



# Engaging post-settlement governance entities on upholding settlements under the Conservation Amendment Bill

|                       |  |                       |                  |
|-----------------------|--|-----------------------|------------------|
| <b>To</b>             | Minister of Conservation   | <b>Date submitted</b> | 26 February 2025 |
| <b>Action sought</b>  | Provide feedback on correspondence to post-settlement governance entities (PSGEs) about their settlements<br>Agree next steps on engaging with PSGEs | <b>Priority</b>       | High             |
| <b>Reference</b>      | 25-B-0059  | <b>DocCM</b>          | DOC-7886836      |
| <b>Security Level</b> | In Confidence  |                       |                  |

|                        |  |                  |               |
|------------------------|--|------------------|---------------|
| <b>Risk Assessment</b> | High<br>Risks to Crown-Māori relations and timeframes for the Conservation Amendment Bill              | <b>Timeframe</b> | 12 March 2025 |
| <b>Attachments</b>     | Appendix 1: Timeline for PSGE engagement on settlements for Conservation Amendment Bill<br>s9(2)(g)(i) |                  |               |

|   |              |
|---|--------------|
| <b>Contacts</b>   |              |
| <b>Name and position</b>  | <b>Phone</b> |
| Ruth Isaac, Deputy Director-General, Policy and Regulatory Services | s9(2)(a)     |
| Sam Thomas, Director Policy   | s9(2)(a)     |

## Executive summary – Whakarāpopoto ā kaiwhakahaere

1. This briefing:
  - a) provides more information on engaging post settlement governance entities (PSGEs) about upholding Treaty settlement commitments in the Conservation Amendment Bill (the Bill);
  - b) s9(2)(g)(i)

- c) seeks your initial views on the key policy choices associated with providing material equivalence or carve outs for significant categories of redress, to guide our approach to the first meetings with some PSGEs on upholding commitments.

### **Background and context**

2. On 30 January 2025, we briefed you on broad options for upholding Treaty settlement commitments in the Conservation Amendment Bill (25-B-0017 refers). You agreed to targeted engagement on equivalence and to re-assess the Crown's options for upholding those settlements in June 2025. You also agreed to parallel engagement with Pou Taiao technicians.
3. The Crown now needs to communicate its specific engagement approach to PSGEs as soon as possible given the timeframes for the Bill.

### **We recommend a multi-track approach to engagement**

4. We recommend different engagement approaches across three tranches of settlements (also see **Appendix 1**):
  - Tranche 1: approximately 24 settlements which have commitments that embed Iwi/hapū in the processes and structures of management planning. There are complex choices about how these bespoke arrangements are upheld. We propose to manage this engagement via three face-to-face hui with each of the PSGEs between April and early August 2025.
  - Tranche 2: approximately 61 settlements which have commitments that we expect can be relatively easily upheld under the Bill, with some requiring only consequential amendments to settlements. Given the more minor nature of amendments, we propose to engage these groups primarily via correspondence, with limited online meetings as required. However, if substantive impacts or complexities are identified through this engagement, there may be a need for further targeted engagement.
  - Tranche 3: settlements with live historical settlement negotiations where redress could be impacted by the Bill. These are at different stage of completion. We will be discussing this directly with Te Arawhiti and will provide more specific advice on engaging these groups in March/April 2025.

5. s9(2)(g)(i) [REDACTED]  
[REDACTED]  
[REDACTED] Instead, we recommend the primary purpose of this engagement is to discuss, in good faith, what equivalence or carve outs look like in the context of regulatory reform.

6. s9(2)(i) [REDACTED]  
[REDACTED]

7. The Deputy Director-General Treaty Relationships, Tame Malcolm, will make initial enquiries with Te Pou Taiao around their availability and willingness to participate in this work.

s9(2)(g)(i) [REDACTED]

8. s9(2)(g)(i) [REDACTED]  
[REDACTED]

**Your feedback is sought on the key policy choices to uphold settlements**

9. It is important that the Crown approaches the proposed engagement with an open mind and does not make policy decisions that limit its ability to undertake good faith engagement with PSGEs. However, there are some key policy choices it would be useful to have your feedback on to inform discussions in the first hui.
10. The key policy choices we are seeking your feedback on outline approaches to:
  - Preserving separate conservation management strategies (CMSs), CMS places or chapters, national park management plans (NPMPs) and conservation management plans (CMPs) created through settlement as their own area plans.
  - Exploring forms of dialogue between PSGEs and the Minister during the approval stage of area plans, to provide equivalence for roles on the New Zealand Conservation Authority (NZCA) or Conservation Boards.
  - Maintaining the substantive effect of legal weightings for other natural resource strategies (e.g. integrated river management plans) in conservation management planning.

