Department of Conservation
Te Papa Atawhai

Briefing: Upholding Treaty settlement redress and Takutai Moana rights

To	Minister of Conservation	**Date submitted**	14 August 2025
Action sought	Approval to proposals to uphold Treaty settlements and Takutai Moana rights through the Conservation Acts (Land Management) Amendment Bill. Forward to the Minister for Treaty of Waitangi Negotiations.	**Priority**	Very High
Reference	25-B-0346	**DocCM**	DOC-10418936
Security Level	In Confidence		

Risk Assessment	High Risks to Crown-Māori relations, durability of Treaty settlements and timeframes for the Conservation Acts (Land Management) Amendment Bill	**Timeframe**	18 August 2025, to allow ministerial consultation on Cabinet paper to start on 25 August 2025
Attachments	Attachment A: Options for upholding Treaty settlement redress Attachment B: Key decisions for upholding Treaty settlement redress Attachment C: Analysis of engagement with PSGEs Attachment D: Upholding Takutai Moana rights		

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Executive summary – Whakarāpopoto ā kaiwhakahaere

1. In June, Cabinet agreed to a suite of changes to conservation land management [CAB-25-MIN-0213]. Drafting is underway on the Conservation Acts (Land Management) Amendment Bill (the Bill) to implement these changes.
2. As part of this decision, Cabinet invited you to report back on several different issues.
3. This briefing provides policy advice to inform your decisions, and ultimately those of Cabinet, on:
   - upholding relevant Treaty settlement commitments; and
   - arrangements to uphold rights under the Marine and Coastal Area (Takutai Moana) Act 2011 and the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019.
4. In order to introduce the Bill this year, you will need to make decisions on the policy issues set out in this briefing no later than 18 August 2025. This will allow us to provide you with a draft Cabinet paper to start ministerial consultation on 25 August 2025.

Upholding Treaty settlement redress

5. To avoid undermining Treaty settlements and the Māori-Crown relationship more broadly, you have agreed that amendments to the conservation system will uphold Treaty settlements. This has been reinforced by the media statements surrounding the recent Cabinet announcements where the Crown outlined that "Treaty settlements will be upheld" and that engagement was underway with post-settlement governance entities (**PSGEs**) to discuss how to uphold settlements.[1]
6. 9(2)(g)(i) [redacted] Furthermore, obtaining individual and locally bespoke agreements could undermine your intent for a nationally consistent approach to management planning.
7. Instead, across 2025 we have engaged with a range of PSGEs seeking to discuss, in good faith, what equivalence or carve outs of redress look like in the context of regulatory reform rather than to seek agreement. 9(2)(g)(i) [redacted]
8. To proceed with the reforms on the current timeframes, we have developed a proposal for you to discuss with Cabinet in September. Our proposal draws together various options (as outlined in **Attachment A**) and recommends a tailored approach based on the complexity of the redress. This approach:
   - translates standard redress into the new system given the redress can operate largely as intended in the new system with minor change (such as deeds of recognition) – these proposals can be further tested and refined through the Select Committee process. We consider the risk is manageable to include these in the Bill for introduction, given the impacts of the reforms on this redress is minor;
   - includes placeholders in the Bill for complex redress (such as co-approval of current Conservation Management Strategies); and

[1] 2 August 2025, Factsheet - Modernising Conservation Land Management

- seeks to work with PSGEs to discuss replacement drafting for the complex redress alongside the Select Committee process.

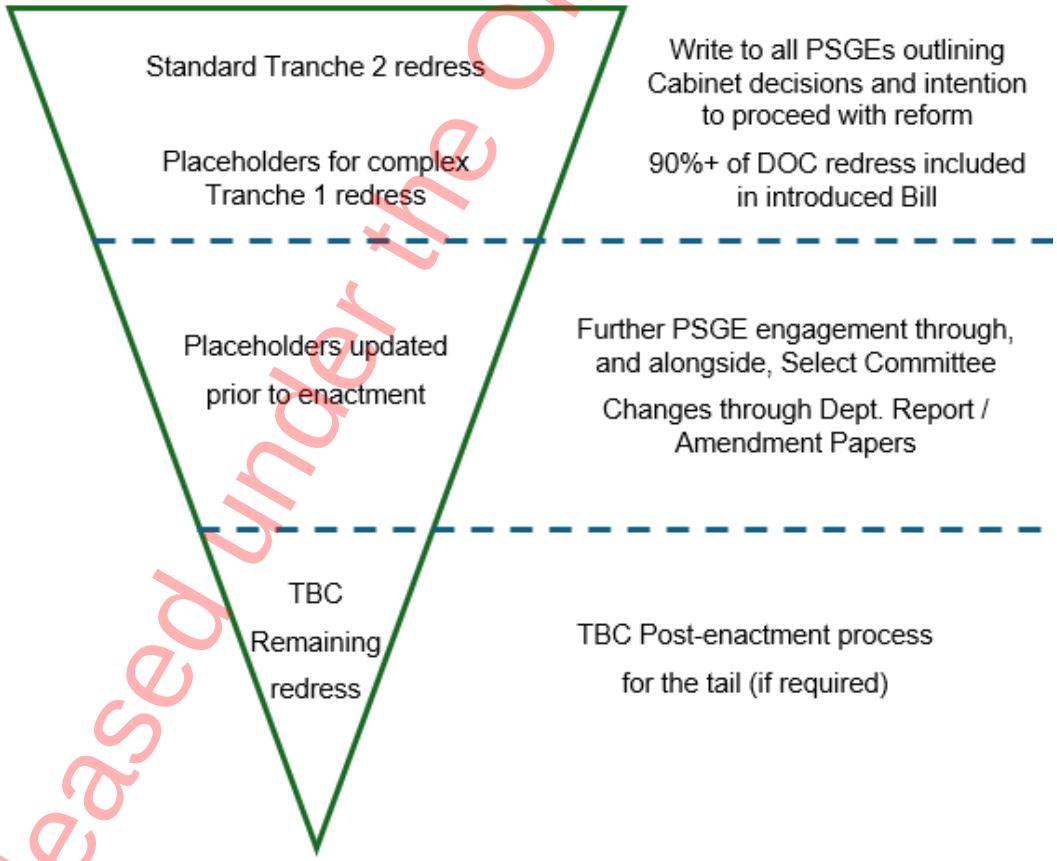
9. Your decision would be sought prior to enactment and any changes would be activated through the Departmental Report and/or amendment papers. Crucially, this provides more time for the Crown to work in good faith with PSGEs to develop ways to uphold Treaty settlement redress in the reforms and for you to make informed decisions later in the process. We consider there are workable options that can be advanced in the time proposed.

10. We also recommend the Crown writes to post-settlement governance entities, and groups in negotiations, outlining your intention to proceed with reform, whilst upholding Treaty settlement redress *preferably* (but not necessarily) with agreement, on what timeframes, Cabinet's decisions on standard and complex redress, and outlining the process should agreement not be possible before enactment.

11. Give the significance of statutory planning redress, we recommend you seek Cabinet's in-principle decision to provide a co-development or co-approval role for PSGEs in relation to area plans, where that PSGE has a comparable role via its Treaty settlement. If you agree, including such messaging in the proposed letter to PSGEs is likely to provide a high-degree of assurance on how the Crown intends to uphold that redress, which will provide a strong basis for engagement prior to enactment.

12. If you agree with our proposal, summarised in **Diagram One** below, the introduced Bill will include approximately 90% of the Department of Conservation's relevant Treaty settlement commitments, which would leave approximately 45 complex redress commitments (in six categories) left to resolve by enactment.

Diagram One: Proposal for upholding Treaty settlement redress



13. However, it is likely that there will still be some redress outstanding where we have not reached agreement with PSGEs on how to uphold or provide "equivalence" for redress in the new system – even with more time during the legislative phase. You would then have another choice to make:

    - whether to provide additional time for a post-enactment process to discuss any remaining complex redress; or
    - whether to translate or carve out all remaining redress in the enacted legislation.

14. If you decide to pause the reforms, there would be more time for good faith engagement with PSGEs to test and refine proposals to amend settlements. Pausing the reforms would likely be received well by PSGEs and may serve to enhance the Māori Crown relationship. However, you will be unable to deliver reform before the middle of next year.

15. Our proposed approach does not come without risk to the Māori Crown relationship or to the durability of settlements – Crown Law have provided advice at the close of this briefing.

Upholding Takutai Moana rights

16. Your decision on upholding Takutai Moana rights needs to made in consultation with the Minister for Treaty of Waitangi Negotiations and we recommend you forward them this advice.

17. To uphold Takutai Moana rights (under the Marine and Coastal Area (Takutai Moana) Act 2011 and the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019), we recommend you agree to:

    - one amendments to ensure there is clarity about how the Takutai Moana Act intersects with the new conservation system;
    - write to the one Customary Marine Title holder (Rakiura Tītī (Beneficial Islands) Committee) advising them of the changes and offering officials to meet with them prior to introduction and alongside the Select Committee process;
    - write to all applicants advising them of the changes and the avenue of the Select Committee process for them to share their views; and
    - include a placeholder in relation to the Ngāti Porou arrangements and provide more time for engagement with Ngā Hapū o Ngāti Porou prior to enactment of the legislation.

We recommend that you … (Ngā tohutohu)

a)	**Note** Cabinet has invited you to report back to ECO on a variety of outstanding policy matters including the following, after engagement with affected groups: • upholding relevant Treaty settlement commitments; and • arrangements to uphold rights under the Marine and Coastal Area (Takutai Moana) Act 2011 and the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019 (in consultation with the Minister for Treaty of Waitangi Negotiations).	

Assessment of engagement with PSGEs		
b)	**Note** that the reforms will have a broad impact on settlements and we have engaged with post-settlement governance entities based on the complexity and status of their redress: • Tranche 1– complex redress that may be materially affected by the reforms; • Tranche 2 – standard redress that may be relatively easily upheld under the Bill; and • Tranche 3 – yet-to-settle groups.	
c)	9(2)(g)(i) [redacted]	
PSGEs expect the Crown will seek their agreement to uphold settlements		
d)	**Note** that the primary purpose of our engagement has been to discuss, in good faith, what equivalence or carve outs of redress look like in the context of regulatory reform rather than to seek agreement.	
e)	9(2)(g)(i) [redacted]	
f)	**Agree** to: • meet your reform timeframes by proceeding to introduce the Conservation Acts (Land Management) Amendment Bill (the **Bill**) in December; and • write to post-settlement governance entities (and groups in negotiations) following Cabinet in September outlining your intention to proceed with reform, *preferably* with their agreement on how to uphold Treaty settlement redress, Cabinet's decisions on redress, and outlining the process should agreement not be possible before enactment;	Yes / No
g)	**Note** that pausing the introduction of the Bill by 18 to 24 months would: • provide more time for good faith engagement and testing of proposals to enable post-settlement governance entities and the Crown to better informed in their decision-making; but • result in you not meeting your reform timeframes.	

Proposal for upholding Treaty settlements		
h)	**Agree**, if you agree to proceed to introduce the Bill in December, to uphold Treaty settlement redress by: • including translations of standard (Tranche 2) redress in the Bill given the redress can operate largely as intended in the new system with minor change (see detailed decisions in **Attachment B**); • seeking an in-principle decision from Cabinet to provide co-approval and co-development roles for post-settlement governance entities for area plans where such roles are committed to through a Treaty settlement for statutory planning instruments (conservation management plans, national park management plans, and conservation management strategies) or representation on a conservation board; • including placeholders in the Bill for complex (Tranche 1) redress (see detailed decisions in **Attachment B**); • committing to working with post-settlement governance entities to discuss replacement drafting for the complex redress, prior to enactment, *preferably* by agreement; and • providing written assurance to post-settlement governance entities on the intent of the Crown to uphold Treaty settlement redress.	Yes / No
i)	**Note** that we will provide you with advice on the placeholder drafting for complex (Tranche 1) redress prior to enactment, to enable: • the redress to operate as intended by the relevant Treaty settlement on an ongoing basis through provisions in the enacted legislation (carve-out); or • the redress to be translated through equivalence provisions in the enacted legislation to ensure it operates in the new system; or • further discussion between the parties following the enactment of the legislation through a post-enactment process.	
j)	**Note** that, if you agree to proceed with the Bill and the above proposal, approximately 90% of the Department of Conservation's relevant Treaty settlement commitments will be included in the introduced Bill, which would leave approximately 45 complex redress commitments left to resolve by enactment – the remaining 10% covers a substantial proportion of public conservation lands.	
k)	**Note** if you decline to include placeholders and instead prefer the Bill to include proposals to carve-out or translate complex (Tranche 1) redress (not recommended), we will provide you with further advice prior to the introduction.	

