

Departmental Disclosure Statement

Māori Language (Te Reo Māori) Bill

The departmental disclosure statement for a government Bill seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill.

It identifies:

- the general policy intent of the Bill and other background policy material;
- some of the key quality assurance products and processes used to develop and test the content of the Bill;
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

This disclosure statement was prepared by Te Puni Kōkiri.

Te Puni Kōkiri certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

23 June 2014.

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Part One: General Policy Statement

Successive Governments have accepted that the Māori language is a taonga guaranteed to iwi and Māori people by the Treaty of Waitangi, and that the Crown has an enduring responsibility to take active steps to support its growth and development (CAB (97) M34/5b refers).

A range of programmes and services have been developed across Government to support the Māori language. Within the Māori Affairs portfolio, Te Taura Whiri i te Reo Māori was established in 1987 to give effect to the status of Māori as an official language of New Zealand, and to promote the use of the Māori language (through the Māori Language Act 1987), Te Māngai Pāho was established in 1993 to promote the Māori language and culture through providing funding for Māori radio and television broadcasting (through the Broadcasting Amendment Act 1993) and the Māori Television Service was established in 2003 to promote the Māori language through the provision of a television service (through the Māori Television Service Act 2003).

The Government's Māori Language Strategy (MLS) was initially developed in 1998 to ensure that Māori language programmes and services were being directed towards agreed outcomes and target populations. It identified the Māori language programmes and services that were being delivered at that time, and established mechanisms to support coordination across votes and agencies. The MLS was revised and further updated in 2003.

Recent reviews have highlighted various aspects of the MLS that would benefit from further development. An independent 7 person panel selected by the Minister of Māori Affairs undertook a review of the Māori Language Strategy and sector and presented its findings in its report *Te Reo Mauriora* in April 2011. Recommendations in the report included:

- that a board known as Te Mātāwai be established to provide direction on all matters pertaining to the Māori language;
- that re-establishing te reo in homes is the key requirement for Māori language revitalisation; and
- that the future implementation of the revitalisation strategy be led by iwi.

The Waitangi Tribunal considered Māori language issues as part of its WAI 262 (Flora, Fauna, Cultural and Intellectual Property claim) inquiry. It released a provisional chapter in its report *Ko Aotearoa Tēnei* that focused on Crown-Māori relationships in terms of the Māori language, and included an overall assessment of the 2003 MLS in this light. Key themes in the recommendations of this provisional chapter included:

- the development of stronger Crown-Māori relationships (for example, the Waitangi Tribunal recommended that the Māori Language Commission is reconstituted as 'a Crown-Māori partnership'); and
- an enhanced role for iwi in language planning and implementation.

After consideration of these reports, and further consultation with key Māori language stakeholders, the Government has agreed to a number of proposals to revise the MLS, including to:

- affirm that the Māori language is a taonga of iwi and Māori, and that iwi and Māori are the kaitiaki of the Māori language;
- establish an independent entity, Te Mātāwai, to provide leadership on behalf of iwi and Māori regarding the health of the Māori language;

- provide for iwi and Māori language stakeholder organisations to appoint 10 members to Te Mātāwai, and for the Crown to appoint two members;
- transfer responsibility and oversight for Te Taura Whiri i te Reo Māori and Te Māngai Pāho from the Crown to Te Mātāwai; and
- disestablish Te Pūtahi Paoho and transfer its functions to Te Mātāwai.

This Bill would give effect to these proposals. Other aspects of the MLS can be implemented without legislative changes.

This Bill repeals the Māori Language Act 1987 and Part 4A of the Broadcasting Act 1989, but strengthens and clarifies provisions from the Māori Language Act 1987 relating to:

- the Māori language is an official language of New Zealand;
- the right to speak Māori in legal proceedings; and
- the granting of certificates of competency in the Māori language.

This Bill amends the Māori Television Service Act 2003, in order to disestablish Te Pūtahi Paoho and to transfer its functions, duties, assets and liabilities to Te Mātāwai. It also amends the Crown Entities Act 2004 by removing Te Taura Whiri i te Reo Māori and Te Māngai Pāho from Part 2 of Schedule 1 of that Act.

Part Two: Background Material and Policy Information

Published reviews or evaluations

2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill?	YES
<p><i>Te Reo Mauriora</i>. Te Paepae Motuhake. April 2011. http://www.tpk.govt.nz/en/consultation/reviewmlss/report/</p> <p><i>Wai 262: Ko Aotearoa Tēnei: Te Taumata Tuatahi - A Report into Claims Concerning New Zealand Law and Policy Affecting Māori Culture and Identity</i>. Waitangi Tribunal. 2011. http://www.justice.govt.nz/tribunals/waitangi-tribunal/publications/bound-reports</p> <p><i>Implementing the Māori Language Strategy</i>. Office of the Auditor General. 2007. http://www.oag.govt.nz/2007/Māori-language-strategy</p>	

Relevant international treaties

2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?	NO
2.2.1. If so, was a National Interest Analysis report prepared to inform a Parliamentary examination of the proposed New Zealand action in relation to the treaty?	Not applicable

Regulatory impact analysis

2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?	YES
<p><i>Regulatory Impact Statement: Developing a new Māori Language Strategy: Revised Arrangements for Māori Language Entities</i>. Te Puni Kōkiri. 14 May 2014. http://www.tpk.govt.nz/en/consultation/mls/</p>	
2.3.1. If so, did the RIA Team in the Treasury provide an independent opinion on the quality of any of these regulatory impact statements?	YES
<p>The Regulatory Impact Analysis Team at Treasury has reviewed the RIS prepared by Te Puni Kōkiri and associated supporting material, and considers that the information and analysis summarised in the RIS partially meets the quality assurance criteria. The different options are explained clearly and cover the objectives well, but the analysis of the impact of the different options is not convincing as it is largely based on assumptions about the effect of changes of status or form.</p> <p>Treasury RIAT Statement dated 13 May 2014</p>	

2.3.2. Are there aspects of the policy to be given effect by this Bill that were not addressed by, or that now vary materially from, the policy options analysed in these regulatory impact statements?	NO

Extent of impact analysis available

2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?	NO

2.5. For the policy to be given effect by this Bill, is there analysis available on:	
(a) the size of the potential costs and benefits?	YES
(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?	Not applicable
An analysis of the potential costs and benefits of the policy to be given effect by this Bill is described in the Regulatory Impact Statement that was prepared by Te Puni Kōkiri.	