**We recommend that you ... (Ngā tohutohu)**

|   |  |          |
|---|--|----------|
| <b>Engagement with post-settlement governance entities</b>  |  |          |
| <b>a)</b>   | <b>Note</b> the proposed approach to engaging post settlement governance entities (PSGEs) about upholding Treaty settlement commitments in the Conservation Amendment Bill.  |          |
| <b>Initial views on key policy choices</b>  |  |          |
| <b>b)</b>   | <p><b>Provide feedback</b> (if any) on the proposed approach to several key policy choices to uphold settlements:</p> <ul style="list-style-type: none"> <li>• Preserving separate CMSs, CMS chapters, NPMPs and CMPs created through settlement as their own area plans.</li> <li>• Exploring forms of dialogue between PSGEs and the Minister during the approval stage of area plans, to provide equivalence for roles on the NZCA or Conservation Boards.</li> <li>• Maintaining the substantive effect of legal weightings for other natural resource strategies (e.g. integrated river management plans) in conservation management planning.</li> </ul> | Yes / No |
| <b>Proposed correspondence to PSGEs about their settlements and initiating next phase of engagement</b> |  |          |
| <b>c)</b>   | <b>Agree</b> to initiate the next phase of engagement by writing initiation letters to PSGEs in March 2025.  | Yes / No |
| <b>d)</b>   | s9(2)(g)(i) [REDACTED]   | Yes / No |

|    |  |          |
|----|--|----------|
| e) | <b>Agree</b> to forward this briefing to the Minister Responsible for RMA Reform, Minister for Treaty of Waitangi Negotiations and Minister for Māori Crown Relations. | Yes / No |
|----|--|----------|

**s9(2)(a)**

Date: 26/02/25

Date: / /

Ruth Isaac  
Deputy Director-General, Policy and  
Regulatory Services

Hon Tama Potaka  
**Minister of Conservation**

### Purpose – Te aronga

11. This briefing:
- provides more information on engaging with post settlement governance entities (PSGEs) about upholding Treaty settlement commitments in the Conservation Amendment Bill (the Bill);
  - s9(2)(g)(i)**
  - seeks your initial views on the key policy choices associated with providing material equivalence or carve outs for significant categories of redress, to guide our approach to the first meetings with some PSGEs on upholding commitments.

### Background and context – Te horopaki

12. On 30 January 2025, we briefed you on broad options for upholding Treaty settlement commitments in the Conservation Amendment Bill (25-B-0017 refers). We recommended two tranches of settlements with different engagement approaches:
- Tranche 1: approximately 24 settlements which have commitments that embed Iwi/hapū in the processes and structures of management planning. There are complex choices about how these bespoke arrangements are upheld.
  - Tranche 2: approximately 61 settlements which have commitments that we expect can be relatively easily upheld under the Bill, with some requiring only consequential amendments to settlements.<sup>1</sup>
13. You agreed with the need for more substantive, targeted engagement on equivalence proposals with Tranche 1 groups, and to re-assess the Crown's options for upholding those settlements in June 2025. You also agreed to engage in parallel with Pou Taiao technicians.
14. The Crown needs to communicate its specific engagement approach to PSGEs as soon as possible given the timeframes for the Bill and the fact that many groups have asked for more detail about how specifically their settlements would be upheld.

<sup>1</sup> These figures are lower than those in our previous advice (25-B-0017) because they exclude settlements that are still in progress, such as those for which settlement legislation is still in the House.

15. You are also scheduled to meet Iwi leaders on 5 and 6 March 2025 to discuss recent engagement on the Bill, presenting an opportunity to signal next steps for different PSGEs on upholding settlement commitments. Talking points for this have been provided to you in separate advice (25-B-0055 refers).

### Key features of proposed engagement

---

16. **Appendix 1** provides a timeline for our proposed engagement. It includes reporting to you and Cabinet, and aligns with drafting processes for the Bill. This process would effectively start with an 'initiation letter' sent by you to all PSGEs, ideally in March 2025.

