

Regulatory Impact Statement:

## **Developing a New Māori Language Strategy: Revised Arrangements for Māori Language Entities**

### **Agency Disclosure Statement**

This Regulatory Impact Statement (RIS) has been prepared by Te Puni Kōkiri. It accompanies the Cabinet papers entitled *A New Māori Language Strategy: Paper 1* and *A New Māori Language Strategy Paper 2: Revised Arrangements for Māori Language Entities*.

It provides an analysis of options about three distinct but related issues: (a) proposed changes to the entity status of Te Taura Whiri and Te Māngai Pāho; (b) proposed changes to arrangements for the oversight of the Māori Television Service and (c) the optimal legal form of an entity to undertake various functions with regard to these Māori language entities on behalf of iwi and Māori.

This RIS and associated Cabinet papers fulfil a 2013 Cabinet directive for the Minister of Māori Affairs to report-back on consultation about a new Government Māori Language Strategy (CAB Min (13) 43/20 refers). This consultation was completed in February 2014. The Minister of Māori Affairs is seeking to introduce the necessary legislation to give effect to his preferred approach in July 2014.

This RIS documents the process undertaken by Te Puni Kōkiri to consider the various issues, including: a description of the status quo and the policy problem that is presenting; a description of the objectives used to assess the various options; descriptions of the options themselves; assessments of the options against the objectives, the rationale for selecting each preferred option; and the implications of each preferred option.

It has not been possible in the available time to prepare a detailed implementation plan for the preferred options. Te Puni Kōkiri considers that further work is required to develop the implementation plan.

Tīpene Chrisp  
Policy Director, Te Puni Kōkiri

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## Executive Summary

1. The Minister of Māori Affairs is seeking to support the growth and development of the Māori language by, among other things (a) strengthening Crown-iwi and Māori relationships in the Māori language sector, and (b) strengthening iwi and Māori leadership of Māori language issues. This should be undertaken within a framework that retains appropriate levels of public accountability and the stewardship of public interests.
2. In December 2013, Cabinet agreed that consultation be undertaken about various proposals for the development of a new Māori Language Strategy (“MLS”) (CAB Min (13) 43/20 refers). These proposals included the development of new arrangements for Māori language entities within Vote: Māori Affairs, that is, Te Taura Whiri i te Reo Māori (“Te Taura Whiri”), Te Māngai Pāho and the Māori Television Service). This consultation was completed in February 2014.
3. Currently, Te Taura Whiri and Te Māngai Pāho are autonomous Crown Entities. MTS is a statutory entity. It was established by the MTS Act 2003, and the Crown (through the Minister of Māori Affairs and the Minister of Finance) and Māori (through Te Pūtahi Paoho) undertake various shared functions.
4. This Regulatory Impact Statement (RIS) provides an assessment of the entity status arrangements that were proposed in the consultation material. It compares these proposed arrangements against the status quo and other options for the status of the Māori language entities in Vote: Māori Affairs.
5. There are three related but distinct components to this RIS: (a) options for proposed changes to the entity status of Te Taura Whiri and Te Māngai Pāho; (b) options for proposed changes to arrangements for the oversight of the Māori Television Service and (c) the optimal legal form of an entity (to be known as “Te Mātāwai”) to undertake various functions with regard to Māori language entities on behalf of iwi and Māori. The options are summarised in Table 1 below, and the preferred option is highlighted (based on the assessment of the options against the objectives that have been identified).

*Table 1. Māori Language Entities: Ownership Issues and Options*

Issues	Options
Entity status arrangements for Te Taura Whiri and Te Māngai Pāho	Maintain Te Taura Whiri and Te Māngai Pāho as Crown Entities (status quo)
	Maintain Te Taura Whiri and Te Māngai Pāho as Crown Entities, with specific provision for shared roles to be undertaken by Minister of Māori Affairs and Te Mātāwai
	Transfer Te Taura Whiri and Te Māngai Pāho from Crown to Te Mātāwai (which will be established as an independent statutory entity). <b>(Preferred option).</b>

	Transfer Te Taura Whiri and Te Māngai Pāho to a private entity.
Optimal arrangements for oversight of Māori Television Service	Retain Te Pūtahi Paoho, and existing relationship with responsible Ministers (status quo)
	Disestablish Te Pūtahi Paoho and transfer its roles and responsibilities to Te Mātāwai ( <b>Preferred option</b> ).
Optimal legal form for entity (Te Mātāwai) to undertake various functions on behalf of iwi and Māori	Establish Te Mātāwai as a Crown Entity
	Establish Te Mātāwai as an independent statutory entity ( <b>Preferred option</b> )
	Establish Te Mātāwai as a private entity

## Status Quo

### *Background*

6. The Māori language is a taonga of Māori people and an official language of New Zealand (the Māori Language Act 1987 refers). Successive Governments have accepted that the Crown has an enduring obligation derived from the Treaty of Waitangi to take all reasonable steps to support its growth and development, in conjunction with iwi and Māori (CAB (97) M34/5b refers). Government efforts to support the Māori language are coordinated through the Māori Language Strategy (“MLS”), and should be located within a wider framework of ongoing work to strengthen Crown-iwi and Māori relationships generally.
7. The Government gives effect to the Māori Language Strategy through, among other things, its oversight and direction of Te Taura Whiri, Te Māngai Pāho and MTS (the latter in conjunction with Te Pūtahi Paoho) and the provision of funding to these agencies to deliver various Māori language programmes and services.