Proposal for upholding Takutai Moana rights		
l)	**Note** that Customary Marine Title holders existing participation and permission rights in relation to concessions decision-making can carry over into the new system with no change**.**	
m)	**Agree** to uphold Takutai Moana rights through the Bill by including a single consequential amendment to replace references to "conservation management strategies" with "area plans"**.**	Yes / No
n)	**Agree** to write to the Rakiura Tītī (Beneficial Islands) Committee prior to the introduction of the Bill: • informing them of the proposed consequential amendment to the Takutai Moana Act; • 9(2)(f)(iv) [redacted] • offering officials to meet with them prior to the introduction and alongside the Select Committee process**.**	Yes / No
o)	**Agree** to write to applicants prior to the introduction of the Bill: • informing them of the proposed consequential amendment to the Takutai Moana Act; • 9(2)(f)(iv) [redacted] • noting the avenue of the Select Committee process for them to share their views**.**	Yes / No
p)	**Agree** the Bill should *not* make any consequential amendments to the Ngā Hapū o Ngāti Porou arrangements at this time and that: • officials discuss with Ngāti Porou representatives what changes would be required to the Ngā Hapū o Ngāti Porou arrangements to ensure they work in the new system; and • the Bill include a placeholder that could be updated prior to enactment based on the further engagement with Ngā Hapū o Ngāti Porou.	Yes / No
q)	**Forward** this briefing to the Minister for Treaty of Waitangi Negotiations.	

Date: 14 / 8 /25

Ruth Isaac
Deputy Director-General, Policy and Regulatory Services

Date: / /

Hon Tama Potaka
Minister of Conservation

Purpose – Te aronga

1. To enable you to seek further Cabinet decisions in September, this briefing seeks your decisions on:

   - whether to proceed to introduce the Bill in December or to seek a pause to enable post-settlement governance entities (**PSGEs**) and the Crown to be better informed on how to uphold Treaty settlements;
   - options for upholding Treaty settlement commitments; and
   - an approach to uphold Takutai Moana rights.

Background and context – Te horopaki

2. Treaty settlements do not preclude the Crown developing policy or legislation which may have an impact also on the redress provided in a settlement, including changes to the conservation system. The government can make, and has made, general regulatory changes that also affect Treaty settlements. However, when undertaking reform, the Crown must be cautious to not materially undermine the redress on which historical claims against the Crown have been settled. To not do so risks undermining the political and practical basis on which settlements are based and will raise questions about the durability of settlements.

Cabinet has directed you to report back on Treaty settlements and Takutai Moana

3. In June, Cabinet agreed to a suite of changes to conservation land management [CAB-25-MIN-0213]. Drafting is underway on the Conservation Acts (Land Management) Amendment Bill (the **Bill**) to implement these changes.

4. As part of this decision, Cabinet invited you to report back on several different issues. This paper provides advice concerning your report backs, after engagement with affected groups, on:

   - upholding relevant Treaty settlement commitments; and
   - arrangements to uphold rights under the Marine and Coastal Area (Takutai Moana) Act 2011 and the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019 (in consultation with the Minister for Treaty of Waitangi Negotiations).

Approach to PSGE engagement

5. To avoid undermining Treaty settlements and the Māori-Crown relationship more broadly, you have agreed that amendments to the conservation system will uphold Treaty settlements (25-B-140 refers). Across 2024 and 2025 you have agreed to a range of proposals and processes to engage with post-settlement governance entities (**PSGEs**) which seek to discuss how to uphold Treaty settlement redress.

6. In January you agreed with the approach to engage with groups based on the complexity of their redress (25-B-0017 refers). The primary purpose of our engagement has been to discuss, in good faith, what equivalence or carve outs (or ways to preserve redress to maintain the status quo) look like in the context of regulatory reform (25-B-0059 refers).

7. In our 9 July briefing we noted that achieving "full written agreement" with all PSGEs is very unlikely in the timeframes available but that we will work to achieve full agreement where possible (25-B-0202 refers).

Overview of Treaty settlement commitments

8. The conservation portfolio has more Treaty settlement commitments than any other. Conservation redress is negotiated in good faith and is often framed as a mechanism for iwi to discharge their ancestral obligations to the whenua – land that Māori has often been alienated from due to the actions, and inactions, of the Crown.

9. The current approach of engaging with groups in tranches arose from our initial analysis of the complexity of existing Treaty settlement commitments, broadly:

    - Tranche 1– approximately 24 settlements which have commitments that embed Iwi/hapū in the processes and structures of management planning.
    - 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.
    - Tranche 3 – those yet-to-settle groups with a redress commitment that could be impacted by the Bill.[2]

10. DOC has assessed its Treaty settlement commitments based on the "materiality" of the changes required to ensure redress can work as intended in the new system. In summary, our approach is that where:

    - redress is complex (and "material" changes are required), we have sought face-to-face engagement to test proposals (Tranche 1); and
    - standard redress can be translated into the new system via minor consequential amendments, engagement has been through correspondence (with the ability to escalate to face-to-face engagement) (Tranche 2).

11. We have identified approximately 700 commitments that will require some level of amendment to continue in the new system. **Table C** in **Attachment B** includes a summary of the redress we consider can continue to operate without amendment.

Overview of Takutai Moana rights

12. The Marine and Coastal Area (Takutai Moana) Act 2011 provides for the recognition of customary interests of iwi, hapū and whānau in the common marine coastal area (**CMCA**) through two legislative mechanisms – customary marine title (**CMT**) and protected customary rights (**PCR**). These rights translate inherited customary rights into legal rights that are inalienable, enduring and able to be exercised in tailored ways through the resource management and conservation systems.

13. The Ngā Hapū o Ngāti Porou Act 2019 gives effect to the deed of agreement entered between ngā hapū o Ngāti Porou and the Crown in 2008 and the deed to amend entered in 2017 (the **Ngā Hapū o Ngāti Porou arrangements**). The agreement provides for the expression, protection and recognition of the mana of ngā hapū o Ngāti Porou in relation to ngā rohe moana o ngā hapū o Ngāti Porou. The Ngā Hapū o Ngāti Porou arrangements are similar to the rights provided for under the Takutai Moana Act; however, there are more extensive arrangements that reflect their bespoke deed of agreement with the Crown.

14. The primary interface between the Takutai Moana Act and the Ngā Hapū o Ngāti Porou arrangements and the conservation system relate to concessions decision making. Under both the Takutai Moana Act and Ngā Hapū o Ngāti Porou arrangements, CMT holders have rights over concession decision-making in conservation areas that overlap into the CMCA (see paragraph 74). The Minister may

[2] This includes redress commitments made by the Crown in Crown offers, Agreements in Principle, initialled and signed Deeds of Settlement, and settlement legislation

also issue controls over the exercise of PCR if there is likely to be a significant effect on the environment. **Attachment D** includes further analysis.

Assessment of engagement with PSGEs

15. The overarching goal of the reforms is to modernise conservation land management and ensure a quick transition to the new planning system, whilst also running a good faith process with our Treaty partners. An important way to achieve a good faith process at a principled level is through informed decision-making (for both the Crown and Māori), being as transparent as possible and through the active protection of Māori rights and interests. DOC has specific Treaty settlement obligations[3] when undertaking the reforms.

9(2)(g)(i) [redacted]

16. PSGEs have expressed a variety of views, ranging from:

- complete opposition to the conservation reforms (and a desire for their settlements to be preserved);
- concern about the general approach that the government has taken to the Māori Crown relationship, including in relation to other processes of reform currently underway; through to
- an understanding of the benefit the new system could provide for Treaty partner engagement in the development of statutory instruments and delivery of conservation outcomes.

17. 9(2)(g)(i) [redacted]

18. 9(2)(g)(i) [redacted]

19. **Attachment C** provides an assessment of our engagement with PSGEs.

Update on engagement with Tranche 3 groups

20. In April, we provided Te Tari Whakatau officials and Chief Crown Negotiators with background information and proposed speaking notes to support their regular engagements with affected Tranche 3 groups (settlements with live historical settlement negotiations where redress could be impacted by the Bill). DOC engagement leads have also remained available to meet with Tranche 3 groups as a point of escalation.

[3] Most settlements include a commitment, either as stand-alone clauses or in relationship agreements, for DOC to either notify the PSGE of changes to legislation or policy, advise the PSGE of policy directions or undertake some form of consultation.

21. In addition, we have identified three yet-to-settle groups with complex redress (Pare Hauraki, Te Whānau a Apanui and the Tauranga Moana Collective). DOC engagement leads have written to those groups. We have met with Te Whānau a Apanui and are awaiting a response from the others.

22. For yet-to-settle groups, our approach is that the Crown will also uphold the intent of any redress offered, but not yet enacted. Once settlement legislation is enacted, these groups would then be considered under our Tranche 1 and Tranche 2 processes dependent on the complexity of their redress. Subject to the timing of the reforms, changes can be made to individual settlements prior to the introduction of the relevant settlement legislation or through their respective legislative processes to align with the new system. This could create a difficult situation for groups who have legislation in the House if there is uncertainty about the eventual redress.

Update on engagement relating to Takutai Moana

23. We have not engaged with Takutai Moana applicants and had only limited engagement with CMT holders:

- We have had *one* engagement with Ngā Hapu o Rohe Moana o Ngāti Porou (CMT holder) at the same time as the Ngāti Porou PGSE in relation to their Treaty settlement redress (while recognising they have separate mandates).
- We have *not* met with the Rakiura Beneficial Island Committee (CMT holder).

24. Due to a 2008 Heads of Agreement, under the Foreshore and Seabed Act 2004, the Te Whānau a Apanui settlement is intended to confer protected customary rights, and requires them work through the Takutai Moana Act processes to confer tailored rights comparable to CMT. The Te Whānau a Apanui Deed of Settlement was initialled in September 2023 but is not yet signed – as a result, we have engaged with Te Whānau a Apanui via our Tranche 3 engagement process.

9(2)(g)(i) [redacted]

25. On 30 June, Cabinet agreed to proposals to specify what is required to give effect to Treaty principles under section 4 of the Conservation Act (in relation to management planning, concessions and land exchanges and disposals) [CAB-25-MIN-0213.01 refers]. On 2 August, you and the Prime Minister issued a media statement release on Cabinet's decisions and, due to the significance of section 4 for PSGEs and Māori generally, DOC wrote to all PSGEs notifying them of the proposed changes.

26. Section 4 is referenced approximately 95 times across 57 Deeds of Settlement and Collective Redress Deeds. Regardless of whether specifically referred to, section 4 forms the basis of all Treaty settlement negotiations between the parties as it highlights DOCs contemporary obligations to uphold the principles of the Treaty when designing and implementing redress.

27. 9(2)(g)(i) [redacted]

28. 9(2)(g)(i) [redacted]

PSGEs expect the Crown will seek their agreement to uphold settlements

29. While achieving full written agreements with all PSGEs would be a best-case scenario, it is very unlikely in the timeframe available. As outlined in our February advice, although there may be an expectation that the Crown will seek agreement from PSGEs before introducing legislation that amends settlements, the primary purpose of our engagement in 2025 has been to discuss, in good faith, what equivalence or carve-outs look like in the context of regulatory reform (B-0059 refers).

30. 9(2)(g)(i) [redacted]

31. 9(2)(g)(i) [redacted]

You need to decide whether to introduce or pause the Bill

32. We seek your decision on whether to seek to introduce the Bill in December. Introducing the Bill will meet your reform timeframes, and if you agree with the proposals in this paper, there would be:

    - more time for discussion with PSGEs on complex (Tranche 1) redress prior to enactment; and
    - no further time to discuss any matters you wish to include in the Bill for introduction, including any standard (Tranche 2) redress.

33. If you decide to proceed to seek approval to introduce the Bill in December, we recommend that the Crown writes a letter to PSGEs following Cabinet's consideration on 22 September outlining your intention to proceed with reform, *preferably* with agreement, and on what timeframes. 9(2)(f)(iv) [redacted]

[redacted]

- 9(2)(f)(iv) [redacted]

34. We will provide your office with draft letters, should you agree with our proposal.

9(2)(g)(i) [redacted]

35. You could seek to pause the introduction of the Bill by 18 to 24 months to provide more time for good faith engagement and testing of proposals to enable PSGEs and the Crown to be better informed in their decision-making.