#### ***A multi-track approach focused on practical solutions***

17. Tranche 1 groups will expect substantive, face-to-face discussions about how their specific influence over, and roles in, management planning can be materially preserved in the new management planning system. We propose to manage this engagement via three face-to-face hui with each of the 24 PSGEs between April and early August (updated from June 2025 as previously signalled).
18. In contrast, we propose to engage Tranche 2 groups primarily via correspondence, with limited online meetings as required. Given the more minor nature of amendments, we propose your initiation letter to these groups should explain our initial assessment that the substance of their commitments will not change, and signal that we will write to them again from April 2025 onwards on a rolling basis (letters would need to be staggered for logistical reasons) with specific proposals for preserving the intent of their commitments. These are likely to be consequential changes, if any, to settlements (e.g. replacing references to a CMS or CMP with reference to an area plan) and may potentially require changes to relationship agreements. We would invite feedback on these proposals and offer to discuss them further if PSGEs wish.
19. For both Tranche 1 and 2, we would look to focus on practical solutions: which/how many instances require direct amendment of settlement legislation, which commitments require a substantive equivalent in the new legislative framework, or whether specific carve-outs/grandparenting will be the best option in the timeframes.
20. Since our last briefing, we consider some settlements are better categorised in a third tranche. These are those with live historical settlement negotiations where redress could be impacted by the Bill. These settlements are at various stages of completion (from groups who are working towards a Crown offer through to groups who have signed a deed of settlement and have a settlement bill in the House). There is likely to be a spectrum of options for upholding what the Crown has offered. Groups will want to know how their settlement is affected and what changes to their settlement redress may need to be negotiated and agreed. There will need to be direct engagement by the Crown with the affected groups and what the Conservation Amendment Bill means for their settlement. We will work with Te Arawhiti on the approach to this engagement and will provide more specific advice on engaging with affected groups in March/April 2025.
21. Further analysis and engagement with PSGEs may reveal more substantive impacts or complexities that could require targeted engagement with PSGEs in Tranche 2. Likewise, given the nature of commitments initially identified for Tranche 3 groups, we may also need to account for engagement with mandated representative bodies in a similar approach to Tranche 1.
22. s9(2)(g)(i)

s9(2)(g)(i)

Instead, the main purpose of engagement is being able to discuss, in good faith, what equivalence or carve outs look like in the context of regulatory reform.

23. The table below sets out indicative steps for Tranches 1 and 2:

| Tranche   | Step   | Timeframe                        |
|---|--|----------------------------------|
| Tranche 1:<br>Settlements likely to need <u>material equivalence / carve out</u> proposals to be able to uphold<br><br>Approx. 24 settlements | Initiation letter from you to PSGEs that acknowledges more complex redress and proposes to engage substantively but efficiently between April – early August. DOC follows up directly to schedule engagement.  | Early March                      |
|   | <b>Meeting 1:</b> Discuss which commitments are affected (and how), explore priority considerations and trade-offs for both PSGE and the Crown in the context of the Bill.<br><br>This is likely to inform how individual PSGE perspectives/aspirations relate to others and what this means for policy options. | April                            |
|   | <b>Initial Crown proposal:</b> Crown makes a substantive proposal about how each specific commitment or redress mechanism could be provided for in the new system.   | Early May                        |
|   | <b>Meeting 2:</b> Substantive discussion on initial proposal and collaboration to refine.  | Mid-May to June                  |
|   | <b>Meeting 3:</b> Final discussions aiming to resolve outstanding issues/concerns.   | July / early August              |
| Tranche 2:<br>Settlements which can be upheld <u>without substantive change to settlements</u><br><br>Approx. 61 settlements                  | Initiation letter from you to PSGEs signals expectation that commitments will not be substantively changed and intention to send detailed proposals for upholding over next few months.  | Early March                      |
|   | Inform in writing exactly which commitments are impacted, why Crown considers substance of the commitments would not change and seek feedback. This may identify a need for further targeted engagement if significant impacts or complexities are identified.   | April to June on a rolling basis |
|   | Follow-up conversations as requested by PSGEs.   | April to early August            |