### *Te Taura Whiri and Te Māngai Pāho*

8. Te Taura Whiri is an autonomous Crown Entity within Vote: Māori Affairs. It was established by the Māori Language Act 1987, with a broad mandate to (a) take steps to give effect to the status of Māori as an official language and (b) promote the Māori language as a living language. In practice, it undertakes a range of functions including: administering programmes that support whānau Māori, hapū and iwi language development; promoting the Māori language through social marketing (in particular, through Māori Language Week); and supporting the development of the Māori language *per se*, through administering orthographic conventions, creating neologisms and licencing interpreters and translators. It is governed by a board of five members appointed by the Minister of Māori Affairs. It receives appropriations of \$12m per annum to undertake these activities, and had public equity of approximately \$1.2m at 30 June 2013.
9. Te Māngai Pāho is an autonomous Crown Entity, governed by a board of seven members appointed by the Minister of Māori Affairs. It was established by the Broadcasting Amendment Act 1993 (now incorporated into the Broadcasting Act 1989), with a mandate to provide funding for Māori language broadcasting and programme-making. In practice, it provides operational funding for iwi radio and programming funding for the Māori Television Service, and administers contestable funding for other television and radio programming. It receives appropriations of \$53m per annum to undertake these activities, and had public equity of approximately \$2.1m at 30 June 2013.
10. Te Taura Whiri and Te Māngai Pāho are subject to the Crown Entities Act 2004. Te Puni Kōkiri is the monitoring department for these entities. The scope of the relevant appropriations within Vote: Māori Affairs and the

Crown Entities Act 2004 provide the framework for the purchase of services from Te Taura Whiri and Te Māngai Pāho.

#### *Māori Television Service and Te Pūtahi Paoho*

11. MTS is a statutory entity established by the Māori Television Service Act 2003. Its principal function is “to contribute to the protection and promotion of te reo Māori me ōna tikanga through the provision, in te reo Māori and English, of a high-quality, cost-effective television service that informs, educates and entertains viewers, and enriches New Zealand’s society, culture and heritage”. It receives direct appropriations of \$16m per annum, and additional funding of approximately \$16m from Te Māngai Pāho on an annual basis for programme-making (via contractual arrangements). It had public equity of approximately \$19m at 30 June 2013. MTS is required to report annually to Parliament about its performance and expenditure. Te Puni Kōkiri is the monitoring department for MTS.
12. Currently, various oversight and direction functions for MTS are undertaken by the Crown (through the Minister of Māori Affairs and the Minister of Finance) and Te Pūtahi Paoho, on behalf of Māori. Te Pūtahi Paoho was established by the MTS Act 2003 to undertake the following functions:
  - a. to appoint four of seven members of the board of MTS (the remaining three members are appointed by the Minister of Māori Affairs and the Minister of Finance);
  - b. to appoint the chair and deputy chair of the board of MTS, acting jointly with the Minister of Māori Affairs and the Minister of Finance;
  - c. to receive various accountability documents to be provided by the MTS;
  - d. to manage the spectrum management right provided to Te Pūtahi Paoho to support the broadcasting needs of MTS; and
  - e. to approve the annual statement of intent of MTS, jointly with the Minister of Māori Affairs and the Minister of Finance.
13. Schedule 1 of the MTS Act 2003 sets out various provisions relating to the operations of Te Pūtahi Paoho. It consists of eleven members appointed by Māori language stakeholder organisations (which are prescribed in the MTS Act 2003). It receives an appropriation of \$131,000 per annum from Vote: Māori Affairs to undertake its business.

## Problem Definition

### *The Health of the Māori Language*

14. The health of the Māori language declined rapidly over the course of the 20<sup>th</sup> century. Since the 1970s, iwi and Māori have led a range of initiatives to revitalise the Māori language in education, broadcasting and whānau and iwi development. For its part, the Crown acknowledged that the Māori language is a taonga of Māori people in the Māori Language Act 1987, and accepted that it has an enduring obligation derived from the Treaty of Waitangi to take all reasonable steps to support its growth and development in conjunction with iwi and Māori. Despite these efforts by iwi and Māori, and by the Crown, the health of the Māori language remains fragile. The most recent Census results show that only 21% of Māori can speak Māori, down from 24% in 2006. This indicates that further efforts are required by the Crown and iwi and Māori to support the revitalisation of the Māori language, and measures must be focused on providing optimal support for the Māori language.