36. If you prefer to pause the introduction, 9(2)(g)(i) [redacted], but that more time would allow for the testing and refinement of proposals to enable PSGEs and the Crown to be better informed. Consultation and collaboration would enable the parties to jointly identify the issues and potential solutions to support informed decision-making prior to proposals being included in an introduced Bill.

37. 9(2)(g)(i) [redacted]

38. Regardless of whether agreement is reached, the resulting proposals would be more reflective of PSGE views having gone through more substantive testing by PSGEs. This could provide further certainty to system users about how the settlement arrangements interact with the new conservation system – at least for the introduced version of the Bill – and in particular PSGE roles and responsibilities. The new system would therefore be more robust, and although not immune from challenge, would have a greater degree of support.

39. However, if you decide to pause the introduction, you will be unable to enact the reforms before the middle of next year and would not meet the Government's aim of modernising the conservation system this term.

40. The remainder of this briefing sets out options to uphold Treaty settlements should you wish to proceed with the introduction.

Options for upholding Treaty settlements

41. In order to meet your reform timeframes, we have identified three options for you to uphold Treaty settlements. You have been briefed on two of these options previously (those that seek to transition or translate redress into the new system), and we also suggest providing more time for PSGE engagement prior to enactment.

42. **Attachment A** includes analysis and a summary table of the options.

9(2)(h) [redacted]

43. 9(2)(h) [redacted]

Proposal for upholding Treaty settlements

44. The key aim of our proposal is to quickly address approximately 90% of DOCs relevant Treaty settlement commitments and enable further testing of proposals through and alongside the Select Committee process.

45. Our proposal has four key elements:

- translating standard redress into the Bill that can be more readily upheld through minor consequential amendment, which will translate approximately 90% of DOC's relevant Treaty settlement commitments (i.e. Tranche 2 redress). There will be an opportunity for further testing of proposals through and alongside the Select Committee process;
- including placeholders for complex redress in the Bill. This will leave approximately 45 albeit weighty and complex redress commitments left to resolve;
- committing to working with PSGEs prior to enactment to discuss replacement drafting for the complex redress; and
- providing written assurance to PSGEs on the intent of the Crown to uphold Treaty settlement redress, *preferably* by agreement

Progressing the Bill and creating space for further discussions

46. We recommend you agree to the proposals in **Attachment B: Key decisions for upholding Treaty settlement redress**.

47. If you agree, the Bill will:

- translate approximately 700 items of redress that can be upheld through a minor consequential amendment, including:
  - approximately 500 deeds of recognition across approximately 45 settlements;
  - 15 decision-making frameworks;
  - 114 overlay classifications across 40 settlements;
  - 64 items of cultural materials redress; and
  - 26 statutory land management provisions;
- include placeholders to enable engagement on approximately 45 more complex redress commitments prior to enactment:
  - Co-authorship or co-approval of CMP or NPMP (15 settlements);

- Co-authorship or co-approval of CMS or CMS chapters (12 settlements);
- Overlapping planning redress (4 settlements);
- Nomination to the NZCA (1 settlement);
- Nomination to Conservation Boards (13 settlements); and
- Status of environmental strategies, visions and plans.

More time is required to engage with PSGEs on complex redress

48. 9(2)(g)(i) [redacted]

49. To provide an incentive for PSGEs to engage in an informed way, and for at least some agreements to be reached prior to enactment, we recommend the Bill include placeholders for the more complex Tranche 1 redress and for you to seek Cabinet's in-principle decision on how to translate some complex (Tranche 1) redress.

50. To provide a strong basis for further discussion prior to enactment, we recommend that you seek Cabinet's in principle decision to provide a co-approval and/or co-development role for post-settlement governance entities in the new system where such roles are committed to through a Treaty settlement:

- for statutory planning instruments (CMPs, NPMPs, and CMSs); or
- through representation on a conservation board.

51. Statutory planning redress is significant for PSGEs as a means to gain direct influence over the delivery of conservation outcomes within their rohe. 9(2)(g)(i) [redacted]

52. 9(2)(f)(iv) [redacted]

53. We are confident that we could work constructively with PSGEs to discuss options for translating their complex redress prior to enactment. PSGEs will have full information on the new conservation system (and the draft NCPS) once the Bill is introduced – at that point PSGEs will be better able to engage with the Crown on how to uphold their Treaty settlement redress. Consequently, the Crown can be better informed in its decision making.

[5] 9(2)(f)(iv) [redacted]

54. **Table B in Attachment B** highlights some of our initial thinking and analysis on how this more complex statutory planning redress could be carried across into the new system.

55. It is unlikely that we will be able to reach agreement with all PSGEs on how to uphold or provide "equivalence" for all redress in the new system – even with more time during the legislative phase. It is therefore important that the Crown writes to PSGEs informing them of what steps the Crown will take if agreement cannot be reached.

Carving out or translating complex Tranche 1 at this stage carries greater risk

56. We do not recommend including a carve-out or translation of the more complex Tranche 1 redress in the Bill because:

- including proposals would be inconsistent with our messaging to PSGEs in our engagement to date, leading to significant relationship damage;
- the proposals have not been tested with PSGEs; and
- the redress is unlikely to translate into the new system without a material impact to the intention or operation of the redress.

57. However, if you prefer the Bill include specific carve-outs or translations of this more complex redress, you could seek delegated authority from Cabinet to finalise such proposals prior to introduction. **Attachment B** includes some high-level carve-out and translation options against each redress line and, although we do not recommend this approach, we would provide you with further advice prior to the introduction of the Bill.

9(2)(h) [redacted]

[redacted]

9(2)(h)

- [redacted]
- [redacted]
- [redacted]

[redacted]

9(2)(h) [redacted]

Proposal for upholding Takutai Moana rights

68. Cabinet invited you, in consultation with the Minister for Treaty of Waitangi Negotiations, to report back, after engagement with affected groups, on arrangements to uphold rights under the Marine and Coastal Area (Takutai Moana) Act 2011 and the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019.

69. Unlike Treaty settlements, the Takutai Moana Act does not reflect a binding legal agreement between Māori and the Crown. Applicants have a right to take part in the processes outlined in the Act and, subject to the outcome of those processes, may have rights as Customary Marine Title (**CMT**) and Protected Customary Rights (**PCR**) holders.

70. There are currently two groups with CMT rights:

- Ngā Hapu o Ngāti Porou (arising from the Ngā Hapū o Ngāti Porou arrangements); and
- Rakiura Tītī (Beneficial Islands) Committee (arising from the Takutai Moana Act).

The Takutai Moana Act is significant for Māori

71. Crown conduct in relation to the Takutai Moana Act has been tested several times through the Waitangi Tribunal. Given the history of the Act, arising from the Foreshore and Seabed Act 2004, any change is likely to be significant for applicants and for Treaty partners generally. The Tribunal has found that the "…principles of the Treaty require the Crown to observe high standards of consultation – and, where possible, co-design with Māori – when developing policy or legislation concerning te takutai moana."[6]

72. Ultimately, the Crown has Treaty obligations to act in good faith and reasonably when undertaking law reform affecting Māori interests in the CMCA. We consider there are different standards of engagement required to uphold Takutai Moana rights for CMT holders and applicants more generally.

[6] Letter of transmission, *Takutai Moana Act 2011, Urgent Inquiry, Stage I report*, 12 September 2024.

We recommend the Bill amends one aspect of the Takutai Moana Act

73. As with the approach for Treaty settlement redress, you have a choice about what to include in the Bill and where to provide more time for engagement between the parties.

74. Under the Takutai Moana Act, CMT holders have:

- a right for their CMT planning documents to be "taken into account" by the Director-General when reviewing or amending a CMS that directly affects the CMT areas of the groups that lodged planning documents; and
- a conservation permission right to review and veto any concessions relating to a conservation area within the CMCA over which they hold CMT.

75. 9(2)(f)(iv) [redacted]

76. 9(2)(f)(iv) [redacted]

77. 9(2)(f)(iv) [redacted] To ensure the effect of a CMT planning document is clear in the new system, we recommend the legislation include a single consequential amendment to replace references to "conservation management strategies" with "area plans."

We recommend further engagement with CMT holders

78. CMT is a property right and any changes to those rights should be treated cautiously. Existing CMT holders (Ngā Hāpu o Ngāti Porou and Rakiura Tītī (Beneficial Islands) Committee) should be treated in the same way as Tranche 1 PSGEs -requiring more detailed engagement and preserving space for discussion prior to enactment. Given the nature of the proposed consequential amendment, a post-enactment process with CMT holders should be unnecessary.

79. We recommend the Crown writes to the Rakiura Tītī (Beneficial Islands) Committee following Cabinet consideration outlining:

- the proposed consequential amendment to the Takutai Moana Act means that their CMT planning document will be "taken into account" when reviewing or amending an "area plan" (rather than a CMS) in the new system;
- 9(2)(f)(iv) [redacted]
- offering to meet with them prior to the introduction of the Bill, and alongside the select committee process – changes to the operation of their specific CMT rights could be given effect through the Departmental report and/or amendment papers.

80. Although the changes to ensure Ngā Hapū o Ngāti Porou CMT rights would work in the new system would also be reasonably straight-forward (as outlined in **Attachment D**), we do not recommend any changes to the Ngā Hapū o Ngāti Porou arrangements at this time. Instead, we recommend:

- we continue engaging with Ngā Hapū o Ngāti Porou alongside our Tranche 1 engagement process in recognition that the Ngā Hapū o Ngāti Porou arrangements are analogous to an individual PSGE settlement;
- we discuss, in good faith, what changes would be required to the Ngā Hapū o Ngāti Porou arrangements to ensure they work in the new system; and
- the Bill include a high-level placeholder that could be updated prior to enactment based on the further engagement with Ngā Hapū o Ngāti Porou (as proposed for complex (Tranche 1) Treaty settlement redress.

We recommend the Crown informs applicants of the proposed changes

81. The right for applicants to participate in a statutory process will be unchanged. However, we recommend that the Crown writes to <u>all</u> applicants prior to introduction of the Bill informing them of:

- the proposed consequential amendment to the Takutai Moana Act means that that CMT planning documents will be "taken into account" when reviewing or amending an "area plan" (rather than a CMS) in the new system;
- 9(2)(f)(iv) [redacted]
- the avenue of the Select Committee process for them to share their views.

82. Informing applicants is consistent with the approach taken for engaging with applicants in relation to the Hauraki Gulf / Tīkapa Moana Marine Protection Bill. Applicants are likely to be concerned the Crown is only informing them of the proposed changes and providing limited "consultation" via the Select Committee process.

9(2)(h) [redacted]

[redacted]

Next steps

84. In order to introduce the Bill this year, you will need to make decisions on the policy issues set out in this briefing by 18 August 2025.

85. We are working to the dates below for remaining Cabinet decisions and Bill introduction this year:

Week beginning 18 August	**Draft Cabinet paper provided so ministerial consultation can start the following week.**
22 August	NCPS targeted consultation concludes.
25 August – 2 September	Ministerial consultation on draft Cabinet paper. Agency consultation will be concurrent.
3 September	Finalise Cabinet paper based on feedback received during ministerial and agency consultation.
4 September	Lodge Cabinet paper covering Bill report-back issues, NCPS and upholding Treaty settlements.
10 September	Cabinet paper discussed at ECO.
15 September	ECO decisions confirmed. As soon as possible after this, drafting instructions for the remainder of the Bill will be issued to Parliamentary Counsel Office (PCO). All remaining dates are subject to the time taken for PCO to complete drafting.
October	Final policy decisions and Cabinet approvals for a parliamentary paper on the NCPS to be referred to select committee alongside the Bill.
October – December	Bill completed and approved for introduction. Your office is looking into whether there is House time for the Bill in the December sitting block. If this is confirmed, we would aim for LEG on 4 December and Cabinet on 8 December for approval to introduce the Bill. Introduction, first reading and referral to select committee would then take place in the December sitting block.

Consultation – Kōrero whakawhiti

86. The Office of Treaty Settlements and Takutai Moana: Te Tari Whakatau and Te Puni Kōkiri were consulted on this briefing due to potential impacts on Takutai Moana rights and potential impacts on Treaty settlements. Crown Law were consulted.