24. The dates above are influenced by the current timeline for the Bill, and this engagement is not intended to be a full, co-design process. It envisages the Crown putting forward proposals at some points that it would then discuss and develop with PSGEs in good faith, rather than collaboratively developing all such proposals/products from scratch.
25. As previously briefed, we would aim to keep substantive engagement as efficient as possible, with discussions led by senior DOC staff instead of external engagement leads. s9(2)(g)(i)

s9(2)(g)(i)

Alignment with resource management reform

26. s9(2)(g)(i)

27. It is expected that some Iwi/hapū may want to engage on settlement commitments across both the resource management and conservation reforms at the same time, rather than through separate agencies and processes. s9(2)(g)(i)

**Resourcing for PSGEs**

28. As previously briefed, Treaty partners have consistently asserted that PSGEs should be resourced by the Crown to participate in discussions about changes to their settlements.

29. s 9(2)(i)

**Parallel engagement with Pou Taiao**

30. The Deputy Director-General Treaty Relationships, Tame Malcolm, will make initial enquiries with Te Pou Taiao around their availability and willingness to participate in this work. DOC also intends to provide resource support to this engagement but the details of this are still being worked through.

**Key decision-making/escalation points and links to Cabinet and Bill processes**

31. We will update you regularly as discussions evolve on the potential for agreement, key sticking points, and how they might impact your choices about Bill proposals.

**Appendix 1** shows key decision points and dependencies. s9(2)(f)(iv)

32. We will then brief you in early August on the overall outcomes of the hui and key choices for the Bill.

33. In addition, some groups will likely seek to discuss significant/final issues with you in a 'Rangatira to Rangatira' format. Personal engagement by you at this point may be essential in particular with large/high profile groups with complex redress, whose agreement may help build momentum across PSGEs. We have allowed time for a series of 'escalation' meetings in August and September. To support the outcome of

such discussions, you may also need to take a Cabinet paper in September on any key, outstanding policy decisions needed to uphold settlements.

### **Key parameters and expectations to communicate in your initiation letters**

---

34. s9(2)(g)(i) [REDACTED]
35. The draft letters emphasise the Crown's commitment to upholding the intent of Treaty settlement arrangements. They highlight the timeframes for the Bill and seek PSGE support for a practical and solutions-focused conversation. They also acknowledge that while many PSGEs seek a wider, ongoing conversation with the Crown about their role in conservation management, and that you are happy to continue these discussions over time (including in the wider legislative process for the Bill), the primary focus of these discussions is to ensure we uphold the intent of redress.
36. Based on the approaches discussed above, Tranche 1 letters:
- Acknowledge that commitments are substantively impacted by Bill proposals and explain the Crown's desire to engage between April and early August to develop proposals for material equivalence.
  - Make an explicit offer of financial support for PSGEs.
  - Propose a set of principles to govern discussions and further work, including that specific approaches to upholding settlements should:
    - Be based on good faith engagement and an understanding of the priorities for both PSGEs and the Crown;
    - Focus on upholding the intent of settlement commitments and leave Iwi/Hapū 'no worse off' in terms of the substantive influence these mechanisms provided in conservation management; and
    - Not unduly constrain the Crown's ability to propose changes to legislation to ensure effective and efficient conservation management for all New Zealanders.
37. Tranche 2 letters explain and signal the Crown's initial assessment that the substance of the group's redress commitments is unlikely to change under the Bill and signal the Crown's intention to write to the group seeking feedback on specific proposals for upholding these commitments from April to June (with groups contacted on a rolling basis).
38. We seek your approval of these letters, subject to any specific feedback you have on the text.

### **Initial views on key policy choices**

---

39. As noted, there will be a range of policy decisions needed as discussions with all Tranches progress. Most of these will relate to material equivalence or carve out proposals for Tranche 1 groups and how these relate to your wider objectives and proposals for the Bill. We will not have a comprehensive sense of these until after the first cycle of hui with these groups, and it is important that the Crown approaches such meetings with an open mind and does not make policy decisions that limit its ability to undertake good faith engagement with PSGEs.
40. At the same time, there are some immediate questions it will help to have your initial views on prior to our first hui. These views would still need to be subject to final

Cabinet policy decisions on upholding settlements, but in many instances, they will help assure PSGEs that the Crown is thinking about the issues with an open mind, or will help us to explore, refine and focus more quickly on specific choices for equivalence proposals. These issues are discussed further below.