### *Recent Reviews of the Health of the Māori Language*

15. Government efforts to support the Māori language have been coordinated through the MLS since the 1990s. It draws together various Māori language programmes and services, and confirms the roles and responsibilities of Te Taura Whiri, Te Māngai Pāho and MTS. There have been two reviews of the MLS in recent years: *Te Reo Mauriora*, produced by an independent panel that commissioned by the Minister of Māori Affairs, and *Ko Aotearoa Tēnei*, the Waitangi Tribunal report into the WAI 262 claim which included a chapter about the Māori language. These reviews highlighted various concerns about the design and implementation of the MLS, including the institutional arrangements for the Māori language entities within Vote: Māori Affairs. They emphasized two key principles: (a) the need to give practical effect to the leadership roles of iwi and Māori in the revitalisation of the Māori language, as envisaged by the Treaty of Waitangi; and (b) the need to provide for an enduring Crown commitment to the Māori language that supported iwi and Māori leadership but did not overpower it. The Waitangi Tribunal summarised its views as follows:

*The language is clearly a taonga of quite transcendent importance to Māori, and few other taonga could rival its status ... Given the importance of this taonga to Māori, the Crown's protection of it clearly needs to accord with Māori preferences – and, indeed, be determined in large measure by Māori ideas. (WAI 262 Report, Volume 2: 442).*

16. The reviews considered that current institutional arrangements for the Māori language entities within Vote: Māori Affairs were unsatisfactory because they did not give effect to these two key principles. These themes have been reinforced during recent consultation about the proposed MLS.

The two reviews made some specific recommendations about transferring the ownership of the Māori language entities to iwi and Māori<sup>1</sup>.

17. Aspirations to strengthen iwi and Māori leadership within current institutional arrangements for the Māori language entities within Vote: Māori Affairs need to be balanced against the need to provide for enduring public accountability and to provide for the stewardship of public interests within these arrangements. Therefore, the key policy problem presenting is:

*How can the Government give practical effect to the leadership role of iwi and Māori in the revitalisation of the Māori language, with specific regard to the Māori language entities, while maintaining appropriate provisions for enduring public accountability and the stewardship of public interests?*

18. Te Puni Kōkiri has identified four broad options in response to this policy problem:

- a. maintaining the status quo;
- b. establishing Te Taura Whiri and Te Māngai Pāho as Crown-Māori Entities, based on the model of the Māori Television Service;
- c. transferring Te Taura Whiri and Te Māngai Pāho from the Crown to iwi and Māori, represented by an independent statutory entity, to be known as Te Mātāwai, with some standard machinery of government accountability mechanisms built into these arrangements; and
- d. transferring Te Taura Whiri and Te Māngai Pāho from the Crown to iwi and Māori, represented by a private entity.

19. In December 2013, Cabinet agreed that the Minister of Māori Affairs should undertake public consultation about option (c) above (CAB Min (13) 43/20 refers). This option is assessed in **Section A** below, and compared with the other options. For ease of reference, the proposed independent statutory entity is referred to as Te Mātāwai. It is described in more detail in *A New Māori Language Strategy Paper 2: Revised Arrangements for Māori Language Entities*, and in Section C below. It is necessary to

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<sup>1</sup> *Te Reo Mauriora* recommended that all Māori language programmes and services across the public sector be transferred to Te Mātāwai. *Ko Aotearoa Tēnei* recommended that that Te Taura Whiri be re-engineered as a Crown-Māori entity. I consider that it is appropriate for Te Mātāwai to assume ownership of the Māori language entities in Vote: Māori Affairs in the first instance. When it has developed its operating model, it may be appropriate to investigate opportunities for it to assume ownership and leadership of other Māori language programmes and services. I also consider that it is more effective and efficient for Te Taura Whiri to be fully transferred to iwi and Māori.

consider the issues discussed in Section A and Section B in light of the proposed arrangements for Te Mātāwai (and visa versa).

20. In addition, Cabinet also agreed that the Minister of Māori Affairs should consult on proposals to disestablish Te Pūtahi Paoho and replace it with Te Mātāwai. This gives rise to two options for consideration: maintaining the status quo in these arrangements, or disestablishing Te Pūtahi Paoho and replacing it with the proposed independent statutory entity. This is considered in **Section B** below.
21. Finally, it is necessary to give some thought to the optimal form of the entity to represent iwi and Māori interests. The Minister of Māori Affairs has proposed that this should be an independent statutory entity. We have also considered the concept of a Crown Entity or a private entity. This is considered in **Section C** below.



## Objectives

22. In addressing each of three issues identified in paragraphs 19-21 above, Te Puni Kōkiri has drawn upon five objectives to guide its assessments. It has assessed each of the options against these objectives, using the following ranking: high; medium; low; nil. We have provided commentary to explain how a ranking was derived. The objectives are described in Table 2 below.