Attachment A: Options for upholding Treaty settlements

1. This attachment presents analysis on the options identified to uphold Treaty settlement redress.

2. In July, we provided you with specific Crown Law advice on how to progress the Bill without PSGE agreement and advice on two options for upholding Treaty settlements (B-0202 refers) noting that both options carry some risk:

   - Option A - a ***general, transitional provision*** that aims for redress "equivalence"; and
   - Option B - the Crown progresses ***translational provisions*** (equivalence mechanisms, specific carve outs, or consequential amendments to uphold settlements) informed by good faith engagement about what such upholding mechanisms should look like.

3. Although not highlighted in our previous advice, a general transitional provision that aims for "consistency" could be included in the Bill similar to that provided in other legislation.[1] Such a clause would not be targeted at reaching "equivalence", but would seek to ensure that DOC must "act consistent with Treaty settlement obligations." Although "acting consistently" is a lower legal threshold than "equivalence", such a clause carries largely similar risks:

   - whether "consistency" could be delivered under the new system, given its differences from the current system, resulting in the entrenchment of the current system through bespoke statutory planning regimes; and
   - 9(2)(g)(i) [redacted]

4. The following table highlights key aspects of each option, and the following section includes further analysis.

[1] Clause 7, Fast Track Approvals Act 2024; Clause 6A, Local Government (Water Services) Bill reported from the Finance and Expenditure Committee on 3 July; and under development and decision for Resource Management reforms.

Table A: Options for upholding Treaty settlements

<table>
<tr><th colspan="2">**Option A (B-0202 refers)** *A general, transitional provision*</th></tr>
<tr><td>**Equivalence clause** in legislation outlining that "decision-makers must give a Treaty settlement an effect that is the same or equivalent to the effect under the current legislation."</td><td rowspan="2">**Risks and opportunities:**
Entrenches current system – not achieve aims of reform.
But catch-all that enables flexibility (and likely inconsistency) in decision-making to apply to local contexts. Possible confusion about the roles of statutory bodies and plans
Provides clarity to PSGEs on how the Crown intends to uphold settlements – and could be removed from enacted legislation
Uncertainty in the new system on what "equivalent" redress or "acting consistently" means – 9(2)(g)(i) [redacted]
Consistency clause has precedent: Resource Management approach (under decision), Water Services Bill, Fast-track Approvals Act 2024
Would be read alongside DOC's section 4 obligations</td></tr>
<tr><td>**A consistency / protection statement** in legislation outlining that "decision-makers must act consistent with Treaty settlement obligations"</td></tr>
<tr><th colspan="2">**Option B (B-0202 refers)** *Translation of redress*</th></tr>
<tr><td>The Crown progresses ***translational provisions*** (equivalence mechanisms, specific carve outs, or consequential amendments to uphold settlements)</td><td>You and Cabinet decide what redress to translate in the introduced Bill
Risks and opportunities:
If translating standard redress, Crown needs to be assured that Māori will not suffer prejudice (through engagement, agreement or analysis)
If translating complex redress, should preferably be "subject to PSGE agreement" due to the materiality of the change required – for example statutory planning and representation redress (e.g. co-approval of CMSs, NZCA membership, Conservation Board membership).
Higher-risk to translate complex redress without PSGE agreement</td></tr>
<tr><th colspan="2">**Option C** *Commitment to further process to uphold settlements*</th></tr>
<tr><td>Commitment to a further process to agree changes:
• **before enactment** (through and alongside Select Committee), changes could be provided through Departmental Report and/or amendment papers; and</td><td>**Risks and opportunities:**
More time for time-limited good-faith discussions with PSGEs but could disincentivise PSGE engagement prior to enactment (if there is a post-enactment process). Enables Bill to be introduced.
Process could be:
• "best endeavours to reach agreement"
• a non-statutory commitment by MOC or the D-G or set out in legislation – provides clarity to PSGEs and Crown on process and directly brings in section 4, but makes process justiciable
• timebound – e.g. 2 years to reach agreement
• clear on what decisions the Crown will take – legislative obligation for Ministers to implement specific instruments a specific peiod but may disincentivise Crown engagement (Crown can just decide unilaterally)
• clear on legislative vehicle – e.g. omnibus Bill to amend settlements (with its own Select Committee process) or through secondary legislation
May create some uncertainty for outstanding redress in the interim
Cost implications – any further process would need to funded (baseline or new)</td></tr>
</table>

A general transitional provision would signal intent but creates risk (Option A)

5. 9(2)(g)(i) [redacted]

6. 9(2)(g)(i) [redacted]

7. 9(2)(g)(i) [redacted]

8. You could decide that including a transitional clause is important to demonstrate to PSGEs, and Treaty partners, how the Crown intends to uphold Treaty settlement redress. Such a clause would also need to be read alongside DOCs section 4 obligations if included in enacted legislation.

9. However, instead of including a justiciable statement in the legislation, we recommend the Crown writes to PSGEs (and groups in negotiations) outlining the Crown's intention to "use best endeavours to reach agreement" with PSGEs prior to the enactment of the Bill on how to uphold any outstanding redress, and

We recommend the Bill translates some but not all redress (Option B)

10. You need to decide on which redress to translate into the Bill for introduction. The Bill could seek to translate standard Tranche 2 redress.

11. We consider it is lower risk to translate standard Tranche 2 redress in the Bill given there is a lower material impact on the redress – i.e. the redress can operate largely as intended in the new system with minor change:

    - the redress features in many Treaty settlements, with little variation, and should operate consistently across the conservation system to enable the delivery of conservation outcomes;
    - we have shared our analysis of Tranche 2 redress with PSGEs (either through letters providing our analysis or in face-to-face hui via presentations that are shared afterwards) and have invited comment and response;
    - including proposals in the Bill will enable further testing and refinement through, and alongside, the Select Committee process prior to enactment;
    - you could signal through your first reading speech and the letter of referral to the Environment Select Committee a desire to have redress proposals further tested through specific engagement with PSGEs; and
    - we also remain committed to engaging with PSGEs alongside the legislative process and remain available to meet as required.

Translating complex Tranche 1 redress into the Bill carries greater risk

12. You could also decide to translate some or all of the more complex Tranche 1 redress into the new system, by proposing "equivalent" redress in the Bill. It could be argued that the Select Committee process provides a useful process for discussion and refinement. We do not recommend including a translation of the more complex Tranche 1 redress because:

- including proposals would be inconsistent with our messaging to PSGEs in our engagement to date, leading to significant relationship damage;
- the proposals have not been tested with PSGEs; and
- the redress is unlikely to translate into the new system without a material impact to the intention or operation of the redress.

13. Instead, we propose:
    - the Bill include placeholder text to enable further discussion between the parties (see Option C below); and
    - that you seek an in-principle decision from Cabinet on providing co-approval and co-development roles for PSGEs for area plans in the new system (where a comparable role has been committed to through a Treaty settlement for CMPs, NPMPs, CMSs or through representation on a conservation board).
14. However, should you wish to realise the risks associated with the reforms earlier (for example prior to or during the legislative process) you could decide to include various proposals in the introduced version of the Bill. 9(2)(g)(i) [redacted]
15. If you decide to translate some or all Tranche 1 redress, we recommend that relevant PSGEs are informed of your decision as soon as possible prior to introduction. Ideally, proposals of this material nature would be discussed and refined with the relevant PSGEs, or other representative group, prior to the introduction. There would be approximately 10 weeks between Cabinet decisions on 22 September and the introduction of the Bill in early December.

More time is required to engage with PSGEs on complex redress (Option C)

16. We recommend that you provide further time for engagement with PSGEs (both prior to enactment) on the more complex Tranche 1 redress, while progressing the Bill on existing timeframes. The engagement to date has been high-level and largely based on the 2024 discussion document. PSGEs were only sent the NCPS proposal document in late July and informed of Cabinet's June decisions in early August.
17. PSGEs will have full information on the new conservation system (and the draft NCPS) once the Bill is introduced – at that point PSGEs will be better able to engage with the Crown on how to uphold their Treaty settlement redress. Consequently, the Crown can be better informed in its decision making.
18. We consider further engagement could proceed in two stages.
19. Firstly, engaging with PSGEs on their redress prior to enactment. The Bill could include simple placeholder clauses on the more complex redress, which could be updated through the legislative process following engagement with PSGEs. Such a process is consistent with the current approach of engaging with Tranche 1 PSGEs and can be met from within baselines.
20. 9(2)(f)(iv) [redacted]
21. Although we do not recommend it at this stage, you could also decide to pursue a post-enactment process, potentially set out in a schedule to the legislation to provide clarity to PSGEs on the Crown's intention to uphold redress, by specifying:

- that the Crown will "use best endeavours to reach agreement", whilst also being clear on what decisions the Crown will take and by when;
- the timeframes for the process, but with some flexibility for the parties to extend the timeframe by agreement; and
- the eventual legislative vehicle to uphold the remaining redress (e.g. an omnibus Bill to amend relevant settlements (which would include its own select committee process).

22. 9(2)(g)(i) [redacted]

23. Prior to enactment we would provide you with further advice on whether a post-enactment process is required to resolve any remaining redress issues.

Attachment B: Key decisions for upholding Treaty settlement redress

Table A: Upholding standard (Tranche 2) Treaty settlement redress

Redress	Analysis and Advice	Recommendations	Decision
Redress that can be translated into the new system with minor consequential amendments			
Deeds of recognition **(Approximately 500 deeds of recognition across approximately 45 settlements)**	Deeds of recognition are a standard, non-exclusive, redress mechanism included in most comprehensive settlements with little variation. The deed of recognition includes a statement of the settling group's association with the land and requires the Minister of Conservation (the **Minister**) and the Director-General of Conservation (the **Director-General**) to consult and "have regard to" the views of the Post-settlement Governance Entity (**PSGE**) in relation to specific sites when: • preparing a conservation management strategy (**CMS**), conservation management plan (**CMP**) or national park management plan (**NPMP**); and • undertaking certain operational management activities (for example, constructing structures, signs or tracks). **Relevant proposals** Deeds of recognition link to changes to statutory planning (CMSs, CMPs and NPMPs). Current planning documents will be replaced with a single layer of area plans. **Assessment of materiality of proposals on deeds of recognition** Deeds of recognition will continue to operate as intended in the new conservation system. Specific commitments to "have regard to" the views of a PSGE when preparing CMSs, CMPs or NPMPs can be upheld by using a simple consequential amendment to replace references to CMSs, CMPs and NPMPs with references to "area plans". This would mean that the Minister and the Director-General will still be required to consult and "have regard to" the view of the PSGE when preparing area plans. Other aspects of deeds of recognition (for example those with an operational focus) will remain unchanged. As a result, we do not expect there to be a material impact on settlement commitments.	1. **Note** the intent of deeds of recognition is to provide acknowledgement of the settling group's association with an area; 2. **Agree** to seek Cabinet approval to uphold deed of recognition redress by replacing references to conservation management strategies, conservation management plans, and national park management plans with references to "area plans" through the Conservation Acts (Land Management) Amendment Bill (the **Bill**);	**Noted** **Yes | No**
Decision-making framework (DMF) **(15 settlements)**	Relationship agreements sometimes include a decision-making framework (**DMF**) that requires consultation with PSGEs on statutory authorisations, including concession applications, in their area of interest. These settlement DMFs, in some cases, also include a process to identify categories of concessions that do or do not require engagement between the Department of Conservation (**DOC**) and the PSGE. Where settlement DMFs don't include a specific timeframe, they usually refer to a "reasonable" or "sufficient" timeframe for response. **Relevant proposals** The reforms will enable class concessions (such as pre-approved, exempt or prohibited activities) through the new National Conservation Policy Statement (**NCPS**). Class concessions will be used to: • Exempt some activities (that currently require a concession) from requiring a concession. This includes activities where the cumulative effects are low and conditions can be standardised. Applications involving easements, licenses or leases would not be exempt. • Permit some activities in advance, meaning you can get a concession fairly easily subject to paying a fee and agreeing to certain, pre-set conditions. This would be for activities that are low-risk, but where there is a need to actively monitor or engage cumulative effects and where fees should be collected. • Prohibit activities that are inconsistent with the conservation purpose for the land or where the effects can't reasonably be avoided or mitigated. For all remaining concessions, clear timeframes for some steps of the concessions process will be set, including timeframes for Treaty partners to respond when consulted on concession applications. There will be a default timeframe of 20 working days for Treaty partner consultation, or any longer timeframe specified by the Minister. **Assessment of materiality of proposals on DMFs**	3. **Note** that 15 settlements include a decision-making framework that requires consultation with PSGEs on statutory authorisations, including concession applications, and most of these specify that sufficient or reasonable time must be given for consultation; 4. **Note** that the proposed class concessions will result in fewer concession applications requiring individual consideration by the decision-maker and therefore subject to the consultation and engagement provisions in settlement decision-making frameworks; 5. **Note** that Cabinet has agreed that, if their views are sought, Treaty partners will have 20 working days to provide their views on a concession application, or any longer timeframe specified by the Minister; 6. **Agree** to inform Cabinet that its previous decisions mean that decision-making framework redress can be upheld by applying specified timeframes through the discretionary power of the Minister;	**Noted** **Noted** **Noted** **Yes | No**

