service (Te Aratuku Whakaata Irirangi Māori) Act 2003 to ensure consistency with Te Ture mō Te Reo Māori 2016.

- 36 The Bill amends the Act in line with policy approvals to:

- 36.1 replace references to a “chairperson of Te Mātāwai” with references to a “co-chairperson of Te Mātāwai.”

*Acts proposed for repeal*

- 37 The Bill repeals the Maori Purposes Act 1939, Maori Purposes Act 1945, and Maori Purposes Act 1973 as these Acts have no operative provisions.

### Impact analysis

- 38 A regulatory impact statement was completed for a proposed amendment to the Māori Television Service (Te Aratuku Whakaata Irirangi Māori) Act 2003 [MCR-23-MIN-0016 and CAB-23-MIN-0281 refers]; however, these amendments are no longer being progressed through the Bill.
- 39 The Treasury's Regulatory Impact Analysis Team determined that the amendments to be progressed through the Bill are exempt from the requirement to provide a regulatory impact statement.

### Compliance

- 40 The Bill complies with:
- 40.1 the principles of the Treaty of Waitangi;
  - 40.2 advice from the Treaty Provisions Officials Group on any Treaty of Waitangi provisions;
  - 40.3 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
  - 40.4 the disclosure statement requirements (a disclosure statement prepared by Te Puni Kōkiri is attached);
  - 40.5 the principles and guidelines set out in the Privacy Act 2020;
  - 40.6 relevant international standards and obligations; and
  - 40.7 the Legislation Guidelines (2021 edition).

### Consultation

- 41 The following agencies were consulted on this paper and the draft Bill: Ministry of Justice, Māori Land Court, Te Arawhiti, Public Service Commission, Ministry for Culture and Heritage, Department of Conservation, and the Ministry for Business, Innovation and Employment.
- 42 Consultation was undertaken with relevant Māori entities on the amendments affecting them, including the Māori Trust Boards, Māori Land Court judiciary, New Zealand Māori Council, Te Tumu Paeroa, Te Mātāwai, Whakaata Māori, and Te Taura Whiri.

### Binding on the Crown

- 43 The Bill will not change the position as to whether any of the legislation to be amended is, or is not, binding on the Crown.

### Creating new agencies or amending law relating to existing agencies.

- 44 The Bill will not create a new agency. The Bill changes the law relating to Te Mātāwai through amendments to Te Ture mō Te Reo Māori 2016, including



changing its purpose to include raising awareness of revitalisation activity, and encouraging, supporting, and empowering iwi and Māori, and clarifying its duty is to iwi and Māori rather than to the public.

### **Allocation of decision-making powers**

45 The Bill does not allocate decision making powers between the executive and judiciary.

### **Associated regulations**

46 The Bill amends the Maori Incorporations Constitution Regulations 1994, the Maori Reservations Regulations 1994, the Māori Trustee Regulations 2009, the Maori Purposes Fund Regulations 1937, and the Maori Community Development Regulations 1963. No regulations are needed to bring the Bill into operation.

### **Other instruments**

47 The Bill does not contain any provisions empowering the making of other instruments.

### **Definition of Minister/department**

48 The Bill does not contain a definition of department or Chief Executive of a department. The Bill amends section 2 of the Maori Soldiers Trust Act 1957, section 2 of the Maori Purposes Fund Act 1934-35, and section 2 of the Maori Community Development Act 1962 to change the definition of Minister to “a Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is responsible for the administration of the Act.”

49 The Bill amends section 2 of the Māori Trustee Act 1953 to insert a definition of Minister as “Minister for Māori Development.” The Bill also amends section 2 of Te Ture Whenua Maori Act 1993 to change the definition of Minister to “Minister for Māori Development.” The Cabinet Office, the Māori Land Court and Te Tumu Paeroa were consulted on these definitions.

### **Commencement of legislation**

50 The Bill will come into force on the day after the date of Royal assent with the exception of Regulation 8 of the Māori Trustee Regulations 2009 which will come into force four months after Royal assent.

### **Parliamentary stages**

51 The Bill has a category 5 priority on the 2024 Legislation Programme (to proceed to Select Committee by the end of 2024).

52 I recommend the Bill be introduced on the first available date after approval by Cabinet and referred to the Māori Affairs Select Committee.

### **Proactive Release**

53 I propose to proactively release this paper within 30 business days. Redactions may be made as appropriate in line with the Official Information Act 1982.

## Recommendations

I recommend that the Cabinet Legislation Committee:

- 1 **note** that the Māori Purposes Bill holds a category 5 priority on the 2024 Legislation Programme (to proceed to select committee by the end of 2024).
- 2 **note** that the Bill amends:
  - 2.1 the Maori Community Development Act 1962;
  - 2.2 the Maori Purposes Fund Act 1934–35 and Maori Purposes Fund Regulations 1937;
  - 2.3 the Maori Soldiers Trust Act 1957;
  - 2.4 the Maori Trust Boards Act 1955;
  - 2.5 the Māori Trustee Act 1953 and the Māori Trustee Regulations 2009;
  - 2.6 Te Ture mō Te Reo Māori 2016/the Māori Language Act 2016;
  - 2.7 the Māori Television Service (Te Aratuku Whakaata Irirangi Māori) Act 2003; and
  - 2.8 Te Ture Whenua Maori Act 1993, the Maori Incorporations Constitution Regulations 1994, and the Maori Reservations Regulations 1994.
- 3 **note** that the Bill repeals the following statutes which have no operative provisions:
  - 3.1 Maori Purposes Act 1939;
  - 3.2 Maori Purposes Act 1945; and
  - 3.3 Maori Purposes Act 1973.
- 4 **approve** the Bill for introduction, subject to the final approval of the government caucus and sufficient support in the House of Representatives;
- 5 **agree** that the Bill be introduced on the first available date after Cabinet has approved the Bill for introduction; and
- 6 **agree** that the Government propose that the Bill be:
  - 6.1 referred to the Māori Affairs Select Committee for consideration; and
  - 6.2 enacted, if possible, in 2025.

Authorised for lodgement

Hon Tama Potaka

Minister for Māori Development