2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by:	
(a) the level of effective compliance or non-compliance with applicable obligations or standards?	NO
(b) the nature and level of regulator effort put into encouraging or securing compliance?	NO

Part Three: Testing of Legislative Content

Consistency with New Zealand's international obligations

3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?

No relevant international obligations were identified. This was confirmed by referring to Appendix 3 of the Legislation Advisory Committee, Guidelines on Process and Content of Legislation, which contains a list of legislation that implements various treaties.

Consistency with the government's Treaty of Waitangi obligations

3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi?

Successive governments have accepted that the Māori language is a taonga guaranteed to iwi and Māori people by the Treaty of Waitangi, and that the Crown has an enduring responsibility to take active steps to support its growth and development (CAB (97) M34/5b refers). The Crown has undertaken extensive consultation with iwi and Māori in its review of the Māori Language Strategy and in developing proposals for a new Māori Language Strategy, including new institutional arrangements for Māori language entities. These new institutional arrangements are intended to: (a) devolve responsibility for certain Māori language entities to iwi and Māori and (b) create mechanisms for regular and structured engagement between the Crown and iwi and Māori about Māori language issues.

Consistency with the New Zealand Bill of Rights Act 1990

3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?

YES

The draft Bill has been provided to the Ministry of Justice to undertake a review of the content of the Bill against the provisions of the New Zealand Bill of Rights Act 1990. The Ministry of Justice will provide advice to the Attorney General once the review is complete.

Offences, penalties and court jurisdictions

3.4. Does this Bill create, amend, or remove:	
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(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?	NO
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(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?	NO
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This Bill maintains existing provisions about the use of the Māori language in legal proceedings, and offences and related fines in terms of the incorrect interpretation or translation of the Māori language in legal proceedings (Schedule Five sections 5 - 7 of the Māori Language Bill refers).

3.4.1. Was the Ministry of Justice consulted about these provisions?	NO
The Ministry of Justice was not consulted because existing provisions are continued.	

Privacy issues

3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information?	NO

3.5.1. Was the Privacy Commissioner consulted about these provisions?	Not applicable

External consultation

3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill?	YES
<p>Consultation was undertaken in 2010/11 through a review of the Māori Language Strategy and Sector by an independent 7 person panel, Te Paepae Motuhake, selected by the Minister of Māori Affairs. The panel sought the views of iwi and Māori via one national hui and 14 regional consultation hui. Written submissions were also invited and 20 were received. The panel presented its findings in a report <i>Te Reo Mauriora</i> published in April 2011 (available at http://www.tpk.govt.nz/en/consultation/reviewmlss/report/).</p> <p>In December 2013, the Minister of Māori Affairs obtained the approval of Cabinet to consult on a series of proposals for a new Māori Language Strategy. Seven regional consultation hui were held in February 2014. There were also 55 individual written submissions on the proposals. In addition, the Minister of Māori Affairs met with the Iwi Leaders' Forum to discuss and receive advice on the proposals.</p> <p>The proposals for revised ownership arrangements for Māori language entities received overall support from iwi during the consultation round. Concerns raised by iwi submissions focussed mainly on details of how Te Mātāwai would work. Issues raised included the proposed membership of Te Mātāwai, the allocation of iwi to each of the dialectal districts, the makeup of the Māori Language organisations group and the relationship between Te Mātāwai and the Crown. Other Māori language stakeholders considered that Te Taura Whiri and Te Māngai Pāho should be strengthened in order to do the job they were 'set up to do', and that they would be better positioned as Crown entities than in any other governance arrangement.</p>	

Other testing of proposals

3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill's provisions are workable and complete?	YES
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Feedback on the workability of the policy proposals has been sought from a small group of iwi technical advisors nominated by the Iwi Leaders' Forum.

Part Four: Significant Legislative Features

Compulsory acquisition of private property

4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?	NO

Charges in the nature of a tax

4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?	NO

Retrospective effect

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	NO

Strict liability or reversal of the usual burden of proof for offences

4.4. Does this Bill:	
(a) create or amend a strict or absolute liability offence?	NO
(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?	NO

Civil or criminal immunity

4.5. Does this Bill create or amend a civil or criminal immunity for any person?	NO

Significant decision-making powers

4.6. Does this Bill create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?	NO

Powers to make delegated legislation

4.7. Does this Bill create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?	NO

4.8. Does this Bill create or amend any other powers to make delegated legislation?	NO

Any other unusual provisions or features

4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?	YES
<p>The Bill establishes a new independent, statutory Māori language entity, Te Mātāwai. It also changes the institutional arrangements for two Crown entities, Te Taura Whiri and Te Māngai Pāho which will (a) cease to be Crown entities and (b) become subject to the direction and oversight of Te Mātāwai.</p> <p>These changes are proposed to reflect the recommendations of several reviews (see the General Policy Statement) that the future implementation of the revitalisation strategy for Te Reo Māori be led by iwi, also of the importance of an entity able to provide leadership on behalf of iwi and Māori regarding the health of the Māori language.</p>	