Redress	Analysis and Advice	Recommendations	Decision
	The consultation requirements and processes for statutory authorisations, including concession applications as set out in relationship agreements can be accommodated in the new conservation system. However, due to the proposed use of class concessions set through the NCPS, there will be fewer concession applications which need to be individually considered. It is possible that PSGEs will raise concerns about some of the proposed exempt or pre-approved activities. Area plans can, in limited circumstances as specified by the NCPS, disapply class concessions in specific places. For example, the Minister could determine a "significant adverse effect on cultural values" at a specific site could arise based on feedback received from the relevant PSGE when approving or developing an area plan. This in turn could result in a disapplication of an exempt or pre-approved activity for a site of significance as specified in an area plan (e.g. guiding through a wāhi tapu could require a concession to ensure certain protections are met). Treaty partners, including PSGEs, will be consulted on these arrangements for the first NCPS by: • engagement with PSGEs during the development of the NCPS (consultation from 24 July to 22 August 2025); • further engagement through and alongside the select committee process (which will also consider the first NCPS); and • consultation on class concession disapplication's during the 12-month post-enactment process for creating the first area plans (25-B-0292 refers). For activities that do still require individual decisions, we consider that the consultation and engagement provisions in the redress will not be affected. In these cases, the Conservation Acts (Land Management) Amendment Bill (the **Bill**) will provide for: • a default timeframe of 20 working days for Treaty partners to provide comment on a concession application requiring an individual decision; and • a discretionary power for the Minister to extend the 20 working day timeframe, which could for example be used where a concession application is particularly complex, therefore allowing more time for consideration is required in order to meet Treaty settlement commitments.		
Overlay classifications **(114 overlay classifications across 40 settlements)**	Overlay classifications are a powerful form of conservation redress that apply to highly significant sites that continue to be administered by DOC. The redress includes a statement of values and protection principles (i.e. ways to avoid harming the values of the site). Overlay classifications include requirements for the New Zealand Conservation Authority (**NZCA**) and conservation boards to "have particular regard to" a statement of values and protection principles when *considering* and consult the PSGE and "have particular regard to" their views when *approving* a CMS, CMP or NPMP. Overlay classifications also require the NZCA to give PSGEs an opportunity to make submissions on any significant concerns they have about a draft CMS, before approval. **Relevant proposals** As with deeds of recognition, overlay classifications link to changes to statutory planning (CMSs, CMPs and NPMPs). These will be replaced with a single layer of area plans. Many of which are currently considered and approved by conservation boards and the NZCA. Area plans will be prepared by the Director-General and approved by the Minister. The NZCA and conservation boards will be responsible for reviewing area plans prior to the Minister considering them. **Assessment of materiality of proposals on overlay classifications** Overlay classifications can be accommodated in the new conservation system and we do not expect there to be a material impact on settlement commitments. The key intention of the redress is to ensure that the person or entity: • *considering* the plan will "have particular regard to" the statement of values and protection principles (within the overlay classification); and • *approving* the plan consults with the PSGE and will "have particular regard to" their views.	7. **Note** that overlay classifications are applied to significant sites to ensure values are protected. 8. **Agree** to seek Cabinet approval to uphold overlay classification redress through the Bill by: a. replacing references to conservation management strategies, conservation management plans, and national park management plans with references to "area plans; b. requiring that, when preparing area plans, the Director-General of Conservation must seek the views of Treaty partners, and specifically post-settlement governance entities with a relevant overlay classification; c. requiring that, the Director-General of Conservation must "have particular regard to" the overlay classification in that process; d. requiring that, prior to submitting an area plan, for approval the Director-General of Conservation must give post-settlement governance entities with a relevant overlay classification, an opportunity to make submissions, including written submissions, about the plan; and e. requiring that, when approving an area plan, the Minister of Conservation must "have particular	**Noted** **Yes | No**

Redress	Analysis and Advice	Recommendations	Decision
	We considered whether to include a requirement for the NZCA and conservation boards to continue to "have particular regard to" to the overlay classification when undertaking their review of area plans in the new system. However, we consider: • "preparation" is analogous to "consideration" under the new system; and • it is more practical for the Director-General as the entity responsible for its preparation, to engage with the PSGE and consider the overlay classification. To uphold the intent of this redress, we recommend that: • When *preparing* area plans, the Director-General seeks the views of Treaty partners, and specifically PSGEs with a relevant overlay classification. The Director-General must "have particular regard to" the overlay classification in that process. • Prior to submitting an area plan to the Minister for approval, the Director-General of Conservation will give PSGEs an opportunity to make written submissions about the plans; and • When *approving* the area plan, the Minister must "have particular regard to" the written comments of the PSGE provided to the Director-General as to the effect of the area plan on the statement of values and the protection principles (for the area covered by the overlay classification). The legal weighting of "have particular regard to" is not onerous but it does require that decision-makers give genuine consideration to the content of the overlay classification when preparing and approving area plans. As in relation to deeds of recognition, references to CMS, CMPs or NPMPs can be changed to references to "area plans" through the Bill.	regard to" the views of the post-settlement governance entity as to the effect of the area plan on the statement of values and the protection principles (for the area covered by the overlay classification). 9. **Note** that prior to the introduction of the Bill, we will consider whether there is a meaningful difference between the proposed requirement for the Minister of Conservation, prior to approving area plans, to: a. "have particular regard to" the written comments of post-settlement governance entities (to maintain equivalence with existing redress); and b. "have regard to" the views of iwi, the New Zealand Conservation Board and conservation boards.	
Cultural materials **(64 settlements)**	Cultural materials redress provides for the PSGE to authorise its members to collect or possess cultural materials (including dead protected wildlife) outside of the usual requirements for a permit or other authorisation under conversation legislation. An authorisation by the PSGE can only be issued of there is an agreed cultural materials plan in place. The cultural materials provisions also include requirements for consultation with PSGEs when there are competing or third-party requests for cultural materials. **Relevant proposals** The reforms will enable class concessions (such as pre-approved, exempt or prohibited activities) through the new NCPS. The draft NCPS outlines that: • pre-approved activities could include collection of rocks, soil, non-protected wildlife and flora for cultural purposes; and • exempt activities could include collection of air and water for cultural purposes. **Assessment of materiality of proposals on cultural materials redress** The operation of cultural materials plan for PSGE members and the consultation requirements relating to third-party requests for cultural materials will be able to continue to operate as intended as part of the new conservation system. We do not expect there to be a material impact on settlement commitments. However, as part of the proposed new class concessions, some activities may be enabled by being 'exempt' from needing a concession, or 'permitted in advance'. These activities may previously have required an authorisation or notification. As outlined for DMF redress, Treaty Partners will have the opportunity to engage with the Crown on the development of class concessions through consultation and engagement on the NCPS and specific engagement on the development of area plans. There may be some uncertainty in the new system if existing cultural materials redress places greater controls on the ability of PSGE members to collect or possess cultural materials. For example, the proposed class of concession may allow individuals to collect certain materials that would require an authorisation by the PSGE under a Treaty settlement. It is important that PSGE members are no worse off than the public because of the reforms. To avoid misinterpretation between the new system and a Treaty settlement Act, we recommend you seek Cabinet approval to clarify that PSGE members can collect or possess cultural materials in the new system if it is more permissive than cultural material redress in a relevant Treaty settlement.	10. **Note** that cultural materials redress: a. enables post-settlement governance entities to authorise their members to collect or possess cultural materials without the usual permits or authorisations required under conservation legislation; and b. requires engagement with post-settlement governances where there are competing or third-party requests for cultural materials. 11. **Note** that cultural materials redress will continue to operate as intended in the new system but there may be some uncertainty if individuals are able collect materials that require authorisation by a relevant post-settlement governance entity under a Treaty settlement; 12. **Agree** to seek Cabinet approval for the Bill to clarify that post-settlement governance entity members can collect or possess cultural materials in the new system even if that ability is more permissive than cultural materials redress in a relevant Treaty settlement.	**Noted** **Noted** **Yes | No**

Redress	Analysis and Advice	Recommendations	Decision
Statutory land management requirements **(26 settlements)**	Statutory land management requirements are included in some settlements for DOC to engage with a PSGE before it proposes disposal of conservation land, or if a third party notifies DOC that it intends to propose disposing of conservation land (such as local authorities who manage some conservation land). Relationship agreements outline the consultation provisions that apply to statutory land management and specify that the PSGE must be provided with "sufficient information and time" to make informed comments and/or submissions in relation to the proposal. **Relevant proposals** The Bill will set clear minimum timeframes (30 working days) for feedback from Treaty partners with respect to proposals to exchange and dispose of conservation land. **Assessment of materiality of proposals on statutory land management requirements** Redress relating to statutory land management processes and consultation requirements for the disposal of land can be accommodated in the new conservation system by: • requiring the Director-General to consult with relevant PSGEs on proposed disposals or exchanges (irrespective of whether there is a settlement commitment to do so); • providing for a minimum of 30 working days for feedback from Treaty partners, with the ability for the Director-General to allow more time where appropriate; and • updating relationship agreements between the parties to align with the processes in the new system. Under the status quo, DOC is not required to consult with Iwi on exchange / disposal decisions *except* where this is part of redress. The new system *should* strengthen consultation requirements to engage with relevant Treaty partners. Existing relationship agreements do not usually specify a timeframe for the consultation. Although the new system will codify the timeframe to 30 days, this is a minimum and can be extended if the proposal is complex or to respond to the needs of the Treaty partner.	13. **Note** that changes to land disposal settings will result in more public conservation land being available for disposal; 14. **Note** that under the status quo, the Department of Conservation is not explicitly required to consult with Iwi on exchange or disposal decisions except where it is required as part of redress; 15. **Agree** to inform Cabinet that its previous decisions on Iwi consultation in relation to disposals and exchanges of land (with a minimum feedback timeframe of 30 days) result in upholding statutory land management redress by requiring the Director-General of Conservation to consult with relevant post-settlement governance entities, irrespective of whether there is a settlement commitment to do so.	**Noted** **Noted** **Yes | No**