*Table 2. Objectives for Assessing Options*

Objectives	Commentary	Rankings
Support for the Māori language	<p>Does the proposed option support the growth and development of the Māori language? Does it support alignment with the MLS?</p> <p>This criterion is derived from the Crown's enduring obligation derived from the Treaty of Waitangi to take all reasonable steps to support its growth and development, in conjunction with iwi and Māori (CAB (97) M34/5b refers).</p>	<p>High = There is an effective service delivery arrangement for Māori language programmes. Programmes are connected to other components of the MLS and reflect the aspirations of iwi and Māori for the Māori language.</p> <p>Medium = There is an effective service delivery arrangement for Māori language programmes. Programmes are weakly connected to other components of the MLS, and do not directly reflect the aspirations of iwi and Māori for the Māori language.</p> <p>Low = There are weak service delivery arrangements for Māori language programmes. They are unconnected to other components of the MLS, and do not reflect iwi and Māori aspirations.</p> <p>Nil = There are no service delivery arrangements for Māori language programmes. They are unconnected to other components of the MLS and oppose iwi and Māori aspirations.</p>
<p>Strengthen Crown-iwi and Māori relationships</p> <p><b>(Priority Objective)</b></p>	<p>Does the proposed option strengthen Crown-iwi and Māori relationships?</p> <p>This criterion reflects a key theme in recent reviews of the MLS, and wider trends in Government engagement with iwi and Māori.</p>	<p>High = Iwi and Māori engage with the Crown on a regular and systematic basis. Iwi and Māori and the Crown make decisions jointly.</p> <p>Medium = Iwi and Māori are engaging with the Crown on a regular and systematic basis, and can inform decisions</p>

		<p>although final decision-making remains with the Crown.</p> <p>Low = Iwi and Māori engage with the Crown sporadically. Iwi and Māori have limited influence on decision-making.</p> <p>Nil = There is no engagement between iwi and Māori and the Crown. Iwi and Māori have no input into decision-making</p>
<p>Strengthen iwi and Māori leadership of Māori language issues</p> <p><b>(Priority Objective)</b></p>	<p>Does the proposed option strengthen iwi and Māori leadership of Māori language issues.</p> <p>This criterion reflects a key theme in recent reviews of the MLS, recognition that the Māori language is a taonga of iwi and Māori (as per the Māori Language Act 1987), that iwi and Māori are kaitiaki of their taonga, and iwi aspirations for the Māori language as expressed during the recent consultation round.</p>	<p>High = iwi and Māori set the direction for Māori language issues and programmes.</p> <p>Medium = iwi and Māori set the direction for Māori language issues and programmes, in conjunction with the Crown.</p> <p>Low = iwi and Māori inform the direction of Māori language issues and programmes, but this direction is set by the Crown.</p> <p>Nil = iwi and Māori have no input into the direction of Māori language issues and programmes.</p>
<p>Public Accountability</p>	<p>Does the proposed option provide sufficient public accountability for any funding provided by Government to the Māori language entities? Will the Government be able to purchase the Māori language programmes and services that it seeks at a fair price, with reasonable purchase conditions?</p>	<p>High = the provision of funding is based on clear and precise planning, implementation and reporting tools that are well-established in legislation. There are checks and balances at appropriate points. There are high levels of public scrutiny, culminating with accountability to Parliament.</p> <p>Medium = the provision of funding is based on well-established planning, implementation and reporting tools. There are fewer checks and balances, and less public scrutiny.</p> <p>Low = the provision of funding is based on ad hoc planning, implementation and reporting tools. There are no checks</p>

		<p>and balances, and limited public scrutiny.</p> <p>Nil = funding is provided through ad hoc instruments. There are no checks and balances and no opportunities for public scrutiny.</p>
Stewardship of Public Interests	Does the proposed option provide for the stewardship of public interests? Are there opportunities for the Government to intervene if there are clear and apparent governance and management failures, or in other extenuating circumstances?	<p>High = there are effective mechanisms for the Crown to intervene in the affairs of an entity if it considers intervention to be necessary. These mechanisms are supported by the force of legislation.</p> <p>Medium = there are mechanisms for the Crown to intervene in the affairs of an entity if it considers intervention to be necessary.</p> <p>Low = the Crown can intervene in the affairs of an entity through 'blunt instruments' (for example, withholding payment in contracts)..</p> <p>Nil = there are no opportunities for the Crown to intervene in the affairs of an entity.</p>

23. We have identified two priority criteria which should receive greater weighting (highlighted in Table 2 above). These priority criteria reflect: (a) the Māori language is a taonga of iwi and Māori; (b) recent reviews have highlighted the importance of strengthening the leadership roles of iwi and Māori over Māori language issues generally and the Māori language entities specifically and (c) the importance of locating Māori language issues within a wider framework of ongoing work to strengthen Crown-iwi and Māori relationships generally.

24. In addition, other costs and benefits are considered at various junctures, where relevant.

## **Section A: Optimal Entity Status Arrangements for Te Taura Whiri and Te Māngai Pāho.**

### *Objectives*

25. The aim of this RIS analysis is to determine the optimal entity status arrangements for Te Taura Whiri and Te Māngai Pāho. Four options have been identified:

- a. maintaining Te Taura Whiri and Te Māngai Pāho as Crown Entities (status quo);
- b. maintaining Te Taura Whiri and Te Māngai Pāho as Crown Entities, but creating shared roles for the Minister of Māori Affairs and iwi and Māori (as represented by Te Mātāwai); or
- c. transferring Te Taura Whiri and Te Māngai Pāho from the Crown to Te Mātāwai (which will be established as an independent statutory entity).
- d. transferring Te Taura Whiri and Te Māngai Pāho to a private entity.