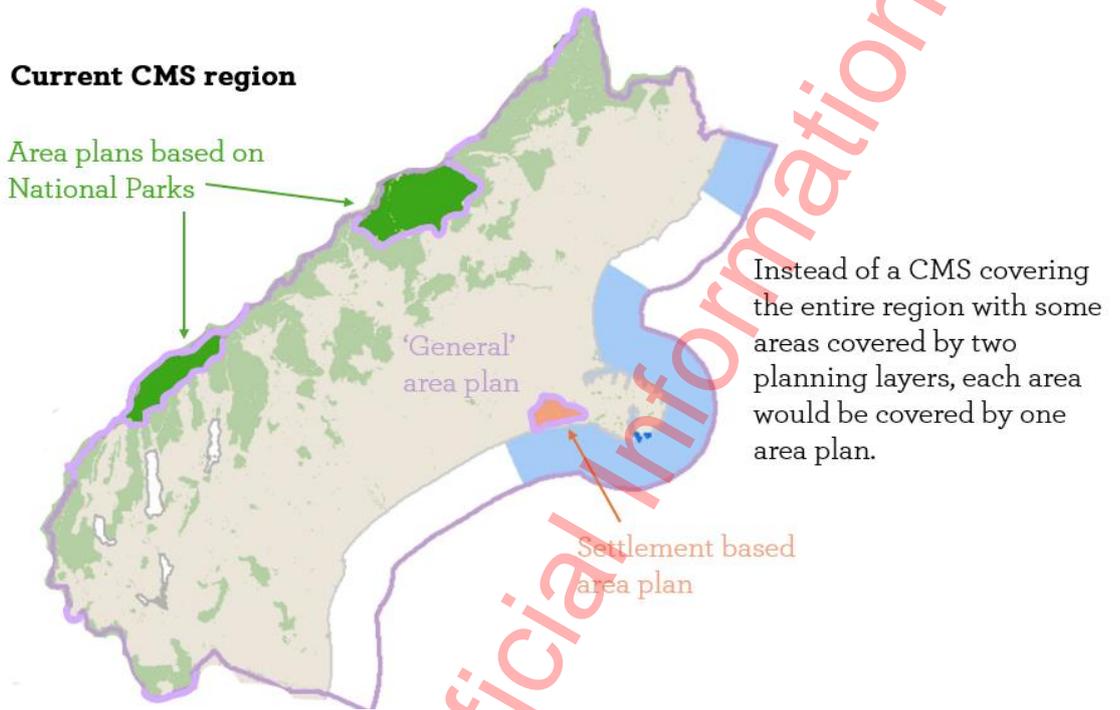
41. In addition, you provided feedback on our last briefing about s9(2)(f)(iv)

***How to approach settlements providing Iwi-specific versions/sections of plans***

42. Many settlements (approximately 24 in Tranche 1) commit the Crown to preparing specific conservation management strategies (CMSs), specific geographic 'places' or 'chapters' of CMSs, national park management plans (NPMPs) or specific conservation management plans (CMP) with PSGEs. They also often commit the Crown to specific co-authoring or co-approval roles for these plans and chapters with the PSGEs concerned. For example:
- Te Hiku o Te-Ika-a-Māui CMS is jointly prepared by Te Hiku o Te Ika Iwi and the Director-General.
  - He Kawa Ora mō Te Papa-Kura-o-Taranaki, which will replace Egmont NPMP, will have preparation and approval overseen by Te Tōpuni Kōkōrangī, the statutory body which acts as the human face and voice of Te Kāhui Tupua.
  - Whirinaki Te Pua-a-Tāne CMP is jointly approved by the trustees of Te Rūnanga o Ngāti Whare and the Conservation Board.
  - The Bay of Plenty CMS must be reviewed to include a Whakatōhea chapter which is jointly prepared by the trustees of Te Tāwharau o Te Whakatōhea and the Director-General.
43. These instruments often relate to areas of particularly high significance to Iwi/Hapū, where there was a desire for more intensive or collaborative management with the Crown. Many of the CMP and CMS chapters developed through settlement sit within and are smaller than the current 'regional' areas of CMSs, which we expect will be the geographic starting point for area plans.
44. The number of plans derived from Treaty settlement redress that are likely to be affected by proposals are approximately:
- 3 CMSs (one of which is due to replace another; these are yet to be completed or enacted)
  - 6 CMS chapter or place requirements in 4 CMSs (all yet to be completed or enacted)
  - 1 NPMP (which is due to replace an existing NPMP), and
  - 15 CMPs.
45. A key proposal for the Conservation Amendment Bill is to move away from multiple plans and strategies governing individual areas, and instead to have one single plan for any given area. We recommend that CMPs, CMSs, CMS places/chapters, and National Park Management Plans (NPMPs) created under settlement are preserved as their own area plans with the same status and function as 'general' area plans. This