Table B: Upholding complex (Tranche 1) Treaty settlement redress

Redress	Analysis and Advice	Recommendations	Decision
Redress requiring material change to work as intended in the new system			
Co-authorship or co-approval of CMP **(14 settlements)** **Co-authorship or co-approval of NPMP** **(1 settlement)**	A number of settlements include commitments for the settling group (via the PSGE) to have a role in co-authoring or co-approving a CMP or NPMP (or CMSs or CMS chapters). The inclusion of this statutory plan redress is considered to be of high value for the setting group as a means to gain direct influence over the delivery of conservation outcomes within their rohe. 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. You have indicated that CMSs, CMS chapters, NPMPs and CMPs created through settlement should be preserved as their own area plans (25-B-0059 refers). There are 7 existing redress plans[1], commitments to a number of potential redress plans, and a commitment to develop one NPMP (in relation to Te-Papa-Kura-O-Taranaki). **Relevant proposals** It is proposed to change CMPs and NPMPs (and CMSs) to a single layer of area plans, approved by the Minister (rather than by the Conservation Board or NZCA). The proposed scope of area plans is intended to be narrower than how CMPs and NPMPs have been used to date, because of how the NCPS is intended to regulate area plans. In addition, the NCPS will have the new regulatory effect of setting class concessions, specifically exempting some activities from needing concessions, and pre-approving others (so concessions can be obtained through a streamlined, automated process instead). PSGEs will continue their membership on conservation boards (and Ngāi Tahu on the NZCA), but these conservation boards (and the NZCA) will have a reduced role in the new system, no longer approving statutory plans. The policy intention is for Treaty partners, including PSGEs, to have better input at the front end of the process through best practice being codified in the Bill. **Assessment of materiality of proposals on co-authorship or co-approval of CMPs and NPMPs** The intent of this redress is to provide the PSGE with the highest level of influence over the content of the CMP and/or NPMP through a co-approval (or co-development) role. Management planning-related redress was negotiated on the expectation that conservation planning documents: • enhance the visibility of Treaty partners' association with an area; • influence DOC operational priorities and resource allocation; • cover the management of PCL, the marine environment and species off PCL (mainly CMSs); and • are the main instrument for regulating activities in an area. There is a difference in scope between the existing statutory plans and the proposed area plans. In addition, area plans do not, at this stage, have a requirement for co-development or co-approval with relevant Treaty partners, such as PSGEs. Without amendment to either the process or content, it is likely that PSGEs will consider there is a material deficit to the redress. To maintain the intention of the redress, it is possible that PSGEs will want a role comparable to approval and/or development under the new system but this is yet to be discussed in detail with any PSGE. Some settled groups may consider the class concessions to be diluting their redress either where decision-making frameworks do not apply to a class decision or the NCPS has made a class decision they expected to be at the local level through the plan. However, the NCPS will enable area plans to disapply class concessions in specific places in very limited circumstances. The Minister may consider disapplication is required due to significant adverse effects on natural, cultural, or historic values present at a specific site - for example, the Minister could determine that a "significant adverse effect on cultural values" could arise based on views received from the relevant PSGE when approving or developing an area plan.	16. **Note** the intention of co-authorship or co-approval redress of statutory planning instruments (conservation management plans, national park management plans, and conservation management strategies or chapters) is to provide the post-settlement governance entity with a significant level of influence in these documents, ensuring their values and priorities are reflected; 17. **Note** if the Bill remained silent on co-authorship or co-approval redress of statutory planning instruments, the redress would not be upheld, which would likely strain Māori Crown relations and may affect the durability of multiple Treaty settlements; 18. **Agree** to seek Cabinet's in principle decision to provide a co-approval and/or co-development role for post-settlement governance entities in the new system where such roles are committed to through a Treaty settlement: a. for statutory planning instruments (conservation management plans, national park management plans, and conservation management strategies); or b. through representation on a conservation board; ***Provide an opportunity for time-bound engagement with PSGEs (recommended)*** 19. **Agree** to seek: a. Cabinet approval for the Bill to include a placeholder on co-authorship or co-approval redress of conservation management plans and national park management plans to enable further discussion between the parties on replacement drafting which could be substituted prior to enactment; and b. delegated authority from Cabinet to make final decisions on the replacement drafting on co-approval or co-authoring redress of conservation management plans prior to enactment.	**Noted** **Noted** **Yes | No** **Yes | No**

[1] Existing redress plans: Te Hauturu-o-Toi / Little Barrier Island CMP (Ngāti Manuhiri); Te Tāpui Tokotoru CMP (Ngāti Awa); Whirinaki Te Pua-a-Tane CMP (Ngāti Whare); Te Waihora Joint Management Plan (this is treated as a CMP; Ngāi Tahu); J M Barker (Hapupu) National Historic Reserve Management Plan (treated as a CMP; Moriori); Upper Waikato River Integrated Management Plan (treated as a CMP; Waikato-Tainui); and Upper Waipa River Integrated Management Plan (treated as a CMP; Maniapoto).

Redress	Analysis and Advice	Recommendations	Decision
	If the legislation remains silent on co-authorship and/or co-approval of CMPs, NPMPs (and CMSs and CMS chapters), the likely effect is that: • The CMPs, NPMPs (and CMSs and CMS chapters) will be translated under the process and timeframes in the legislation without an equivalent development or approval role for PSGEs; • The Crown will be unable to meet its commitment to deliver the co-authoring and/or co-approval aspect of the redress and may be in breach of the respective Deeds of Settlement and/or processes in settlement legislation; and • The redress may not be upheld, running counter to the government's stated aim of the reforms, which is likely to result in relationship difficulties with multiple PSGEs and may affect the durability of multiple Treaty settlements. **Recommendation: Further engagement with PSGEs on all complex (Tranche 1) redress** Given the significance of Trance 1 redress, and the materiality of the changes required for the redress to operate in the new system, we recommend you provide an opportunity for further engagement with relevant PSGEs. Although agreement may not be possible with all PSGEs on all redress, as outlined in the briefing to which this advice is attached, further engagement will result in higher quality proposals and would enable the informed decision-making of both the Crown and PSGEs. We recommend you seek Cabinet approval for: • an in-principle decision that co-approval and co-development roles for statutory plans (CMPS, NPMPs, and CMSs) be carried across into the new system by providing equivalent roles for PSGEs in relation to area plans; • the Bill to include a placeholder in relation to all complex Tranche 1 redress; and • delegated authority to update those placeholders prior to enactment. Based on that approval, we would then continue our engagement with those PSGEs using "best endeavours to reach agreement" on drafting that could update the placeholder text prior to enactment. The replacement drafting could either seek to: • carve out the redress (preserve the redress on an ongoing basis or for a defined period to enable further discussion post-enactment); or • translate the redress (to provide an "equivalent" role for PSGEs in the new system). Whatever the outcome, to meet the intent of the reforms to provide a simpler, flatter statutory planning layer, it would be important for there to be a consistent approach for redress within each category and for there to be as little variation as possible. For example, a key aim in our future engagement would be to have all co-approval or co-authorship roles for CMPs to either be carved-out or translated in the same way. The same would apply for CMSs (although this would be challenging where multiple PSGEs have roles in relation to the same CMS) and CMS chapters and for PSGE representation on conservation boards. Although this would run somewhat counter to the aim of a consistent area based system, we can accommodate some variation in the process on the basis that Treaty settlements provide a justifiable uplift for PSGEs. 9(2)(f)(iv) [redacted]		

Redress	Analysis and Advice	Recommendations	Decision
	9(2)(f)(iv) [redacted]		
Co-authorship or co-approval of CMS **(2 CMSs corresponding to 6 settlements)** **Co-authorship or co-approval of CMS chapter** **(6 settlements)**	As for CMP and NPMP redress, a smaller number of settlements contain commitments to co-authorship or co-approval in relation to CMSs – either in total or towards the development or approval of specific chapters within a broader CMS (6 settlements).[2] This is intended to ensure PSGEs have influence over the management of areas of significance to them. **Relevant proposals** As with CMP and NPMP redress (above), the changes to introduce a single layer of area plans (approved by the Minister) will also see CMSs translated as area plans. The impact of the legislation remaining silent on CMSs and CMS chapters is outlined in the section above. **Assessment of materiality of proposals on co-authorship or co-approval of CMSs and CMS chapters** As with CMP and NPMP redress (above), the changes are likely to be significant and material for the redress as the new system does not provide for co-authorship or co-approval of area plans (which will replace CMSs). Furthermore, area plans are not intended to have the same level of effect as CMSs and PSGEs may consider that simply translating redress plans into area plans would result in a material deficit to the redress. 9(2)(f)(iv) [redacted]	***Provide an opportunity for time-bound engagement with PSGEs (recommended)*** 20. **Agree** to seek: a. Cabinet approval for the Bill to include a placeholder on co-authorship/co-approval redress of conservation management strategies or chapters to enable further discussion between the parties on replacement drafting which could be substituted prior to enactment; and b. delegated authority from Cabinet to make final decisions on the replacement drafting on co-authorship/co-approval redress of conservation management strategies or chapters of them prior to enactment.	**Yes | No**

[2] Existing co-authored CMS: Te Hiku CMS (required through Te Aupouri Claims Settlement Act, Te Rarawa Claims Settlement Act, Ngāti Kuri Claims Settlement Act and NgāiTakoto Claims Settlement Act). Maniapoto Claims Settlement Act provides for a co-authored chapter within the Waikato CMS, and the Whakatōhea Deed of Settlement provides for a co-authored chapter within the Bay of Plenty CMS.

Redress	Analysis and Advice	Recommendations	Decision
	9(2)(f)(iv) [redacted]		
Overlapping planning redress **(at least 4 settlements)**	Some settlements provide for multiple plans over the same geographic area. There are no overlapping statutory plans in place yet. However, the Crown has agreed to the following statutory planning instruments where there are likely to be various degrees of geographic overlap: • Raukūmara CMP (Te Whānau a Apanui) and nga Whakahaere Takirua CMS (Ngāti Porou). • Raukūmara CMS (Te Whānau a Apanui) includes areas for Raukūmara CMP (Te Whānau a Apanui) and nga Whakahaere Takirua CMS (Ngāti Porou). • He Kawa Ora mō Te Papa-Kura-o-Taranaki NPMP and Te Papa-Kura-o-Taranaki CMS. • Ngā Tokoerua CMP (Te Korowai) and Ngā Tokoerua CMS chapter (Te Korowai). **Relevant proposals** As with CMP, NPMP and CMS redress (above), the intended changes to introduce a single layer of area plans, approved by the Minister, will remove CMPs, NPMP and CMSs from the conservation system. **Assessment of materiality of proposals on overlapping planning redress**	21. **Note** that some settlements contain geographically overlapping provisions for plans, although to date no such plans have been created; 22. **Note** that your earlier decisions on statutory planning instruments (conservation management plans, national park management plans, conservation management strategies and chapters of conservation management strategies) will affect overlapping planning redress instruments;	**Noted** **Noted**

Redress	Analysis and Advice	Recommendations	Decision
	As with CMP, NPMP and CMS redress (above), the changes are likely to be significant and material for the redress as the new system does not provide for co-authorship or co-approval of area plans (which will replace the overlapping planning redress). Furthermore, area plans are not intended to have the same level of effect as the current statutory plans they will replace. Simply translating redress plans into area plans may result in a material deficit to the redress. 9(2)(f)(iv) [redacted]	***Provide an opportunity for time-bound engagement with post-settlement governance entities (recommended)*** 23. **Agree** to seek: a. Cabinet approval for the Bill to include a placeholder on overlapping planning redress to enable further discussion between the parties on replacement drafting which could be substituted prior to enactment; and b. delegated authority from Cabinet to make final decisions on the replacement drafting for overlapping planning redress prior to enactment.	**Yes | No**
Ngāi Tahu representation on NZCA **(1 settlement)**	Ngāi Tahu are the only Iwi to have secured NZCA membership through their Treaty settlement. NZCA representation was negotiated to provide Ngāi Tahu with a high degree of influence over the approval of the General Policy for National Parks (**GPNP**), CMSs and NPMPs in recognition that over 70% of public conservation lands and a significant majority of national parks are within the Ngāi Tahu takiwā. **Relevant proposals** The NZCA currently approves the GPNP, CMSs and NPMP and may approve CMPs if they are referred on by a conservation board. The NZCA will remain although its statutory functions will be changed under the new system to reviewing and providing comment on the NCPS and area plans. The Minister will approve the NCPS (which will replace the two general policies) and area plans. **Assessment of materiality of proposals on Ngāi Tahu representation on the NZCA** NZCA's influence as a decision-maker is intended to be removed because it will no longer approve the GPNP and a range of plans. Instead, the NZCA will have an advisory role in the NCPS and area plan processes. Therefore, the intent of the redress for Ngāi Tahu to have strong influence over the approved policies and plans is removed and there is a material deficit to the redress. It could be argued that Ngāi Tahu retain a degree of influence within the conservation system beyond other Iwi (as the only group with statutory representation on the NZCA, who retain a critical advisory role for the NCPS and area plans) but this is likely to be contested. If the legislation remains silent on Ngāi Tahu representation on the NZCA, the likely effect is that: • the role of the NZCA (and therefore the intent of Ngāi Tahu representation) will be reduced through the legislation; • Ngāi Tahu will retain its membership on the NZCA, although without a co-approval role; and • the intent of the redress may not be upheld, running counter to the government's stated aim of the reforms, which is likely to result in relationship difficulties with Ngāi Tahu and may ultimately affect the durability of the Ngāi Tahu Treaty settlement. 9(2)(f)(iv) [redacted]	24. **Note** that Ngāi Tahu are the only Iwi to have New Zealand Conservation Authority membership through their settlement, reflecting the significant proportion of public conservation lands within their rohe, and that changes to the role of the New Zealand Conservation Authority will materially affect the intention of redress; 25. **Note** if the Bill remained silent on Ngāi Tahu representation on the New Zealand Conservation Authority the redress may not be upheld, which would likely strain the relationship with Ngāi Tahu and may affect the durability of the Ngāi Tahu Treaty settlement; ***Provide an opportunity for time-bound engagement with the Ngāi Tahu post-settlement governance entity (recommended)*** 26. **Agree** to seek: a. Cabinet approval for the Bill to include a placeholder on Ngāi Tahu representation on the New Zealand Conservation Authority to enable further discussion between the parties on replacement drafting which could be substituted prior to enactment; and b. delegated authority from Cabinet to make final decisions on the replacement drafting for Ngāi Tahu representation on the New Zealand Conservation Authority prior to enactment.	**Noted** **Noted** **Yes | No**