26. The analysis of these options is summarised in an 'A3' attached to this RIS.

### ***Option A1: Maintaining Te Taura Whiri and Te Māngai Pāho as Crown Entities (Status Quo)***

27. In this option, Te Taura Whiri and Te Māngai Pāho will remain as autonomous Crown Entities. Both entities will retain their current functions, and they will operate as per current arrangements. They will be appropriated funding directly through Vote: Māori Affairs, and be subject to planning and reporting requirements set out in the Crown Entities Act 2004. The Minister of Māori Affairs will continue to make governance appointments and oversee planning and accountability arrangements.

28. Iwi and Māori would have no direct role in governing or managing either entity. However it may be possible for iwi and Māori to have an advisory role to the Minister of Māori Affairs, and to tender advice for Ministerial consideration in relation to matters such as: (a) board appointments to Te Taura Whiri and Te Māngai Pāho; and (b) priorities for the purchase of programmes and services from Te Taura Whiri and Te Māngai Pāho.

29. This option should be considered in conjunction with **Option C1** below.

### *Option A1: Regulatory Impact Analysis*

30. The current arrangements for Te Taura Whiri and Te Māngai Pāho provide mixed results in terms of the objectives that the Government is seeking

through this work. In terms of support for the Māori language, there are effective service delivery arrangements in place within existing planning and reporting frameworks that are well-established across the public sector. The direction of the programmes and services will remain well-connected to the Māori Language Strategy through ongoing Ministerial direction and monitoring by Te Puni Kōkiri. However, Māori language programmes and services will not directly reflect the aspirations of iwi and Māori for the Māori language, because iwi and Māori do not have opportunities to directly participate in setting the direction or operating model for the programmes and services. This is likely to provide medium-high levels of support for the Māori language. The current arrangements also provide high levels of public accountability and support for the stewardship of public interests, because they reflect existing models set out in the Crown Entities Act 2004. On the other hand, iwi and Māori have limited opportunities to provide oversight and direction for Te Taura Whiri and Te Māngai Pāho because these agencies are Crown Entities and all ownership functions are undertaken by the Minister of Māori Affairs. These arrangements also do not support Crown-iwi and Māori relationships because of the leading roles of the Crown, and the resulting limited opportunities for input from iwi and Māori.

31. In addition, this option would provide benefits associated with business continuity (that is, there would be no disruption to current arrangements).
32. Under this option whilst parliamentary and standard public sector financial accountability measures will be maintained, these will also be supplemented by greater accountability directly to iwi and Māori representatives (i.e. iwi and Māori appointees on Te Matawai). The proposed annual forum of MLS matters creates the opportunity for this accountability to be actualised in a meaningful way. Te Puni Kokiri considers this dual accountability will drive service improvements based more closely of the Māori language aspirations of Maori communities.

Criteria	Assessment
Support for the Māori Language	Medium-High
Strengthen Crown-iwi and Māori relationships	Low
Strengthen iwi and Māori leadership of Māori language issues	Low
Public Accountability	High
Stewardship of Public Interests	High

***Option A2: shared Roles for the Minister of Māori Affairs and Te Mātāwai***

33. In this option, Te Taura Whiri and Te Māngai Pāho would remain autonomous Crown Entities, and would continue to undertake their current functions. They will receive funding directly through appropriations within Vote: Māori Affairs, and be subject to planning and reporting requirements set out in the Crown Entities Act 2004. However, legislative amendments would provide for iwi and Māori (to be represented by a representative entity) to undertake various functions in conjunction with the Minister of Māori Affairs. For example, iwi and Māori would appoint the majority of

board members to Te Taura Whiri and Te Māngai Pāho, with the Minister of Māori Affairs appointing the remainder, and would have joint oversight of planning and accountability documents together with the Minister. This option will require changes to the Crown Entities Act 2004, the Māori Language Act 1987 and the Broadcasting Act 1989 to enable iwi and Māori to undertake various functions for Te Taura Whiri and Te Māngai Pāho in conjunction with the Minister of Māori Affairs.

*Option A2: Regulatory Impact Analysis*

34. This option provides satisfactory results in terms of the objectives that the Government is seeking through this work. The proposed arrangements provide for effective service delivery arrangements for Māori language programmes and services, because they will be undertaken within existing frameworks that are well-established across the public sector. These programmes and services will however be less connected to other components of the Māori Language Strategy, because the shared ownership arrangements may inhibit engagement between Te Taura Whiri and Te Māngai Pāho and other agencies. Iwi and Māori would have some opportunity to reflect their aspirations for the Māori language. This provides a *medium-high* assessment. The proposed arrangements provide for high levels of Crown-iwi and Māori relationships because they require the parties to engage with each other on a regular and systematic basis. Iwi and Māori and the Crown will have to make decisions jointly. However, there will be a medium-level of opportunities for iwi and Māori leadership because iwi and Māori will set the direction for Māori language issues and programmes in conjunction with the Crown. There will be high levels of public accountability, and high levels of stewardship of public interests because existing frameworks within the Crown Entities Act 2004 will continue to hold force.