ensures the policy intent is preserved (i.e. that any given area is only governed by one area plan).

46. This is illustrated in the following graphic, which aims to show how area plans would continue to apply to different, mutually exclusive areas of a planning region:



47. This recommended approach provides scope to preserve the specific status and nature of settlement commitments. Where a group has a bespoke preparation and approval process, having a spatially separate area plan to reflect their settlement means you can discuss an equivalent for this process without undermining the process through which all Iwi/Hapū are involved in other, neighbouring area plans.

48. s9(2)(g)(i)
- [Redacted]

49. Transferring specific geographic chapters of CMSs (approximately 6) into their own area plans would slightly increase the number of plans but would remove the need for different preparation and approval processes for different chapters of a single area plan. s9(2)(g)(i)
- [Redacted]

50. s9(2)(g)(i)
- [Redacted]

s9(2)(g)(i)

**Providing for Iwi representatives on Conservation Boards**

- 51. 11 settlements in Tranche 1 provide for Iwi/PSGEs to nominate members of Conservation Boards. This commitment was often negotiated with the expectation it would provide a measure of influence for PSGEs over the Boards' current role in reviewing and advising on CMSs, or in approving CMPs in a given region. In some cases, settlement establishes a new conservation board for an area, for example Te Hiku o Te Ika Conservation Board. Members are made up of appointments nominated by Te Hiku o Te Ika Iwi and the Minister. Often these commitments operate in tandem with the provision of an Iwi-specific CMS, CMS chapter, or CMP (so that the group has a unique planning instrument over which they assert a high level of influence).
- 52. We have also previously noted that the Ngāi Tahu settlement provides for Te Runanga o Ngāi Tahu to nominate one member to the New Zealand Conservation Authority, which currently holds the approval role for CMS and National Park Management Plans.

53. s9(2)(g)(i)

- 54. Solutions for this category of redress are likely to be region-specific and will depend on specific commitments. s9(2)(g)(i)

55. s9(2)(g)(i)

**Preserving legal weightings for other settlement based natural-resource instruments**

- 56. A range of settlements (that overlap significantly with the Tranche 1 groups for the current proposals) provide co-management models over specific natural resources (such as a river or lake) where the relevant Iwi/Hapū can prepare (in conjunction with local authorities) a 'vision' or 'strategy' predominantly aimed at resource management.
- 57. In many of these instances, all or part of these documents are then given a 'legal weighting' under specific statutes, including the Conservation Act, so that the Director-General would have to 'recognise and provide for' or 'take into account' the strategy when preparing and approving conservation planning documents. In a few cases, the conservation components of these documents have the status of a CMP (e.g. the integrated river management plans for the Upper Waipa River and the Upper Waikato River). We recommend that, as above, conservation components of these plans have their status preserved as their own area plans under proposed changes.

58. s9(2)(g)(i)

s9(2)(g)(i)

59. s9(2)(g)(i)

---

### **Resourcing and financial implications**

---

60. In addition to resourcing for Tranche 1 PSGEs, we have factored in extra remuneration if further hui are required. DOC also intends to provide resource support for engagement with Pou Taiao but the details of this are still subject to confirmation.
61. Internal reprioritisation within DOC is planned to accomplish the engagement process and policy work required. This will be covered under existing baselines.

---

### **Treaty principles and legal implications – confidential & legally privileged**

---

62. Our previous advice on the application of Treaty principles to this process and legal implications continue to apply (25-B-0017 refers).
63. This briefing has been reviewed by DOC Legal.