Redress	Analysis and Advice	Recommendations	Decision
	9(2)(f)(iv) [redacted]		
Post-settlement governance entity representation on conservation boards **(13 settlements relating to 10 Conservation Boards)**	13 settlements provide for the PSGE to nominate a member to the relevant conservation board. Conservation board membership is a significant form of redress intended to provide the settling group with a high-degree of influence over the delivery of conservation within their rohe. 10 of the 15 Conservation Boards[3] have nominations arising from Treaty settlement redress: • Te Hiku Conservation Board: 4 nominations (NgāiTakoto, Ngāti Kuri, Te Aupōuri, Te Rarawa) • Auckland Conservation Board: 3 nominations (Tāmaki collective) • Waikato Conservation Board: 1 nomination (Waikato-Tainui) • Tongariro Taupō Conservation Board: 5 nominations (Ngāti Rangi x 1, Ngāti Tūwharetoa x 2 (and endorsement of other members), Ngāti Hāua x 1, Te Korowai x 1) • Taranaki-Whanganui Conservation Board: 2 nominations (Taranaki Maunga, Te Iwi o Whanganui) • Nelson/Marlborough Conservation Board: 1 nomination (Ngāi Tahu) • West Coast Tai Poutini Conservation Board, Canterbury Conservation Board, Otago Conservation Board, Southland Conservation Board: 2 nominations each (Ngāi Tahu) **Relevant proposals** Conservation boards currently approve CMPs and advise and recommend for approval CMSs and NPMPs. Conservation boards will remain although their statutory functions will be changed under the new system to providing comment on area plans. **Assessment of materiality of proposals on PSGEs nomination to conservation boards** Some settlements (approximately 13) provide for Iwi nomination to conservation boards, with the expectation this would provide influence over the Boards' current role in reviewing and advising on CMSs and NPMPs, or in approving CMPs. The Bill would replace CMSs and CMPs with a single layer of area plans and shift the approval role for both to the Minister (as opposed to the NZCA or the Boards).	27. **Note** that some settlements provide for Iwi appointments to conservation boards, in order to provide for influence in statutory planning and management documents. 28. **Note** if the Bill remained silent on post-settlement governance entity representation on conservation boards the redress may not be upheld, which would likely strain Māori Crown relations and may affect the durability of multiple Treaty settlements; ***Provide an opportunity for time-bound engagement with PSGEs (recommended)*** 29. **Agree** to seek: a. Cabinet approval for the Bill to include a placeholder on post-settlement governance entity conservation board membership redress to enable further discussion between the parties on replacement drafting which could be substituted prior to enactment; and b. delegated authority from Cabinet to make final decisions on the replacement drafting on post-settlement governance entity representation on conservation boards prior to enactment;	**Noted** **Noted** **Yes | No**

[3] The following conservation boards do not have nominations arising from Treaty settlements: Northland; Bay of Plenty; East Coast Hawke's Bay; Wellington; and Chatham Islands.

Redress	Analysis and Advice	Recommendations	Decision
	Although nomination to conservation boards will be unaffected, their influence in decision-making is affected because boards will no longer be approving CMPs or recommending approval of CMSs/NPMPs. Some groups may feel this redress is devalued by the approval role shifting to the Minister for generic area plan process. Conservation boards will have an advisory role during generic area plan process. It could be argued that such PSGEs still have a higher degree of influence over decision-making (given they would still sit on the advisory conservation board) compared to Treaty partners generally, but this is likely to be contested as not reaching "equivalence". While some groups have their own plans under redress (e.g. Tāmaki collective redress provides 3 nominations to Auckland Conservation Board and also the Tāmaki Makaurau motu CMP), the geographic area covered by the plans is generally smaller than that covered by the Conservation Board. The exception is the Te Hiku Conservation Board and Te Hiku CMS which directly map onto each other. If the legislation remains silent on PSGE representation on conservation boards, the likely effect is that: • the role of the conservation boards (and therefore the intent of PSGE representation) will be reduced through the legislation; • PSGEs will retain membership on conservation boards, although without a co-approval role for CMPs; and • the intent of the redress may not be upheld, running counter to the government's stated aim of the reforms, which is likely to result in relationship difficulties with various PSGEs and may ultimately affect the durability of multiple Treaty settlements. 9(2)(f)(iv) [redacted]		

Redress	Analysis and Advice	Recommendations	Decision
	9(2)(f)(iv) [redacted]		
Status of environmental plans / vision / strategy and legal weightings	A range of settlements (largely Tranche 1 groups) 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. 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). Other Treaty settlement commitments also require particular values or principles to be considered in the development of conservation planning documents. You have indicated that the substantive effect of legal weightings for other natural resources strategies (for example, integrated river management plans) should be maintained in conservation management planning (25-B-0059 refers). **Relevant proposals** The intended change is to introduce a single layer of area plans, approved by the Minister, which will remove the statutory plans from the conservation system that this redress targets. Area plans are not intended to have the same level of effect as the current statutory plans they will replace. **Assessment of materiality of proposals on the status of environmental plans** PSGEs will seek assurance that such strategies will have the same or similar impact on area plans that they have on existing planning instruments. In most cases, this should require a consequential amendment. We propose the same approach is taken for commitments for certain values or principles to be considered in the development of concertation planning documents. In some limited cases, where weightings are high (such as 'give effect to'), there are likely to be practical solutions that could be developed to address any such challenges. Area plans are not intended to have the same level of effect as the current statutory plans they will replace. Simply translating redress plans into area plans may result in a material deficit to the redress. If the legislation remains silent on the status of environmental plans, vision or strategies, and legal weightings the likely effect is that: • References to current statutory planning documents (CMPs, NPMPs, and CMSs) will be read as references to area plans; and • The intent of the redress may not be upheld, running counter to the government's stated aim of the reforms, which is likely to result in relationship difficulties with various PSGEs and may ultimately affect the durability of multiple Treaty settlements. 9(2)(f)(iv) [redacted]	30. **Note** that some settlements include a 'vision' or 'strategy' for managing particular sites or natural resources; some of these have the status of a conservation management plan or Conservation General Policy. 31. **Note** if the Bill remained silent on the status of environmental plans/ visions/strategies, the redress may not be upheld, which would likely strain Māori Crown relations and may affect the durability of multiple Treaty settlements; ***Provide an opportunity for time-bound engagement with PSGEs (recommended)*** 32. **Agree** to seek: a. Cabinet approval for the Bill to include a placeholder on the status of environmental plans/visions/strategies to enable further discussion between the parties on replacement drafting which could be substituted prior to enactment; and b. delegated authority from Cabinet to make final decisions on the replacement drafting on how environmental plans/visions/strategies will apply in the new system prior to enactment.	**Noted** **Noted** **Yes | No**

Table C: Upholding remaining standard redress in the new system

Proposal	Analysis and Advice	Recommendations	Decision
Redress that will operate as intended in the new system with no change			
Right of first refusal **(included in all comprehensive settlements)**	Rights of first refusal (RFR) exist in all comprehensive Treaty settlements. The redress is activated when the Crown no longer requires the land and is disposing of it. Settlement Acts provide an exemption from the RFR when the Crown is disposing of land for "conservation purposes" – however, if the Crown acquires new land through that disposal mechanism, the RFR transfers to the newly acquired land. **Relevant proposals** To enable more flexibility to exchange and dispose of land, there will be changes to the tests to exchange and dispose. Exchanges will be permitted where it can satisfy a 'net conservation benefit' test. Disposals will be subject to a set of tests and considerations. New tests to provide more flexible settings are expected to result in more land than only that with "no, or very low" conservation value being disposed of (which has proven to be a very high bar). As this may include some RFR land, it is likely that one of the impacts of this change will be that there are more opportunities for mana whenua to exercise their right of first refusal. **Assessment of materiality of proposals on RFR redress** Rights of first refusal over conservation land can readily translate to the new conservation system, including how it interrelates with the "disposal for conservation purposes" exemption. To the extent that the volume of land exchanged or disposed of increases, and that this includes RFR land, the changes may result in: • the right of first refusal over parcels of land transferring to land acquired by the Crown as part of conservation estate through exchanges more frequently; and/or • there being more opportunities for mana whenua to exercise a right of first refusal negotiated as part of a Treaty settlement.	33. **Note** that no consequential change is required to ensure Rights of first refusal redress will operate as intended in the new conservation system.	**Noted**
Other redress	We have identified a range of other more minor redress that can transfer into the new system with no change. We consider that there is not material impact on the intention of operation of the following redress. PSGEs have been informed of our initial assessment of the following redress: • Transfers of reserves • Placing of pou whenua • Easements • Granting licenses • Noting of DOC protocol • Wāhi Tapu framework or plan	34. **Note** that no consequential change is required in the Bill to ensure the following redress will operate as intended in the new conservation system: a. transfers of reserves; b. placing of pou whenua; c. easements; d. granting licences; e. noting of DOC protocol; and f. Wāhi Tapu framework or plan;	**Noted**

Attachment C: Analysis of engagement with PSGEs

1. In February, we proposed a targeted approach to engagement (B-0059 refers):
   - For the Tranche 1 groups with complex redress, we proposed to manage this engagement via three face-to-face hui with each of the post-settlement governance entities (**PSGEs**) between April and early August 2025.

     We have met once with 18 Tranche 1 PSGEs, written to all of them, and provided presentations for each hui (which was sent to the attendees afterwards).
   - For the Tranche 2 groups with more straight-forward redress, given the more minor nature of amendments, we proposed to engage these groups primarily via correspondence, with limited online meetings as required.

     We have met with two Tranche 2 PSGEs[1] and subsequently wrote to all Tranche 2 groups in July setting out our initial analysis of how their redress could be translated into the new system, invited their feedback, and provided escalation pathways for direct discussion.
2. In March 2025, the Director-General wrote to PSGEs, noting the guiding principles to support engagement on upholding settlements through the context of reform:
   - "Discussions will be based on good faith engagement and an understanding of priorities for both PSGEs and the Crown;
   - The focus will be on upholding the intent of settlement commitments; and
   - Solutions should not unduly constrain the Crown's ability to propose changes to legislation to ensure effective and efficient conservation management for all New Zealanders."
3. In most cases, PSGEs have sought more clarity on the scope of the National Conservation Policy Statement (**NCPS**), area plans, and policy decisions on concessions before providing full views on approaches to upholding redress. To assist with that clarity, on 24 July we sent an overview of the NCPS and key proposals to all PSGEs seeking feedback by 22 August (a 4-week consultation window). In the week of 1 August, we also wrote to all PSGEs outlining Cabinet's 30 June decisions.
4. The risks with the Crown proceeding to translate redress is ultimately subject to engagement processes to date, whether agreement has been reached, and the materiality of changes required to redress.
5. 9(2)(h) [redacted]
6. The following table provides a high-level assessment of the materiality of change required to the redress and an assessment of our engagement to date against the principles set out by the Director-General. A more detailed assessment of the materiality of the changes required s included in **Attachment B**.