35. This option would have the benefit of being based on an existing framework (that is, the model used for the Māori Television Service). There would be limited disruption to current arrangements, and Te Taura Whiri and Te Māngai Pāho would continue 'business as usual'. However a drawback is that this option does not readily accommodate iwi Māori social structures or broad linguistic regions. That is, while the option allows for provision of Māori representation on Te Mātāwai, the quantum of representative would not be reflective of major iwi dialectal areas, and could not readily match with iwi representative models of governance.

<b>Criteria</b>	<b>Assessment</b>
Support for the Māori Language	Medium-High
Strengthen Crown-iwi and Māori relationships	High
Strengthen iwi and Māori leadership of Māori language issues	Medium
Public Accountability	High
Stewardship of Public Interests	High

***Option A3: Transfer of Te Taura Whiri and Te Māngai Pāho from the Crown to Te Mātāwai (an independent statutory entity)***

36. In option A3, Te Taura Whiri and Te Māngai Pāho would cease to be Crown Entities subject to the Crown Entities Act 2004. They would become independent statutory entities that are subsidiaries to Te Mātāwai (which would also be established as an independent statutory entity). This would require the reconfirmation of the functions and powers of Te Taura Whiri and Te Māngai Pāho in stand-alone legislation (that is, a revised Māori Language Act), together with some specific legislative requirements that would 'export' key elements of the Crown Entities Act 2004 and the Broadcasting Act 1989 into stand-alone legislation. It would include the transfer of all staff and their existing public sector entitlements, and the gifting of current public equity in Te Taura Whiri and Te Māngai Pāho to Te Mātāwai (approximately \$3.3m as at 30 June 2013). Te Mātāwai would be made responsible for overseeing the activities of Te Taura Whiri and Te Māngai Pāho. This would include, among other things, making all future Board and Chief Executive appointments to the entities.
37. The Crown would contract with Te Taura Whiri and Te Māngai Pāho for the purchase of Māori language programmes and services, to the value of \$65m (in line with current expenditure on the programmes and services of these entities). This will require a tripartite negotiation between the Crown, Te Mātāwai, and Te Taura Whiri or Te Māngai Pāho. In this negotiation, the Crown would seek to purchase services that align with the MLS. This will require negotiation of the outputs to be delivered, the purchase price for these outputs, and how these outputs will be delivered. This approach would be different from the status quo, whereby funding is appropriated directly by Parliament for Te Taura Whiri and Te Māngai Pāho via Vote: Māori Affairs, and planning and reporting is undertaken through the framework of the Crown Entities Act 2004.
38. Te Puni Kōkiri considers that it will be important to retain tools to manage public accountability and the stewardship of public interests, and that these will need to be incorporated into the legislation that establishes Te Mātāwai and changes the status of Te Taura Whiri and Te Māngai Pāho. The Minister of Māori Affairs has proposed that an extensive suite of mechanisms to provide for public accountability and the stewardship of public interests are incorporated into this model (for example, a requirement for Te Mātāwai to provide an annual report to Parliament on behalf of Te Taura Whiri and Te Māngai Pāho, and 'reserve powers' for the Minister of Māori Affairs to appoint a statutory manager if required). The proposed accountability measures are described in detail in [\*\*\*A New Māori Language Strategy Paper 2: Revised Arrangements for Māori Language Entities\*\*\*](#).
39. This option should be considered in conjunction with **Option C2** below.