---

### **Consultation – Kōrero whakawhiti**

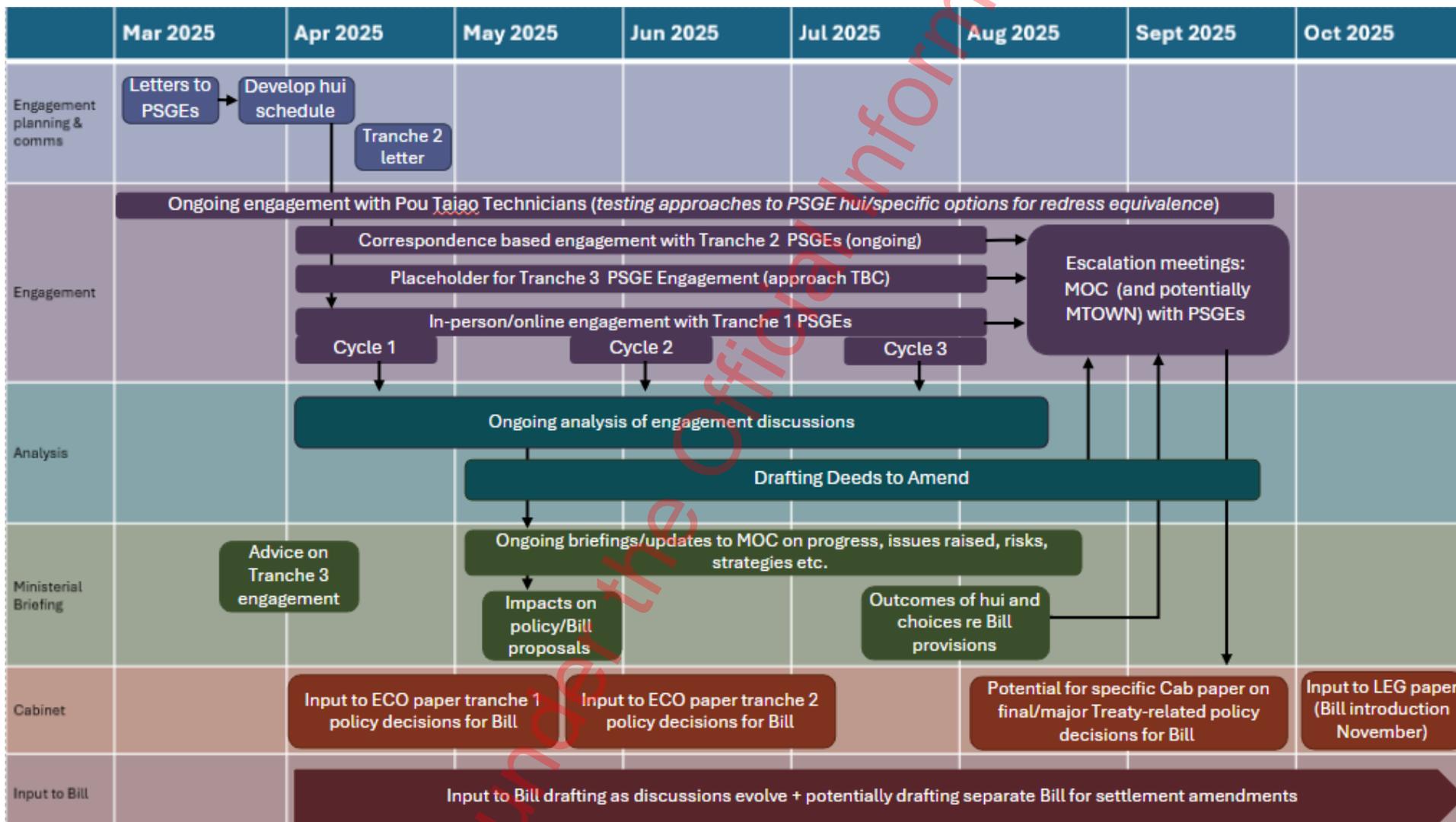
---

64. MfE, Te Puni Kōkiri, Te Arawhiti were consulted in the preparation of this briefing. Crown Law was informed.

**ENDS**

---

**APPENDIX 1: Preliminary timeline for engagement with PSGEs on Treaty settlements**



s9(2)(g)(i)

Released under the Official Information Act

s9(2)(g)(i)

Released under the Official Information Act

s9(2)(g)(i)

Released under the Official Information Act