[1] DOC's main relationship holder with Tūhoe has also separately met and discussed some aspects of the Bill

	Tranche 1	Tranche 2
Assessment of materiality of change required to redress	24 settlements which have commitments that embed Iwi/hapū in the processes and structures of management planning requiring material change to operate in the new system Most groups also have standard redress that could be addressed through minor amendments (as with Tranche 2)	At least 61 settlements which have standard redress that can be relatively easily upheld under the Bill through minor amendments
Approach to engagement	Complex redress, requiring face-to-face engagement Standard redress signalled through presentation by engagement leads, provided to PSGEs afterwards.	Standard redress, primarily addressed through correspondence (with escalation pathways as required)
Update on engagement	We have met with 18 of Tranche 1 PSGEs once, outlining the key proposals of the Bill, an outline of where it would intersect with redress, and seeking views on how redress could be translated into the new system. Discussions to date have been necessarily high-level and have involved only one face-to-face engagement. Due to the pace of the reform, there is uncertainty about key parts of the new system and we have been unable to provide detailed information to PSGEs to inform their decision-making. All PSGEs were sent the NCPS proposal document on 24 July seeking feedback and offering to meet to discuss. PSGEs received a letter in the week of 4 August outlining the key policy decisions taken by Cabinet in June 2025.	Letters sent to 52 Tranche 2 PSGEs setting out initial analysis of how standard redress could be translated into the new system. In these letters we offered to meet and discuss any concerns, and requested any feedback on our analysis by 31 July. Some face-to-face meetings where requested. All PSGEs were sent the NCPS proposal document on 24 July seeking feedback and offering to meet to discuss. PSGEs received a letter in the week of 4 August outlining the key policy decisions taken by Cabinet in June 2025.
Assessment against principles of engagement (informed decision-making, transparency, and active protection)	We have been unable to meet with all Tranche 1 PSGEs (let alone the three face-to-face hui we proposed in February 2025) - the Crown therefore has limited information about Tranche 1 PSGE views on their priorities and/or the proposed changes. Further, PSGEs have been unable to engage in an informed way given they do not hold full information about the possible impact of the reforms on their redress. Consequently, the Crown is currently unable to make an informed decision on upholding complex redress. Once the Bill is introduced, which will include the draft NCPS, PSGEs will have fuller information on which to make informed decisions on how to uphold redress in the new system. We can then continue to engage with PSGEs to test	We have written to all Tranche 2 PSGEs to enable their informed decision-making. Our initial analysis, which we have requested PSGE feedback on, is that the redress can translate into the new system while not materially diminishing what was agreed to by the parties to the settlement. Subject to the feedback from Tranche 2 PSGEs on our initial analysis, it is possible to include proposals in the introduction version of the Bill due to the lower material impact on the redress. These proposals can be further tested and refined through, and alongside, the select committee process. Although a direct translation and “equivalence” is not possible for all items of redress, PSGEs (and Treaty partners

	Tranche 1	Tranche 2
	and refine proposals for inclusion in the Bill prior to enactment (or thereafter). Although Tranche 1 PSGEs have been informed via presentations that their standard (Tranche 2) redress would be impacted, they have not to date received written analysis of how such redress could be translated into the new system (Tranche 2 PSGEs have received a letter to that effect).	more generally) will obtain a broader benefit from the new system.
Risks with proceeding to translate redress	High-risk due to material changes required for the redress to operate in the new system and lack of testing of proposals with PSGEs.	Lower risk due to simplicity of changes required for redress to operate in the new system. We have also provided PSGEs with our initial advice.

Attachment D: Upholding Takutai Moana rights

Table A: Upholding Takutai Moana rights under the Takutai Moana Act 2011

Takutai Moana rights	Analysis and Advice
Conservation permission right Sections 71 – 73, Section 76 (for decisions on grant of marine mammal permits)	**CMT group decides whether the Minister or Director-General can consider concession application** The 'conservation permission right' enables a customary marine title (CMT) group to decide whether the Minister or Director-General can consider an application for a concession within the CMT area (whether wholly or in part). Permission given by the CMT group does not limit the discretion of the Minister or Director-General to decline an application or impose conditions (including conditions other/more stringent than those sought by the CMT group). Process requirements for the conservation permission right: • When a relevant application is received, this must be referred to the CMT group, unless the applicant has already sought permission from the CMT group. • The Minister or Director-General may not consider the application until written permission is received from the CMT group. • The CMT group has 40 working days to decide whether to give/decline permission for the application to be considered. If written advice of this decision is not provided within the timeframe, the CMT group is treated as having given permission. • The CMT group may give or decline permission on any grounds. • The Minister or Director-General must not approve/decline an application except to the extent that any permission given by the CMT group covers the application. • The CMT group's exercise of its conservation permission right cannot be appealed. If the CMT group gives permission, this cannot later be revoked. **Relevant proposals**

Takutai Moana rights	Analysis and Advice
	The reforms will enable classes of concessions (such as pre-approved, exempt or prohibited activities) through the new National Conservation Policy Statement (NCPS) and area plans. The amendment Bill will set out timeframes for some steps of the concessions process, including timeframes for Treaty partners to respond when consulted on concession applications. **Assessment of proposals on [Takutai Moana rights]** 9(2)(f)(iv) [redacted]
Status of CMT planning documents Section 90	**The Director-General must take CMT planning document into account for CMS** The Director-General must "take into account" relevant matters in a planning document lodged by a CMT group after the date it is registered when reviewing or amending a Conservation Management Strategy (CMS) that directly affects the CMT area of that group. **Relevant proposals** CMT planning documents link into the conservation system through the statutory planning layer, and specifically CMSs. A single layer of area plans will replace CMSs, Conservation Management Plans (CMPs) and National Park Management Plans (NPMPs). **Assessment of proposals on [Takutai Moana rights]** CMT planning documents can continue to operate in the new system. The specific commitment for the Director-General to "take into account" the CMT planning document when preparing a CMS, can be upheld through a simple consequential amendment to replace the reference to a CMS with a reference to an "area plan." However, area plans are intended to have a narrower scope than CMSs, and therefore CMT holders may raise concerns that their Takutai Moana rights are being diluted through the reforms. There is only one CMT holder (the Rakiura Tītī (Beneficial Islands) Committee) and we recommend a targeted engagement process with them

Takutai Moana rights	Analysis and Advice
	prior to and alongside the introduction of the Bill. We can then consider their feedback on the proposal in the Bill to read CMSs as "area plans" prior to the eventual enactment. Similarly, we recommend writing to all applicants informing them of the proposed consequential amendment to the Takutai Moana Act and outlining the process for them to engage via the select committee process. Applicants are likely to be concerned the Crown is only informing them of the proposed changes and providing limited "consultation" via the Select Committee process, especially given Crown conduct has been the subject of recent Waitangi Tribunal inquiries (and recommendations).
Other rights and processes	There is a range of other ways that the Takutai Moana Act intersects with the conservation system. We consider there is no material impact on the following aspects of the Takutai Moana Act: **Participation in conservation processes** (Section 47) Affected iwi, hapū or whānau have a right to participate in conservation processes within the common marine and coastal area. Some of these processes (relating to marine reserves, marine mammal sanctuaries, conservation protected areas and authorisation of marine mammal watching) are outside of the scope of the reforms. Affected iwi, hapū or whānau will retain their right to participate in publicly notified applications for concessions (section 47(d)). 9(2)(f)(iv) [redacted] **Controls on exercise of protected customary rights** (Section 56) The Minister can place controls on protected customary rights (PCR) if the PCR activity has, or is likely to have, a significant adverse effect on the environment. Ministerial decision making can continue including the notification and publication requirements in the Takutai Moana Act. **Protection purposes** (section 74) When making a determination to declare or extend a marine reserve or conservation protected area, the Minister or Director-General must engage with relevant CMT groups and have regard to their views. This process is unaffected by the proposals.

Table B: Upholding Takutai Moana rights under the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019

Takutai Moana rights	Analysis and Advice
Participation right Sections 52 – 55	**Hapū may participate in concession processes** "Conservation processes" have the same meaning as those set out in section 47 of the Takutai Moana Act. Relevant hapū have the right to participate in 'complete applications for concessions' and the Minister or Director-General must have particular regard to their views. Process requirements for the participation right: • When a relevant application is received, the Minister or Director-General must give notice as soon as practicable to the relevant hapū. • For applications in respect of areas within ngā rohe moana, the Minister or Director-General must notify the relevant hapū in writing that they may provide views on the application; specify a reasonable timeframe for doing so; and provide sufficient information about the application. • For applications in respect of areas adjacent to or directly affecting ngā rohe moana, the Minister or Director-General must notify the relevant hapū in writing that the application has been received. The Minister or Director-General must have particular regard to any views provided by the relevant hapū within the specified timeframe. **Relevant proposals** As with the summary for Takutai Moana as it relates to "conservation permission right", the reforms will enable classes of concessions (such as pre-approved, exempt or prohibited activities) through the new National Conservation Policy Statement (NCPS) and area plans. The amendment Bill will set our timeframes for some steps of the concessions process, including timeframes for Treaty partners to respond when consulted on concession applications. **Assessment of proposals on [Takutai Moana rights]** Most of the "conservation processes" (relating to marine reserves, marine mammal sanctuaries, conservation protected areas and authorisation of marine mammal watching) are outside of the scope of the reforms. 9([redacted]

Takutai Moana rights	Analysis and Advice
	The Minister or Director-General must provide a written notice that specifies "a reasonable time frame within which the hapū must provide its views." (section 54 (4)(c). The timeframe of 40 working days response is set out later in the Act (section 89). The consultation and engagement provisions in the Ngā Hapū o Ngāti Porou arrangements will be unaffected by the Bill. However, the Bill will provide for: • a default timeframe of 20 working days for Treaty partners to provide comment on a concession application requiring an individual decision; and • a discretionary power for the Minister to extend the 20 working day timeframe where a concession application was particularly complex and therefore allowing more time for consideration is required. We recommend a targeted engagement with Ngāti Porou prior to and alongside the introduction of the Bill. However, in principle, we recommend that the Minister's discretionary power be utilised to extend the 20 working day timeframe to align with the timeframes in the Ngā Hapū o Ngāti Porou arrangements. This can practically be addressed through the written notice from the Minister or the Director-General when specifying "a reasonable timeframe."
Status of conservation relationship instrument Section 69	**Planning documents must note summary of relationship instrument** The 'conservation relationship instrument' is a relationship agreement entered into by Ngā Hapū o Ngāti Porou and the Minister. A summary of the terms of the conservation relationship instrument must be noted by the Director-General on any NPMP, CMS or CMP that affects ngā rohe moana, as defined in section 11 of the Act. **Relevant proposals** A single layer of area plans will replace CMSs (and CMPs and NPMPs). **Assessment of proposals on [Takutai Moana rights]** As with the CMT planning documents (under the Takutai Moana Act), the conservation relationship instrument can continue to operate in the new system. The Director-General can "note a summary of the terms of the conservation relationship instrument" in any relevant area plan through a simple consequential amendment to replace the references to NPMP, CMS or CMS with a reference to an "area plan."

Takutai Moana rights	Analysis and Advice
	Area plans are intended to have a narrower scope than the current statutory planning layer, and therefore Ngā Hapū o Ngāti Porou may raise concerns that their Takutai Moana rights are being diluted through the reforms. We recommend a targeted engagement with Ngāti Porou prior to and alongside the introduction of the Bill.
Permission right Sections 87 – 91	**CMT hapū decides whether the Minister or Director-General can consider concession application** The 'permission right' enables a CMT hapū to decide whether the Minister or Director-General can consider an application for a concession in respect of a CMT area. Similar to the Takutai Moana Act, process requirements for the permission right include that: • When a relevant application is received, this must be referred to the CMT hapū, unless the applicant has already sought permission from the CMT hapū. • The CMT hapū has 40 working days to decide whether to give/decline permission for the application to be considered. If written advice of this decision is not provided within the timeframe, the CMT hapū is treated as having given permission. • The Minister or Director-General must not approve/decline an application except to the extent that any permission given by the CMT group covers the application. • If the CMT hapū gives permission, this cannot later be revoked. • The Minister or Director-General cannot grant the application on terms different from those in the application (i.e. as in application referred to CMT hapū). • The CMT hapū cannot charge for the exercise of its permission right. **Relevant proposals** Outlined above in relation to the participation right (Sections 52 – 55). **Assessment of proposals on [Takutai Moana rights]** Outlined above in relation to the participation right (Sections 52 – 55).
Other rights and processes	There is a range of other ways that the Ngā Hapū o Ngāti Porou arrangements intersect with the conservation system. We consider there is no material impact on the following aspects of the Ngā Hapū o Ngāti Porou arrangements:

Takutai Moana rights	Analysis and Advice
	Controls on protected customary activities (Section 36 to 41) The Minister can place controls on PCR if the PCR activity has, or is likely to have, a significant adverse effect on the environment. Ministerial decision making can continue including the notification and publication requirements in the Ngā Hapū o Ngāti Porou arrangements. **Applications to possess wildlife matter and marine mammal matter** (Sections 57 to 61) Applications to possess wildlife matter and marine mammal matter under the Wildlife Act 1953 and Marine Mammals Protection Act 1978 can continue in line with the relevant engagement and decision-making processes. **Possession of wildlife matter and marine mammal matter** (Sections 62 to 63) The information requirements and requirement for the Director-General to gift matter to Ngā Hapū o Ngāti Porou can continue.