### Option A3: Regulatory Impact Analysis

40. This option provides positive results in terms of the objectives that the Government is seeking through this work (in particular, it scores well in terms of the priority objectives). The proposed arrangements provide for the effective service delivery arrangements for Māori language programmes, because it is intended that the current programmes and services delivered by Te Taura Whiri and Te Māngai Pāho are largely retained and delivered in the same way over the short-medium term. There will be some disruptions in the transition from current funding arrangements (appropriations from Parliament and planning and reporting within the framework of the Crown Entities Act 2004) to the proposed contracting model. The Māori language programmes and services to be provided by Te Taura Whiri and Te Māngai Pāho will be connected to other elements of the MLS through: (a) the contract negotiations that will be undertaken by Te Puni Kōkiri; (b) the coordinating role of Te Puni Kōkiri across the entire MLS and (c) the envisaged relationship between Te Mātāwai and the Minister of Māori Affairs. In addition, iwi and Māori aspirations for the Māori language can be directly reflected in the provision of programmes and services as these are developed over time. This provides a *high* assessment. The proposed arrangements provide for high levels of Crown-iwi and Māori relationships because they require the parties to engage with each other on a regular and systematic basis through contract negotiations and management, joint reporting and other shared arrangements. There will also be high levels of opportunities for iwi and Māori leadership because iwi and Māori will set the overall direction for Te Taura Whiri and Te Māngai Pāho. Te Puni Kōkiri considers that there will be high levels of public accountability and stewardship of public interests because there will be an extensive suite of bespoke mechanisms incorporated into the establishment legislation (many of these mechanisms will mirror arrangements in the Crown Entities Act 2004).
41. Under this option whilst parliamentary and standard public sector financial accountability measures will be maintained, these will also be supplemented by greater accountability directly to iwi and Māori representatives (i.e. iwi and Māori appointees on Te Matawai). The proposed annual forum of MLS matters creates the opportunity for this accountability to be actualised in a meaningful way. Te Puni Kōkiri considers this dual accountability will drive service improvements based more closely of the Māori language aspirations of Maori communities.
42. A further benefit of this option is that it retains strong alignment with previous Waitangi Tribunal findings in regards to the Crown's role in supporting the Māori language. That is, the Waitangi Tribunal has found that there is opportunity within the Māori language sector for greater Crown-iwi/Māori partnerships to be developed (WAI 11 and WAI 2224 refer). Such findings accord with the principle of partnership embedded within the Treaty relationship between the parties. In addition, an independent review panel (Te PaePae Motuhake) also recommended greater iwi-Māori partnership within the sector. Even the proposed name,



Te Mātāwai, responses to this request. Accordingly Te Puni Kōkiri considers that a further benefit of this option is that it further progresses the Crown’s broader objective of resolving Treaty of Waitangi matters by strengthening partnership arrangements in this sector.

43. There are likely to be some operational costs associated with this option. In particular, it will be necessary to invest in and manage for business continuity during the transition from the current arrangements to the proposed model. This is offset to some extent by the proposed continuity of functions and form for Te Taura Whiri and Te Māngai Pāho. This option will be unique, and it make attract high levels of scrutiny on an ongoing basis, as a result. However, this cost will be offset by the benefits associated with giving meaningful effect to the leadership of iwi and Māori with regard to the Māori language entities.

Criteria	Assessment
Support for the Māori Language	High
Strengthen Crown-iwi and Māori relationships	High
Strengthen iwi and Māori leadership of Māori language issues	High
Public Accountability	High
Stewardship of Public Interests	High

***Option A4: Transfer of Te Taura Whiri and Te Māngai Pāho to a Private Entity***

44. In option A4, Te Taura Whiri and Te Māngai Pāho would cease to be Crown Entities subject to the Crown Entities Act 2004. They would become private entities that are subsidiaries to a private entity which would be established on behalf of iwi and Māori. The functions and powers of Te Taura Whiri and Te Māngai Pāho would be determined by iwi and Māori through the private entity, and it would be responsible for all board appointments and staffing matters as it saw fit. The Crown would gift current public equity in Te Taura Whiri and Te Māngai Pāho to Te Mātāwai (approximately \$3.3m as at 30 June 2013).

45. The Crown would purchase programmes and services from Te Taura Whiri and Te Māngai Pāho, to the value of \$65m (in line with current expenditure on the programmes and services of these entities). This will require a tripartite negotiation between the Crown, the iwi and Māori private entity, and Te Taura Whiri or Te Māngai Pāho. In this negotiation, the Crown would seek to purchase services that align with the MLS. This will require negotiation of the outputs to be delivered, the purchase price for these outputs, and how these outputs will be delivered. This approach would be different from the status quo, whereby funding is appropriated directly by Parliament for Te Taura Whiri and Te Māngai Pāho via Vote: Māori Affairs, and planning and reporting is undertaken through the framework of the Crown Entities Act 2004.

46. This option should be considered in conjunction with **Option C3** below.

#### Option A4: Regulatory Impact Analysis

47. This option provides poor results in terms of the objectives that the Government is seeking through this work. It is likely that there will be some clear inefficiencies in the provision of Māori language programmes and services, because service delivery arrangements will have to be developed 'from scratch'. There will be limited opportunities for the Crown to ensure that the new arrangements for the delivery of programmes and services are the most effective and efficient, because they will be determined by a private entity. These programmes and services will be unconnected to other components of the MLS, because Te Taura Whiri and Te Māngai Pāho will be completely outside of the machinery of government. This provides for a *low* assessment in terms of support for the Māori language. The proposed arrangements provide for medium-low levels of Crown-iwi and Māori relationships because they require the parties to engage with each other on a regular and systematic basis, although this engagement will largely focus on contract negotiations. However, iwi and Māori will have high levels of leadership opportunities, because they will set the direction for Māori language issues and programmes. There will be low levels of public accountability because Te Taura Whiri and Te Māngai Pāho will be private entities, and there will be much less external probity than is the case for Crown Entities or statutory entities. This means that public accountability will have to be managed through blunt instruments (for example, contract management). There will be few or no opportunities for the Crown to intervene if this is required, because it will have no mandate for intervention.

Criteria	Assessment
Support for the Māori Language	Low
Strengthen Crown-iwi and Māori relationships	Medium-low
Strengthen iwi and Māori leadership of Māori language issues	High
Public Accountability	Low
Stewardship of Public Interests	Nil

#### Conclusion and Recommendation

48. Te Puni Kōkiri considers that the Government can best achieve its objectives in regards to Te Taura Whiri and Te Māngai Pāho if these entities are transferred from the Crown to Te Mātāwai (that is, Option A3).

49. This option provides the best balance between the various objectives. In particular, it provides the highest assessment in terms of the priority objectives of (a) strengthening Crown-iwi and Māori relationships and (b) strengthening iwi and Māori leadership of Māori language issues. It also provides high levels of public accountability and the stewardship of public interest through the proposed development of purpose-built tools, which will be included in legislation to manage these issues.

50. The status quo is unsatisfactory, because it rates poorly against the priority objectives. The option of shared ownership roles for the Crown and Te

Mātāwai rates well, and would be an acceptable alternative to the preferred option. The option of transferring ownership of Te Taura Whiri and Te Māngai Pāho to a private entity is unsatisfactory, because of the very poor rating achieved for public accountability and the stewardship of public interests.

Criteria	Option A1 Status Quo	Option A2 Shared Crown- Māori Ownership	Option A3 Te Mātāwai (Statutory Entity)	Option A4 Te Mātāwai (Private Entity)
Support for the Māori Language	Medium-High	Medium-High	High	Low
<i>Strengthen Crown-iwi and Māori relationships</i>	<i>Low</i>	<i>High</i>	<i>High</i>	<i>Medium-Low</i>
<i>Strengthen iwi and Māori leadership of Māori language issues</i>	<i>Low</i>	<i>Medium</i>	<i>High</i>	<i>High</i>
Public Accountability	High	High	High	Low
Stewardship of Public Interests	High	High	High	Nil
			<b>Preferred</b>	

#### *Results of Public Consultation*

51. Public consultation about the development of a new Māori Language Strategy was undertaken in February 2014. Feedback was received during seven regional consultation hui, and from 56 written submissions. Te Puni Kōkiri also undertook an analysis of media and other commentary by Māori language stakeholders during this period. There were mixed views among submitters about this proposal. There was considerable support from iwi organisations for transferring Te Taura Whiri and Te Māngai Pāho to Te Mātāwai. Other Māori language stakeholders considered that the status quo for Te Taura Whiri and Te Māngai Pāho should be retained, and that these agencies should be strengthened within existing arrangements to enable them to 'do the jobs that they were set up to do'.

## **Section B: Optimal Arrangements for Oversight of Māori Television Service.**

### *Objectives*

52. In terms of the optimal arrangements for oversight of the Māori Television Service, two options have been identified:

- a. retaining Te Pūtahi Paoho with its current roles and responsibilities alongside Te Mātāwai; or
- b. disestablishing Te Pūtahi Paoho, with its current roles and responsibilities to be undertaken by Te Mātāwai.

53. In both these options, we have assumed that Te Mātāwai will be established as an independent statutory entity that will represent iwi and Māori interests.

### ***Option B1: Retaining Te Pūtahi Paoho***

54. In this option, Te Pūtahi Paoho will be retained and continue with its current roles and responsibilities, as specified in the MTS Act 2003. This includes: making four of seven appointments to the board of the MTS (with the Ministers of Māori Affairs and Finance making the remaining three appointments); approving MTS' annual statement of intent and receiving its annual report (jointly with the Minister of Māori Affairs and Minister of Finance), and managing spectrum management rights provided to support the broadcasting needs of the Service. Te Pūtahi Paoho consists of eleven members appointed by Māori language stakeholder organisations (which are prescribed in the MTS Act 2003).

55. These functions will be carried out alongside Te Mātāwai. Te Mātāwai would have no direct relationship with either the Māori Television Service or Te Pūtahi Paoho.

### *Option One: Regulatory Impact Assessment*

56. The current arrangements for MTS provide positive results in terms of the objectives that the Government is seeking through this work. These arrangements provide for effective service delivery arrangements for Māori language programmes and services, because they will be undertaken within existing frameworks that are well-established. The direction of the programmes and services will remain well-connected to the Māori Language Strategy through ongoing Ministerial oversight and monitoring by Te Puni Kōkiri. However, there may be some duplication and role-confusion between Te Pūtahi Paoho and the proposed representative iwi and Māori entity (Te Mātāwai). In addition, Te Pūtahi Paoho is not able to reflect the aspirations of iwi for the Māori language, because iwi are not represented on Te Pūtahi Paoho. This is likely to provide *medium-high* levels of support for the Māori language. There is an established

framework for Crown and Māori relationships that requires the responsible Ministers and Te Pūtahi Paoho to undertake various functions in tandem. This is set out in the Māori Television Service Act 2003. This also provides some opportunities for Māori to provide leadership of MTS. There is, however, no iwi representation on Te Pūtahi Paoho which limits the ability of iwi to provide leadership or engage with the Crown. These factors provide for medium-high ratings in terms of Crown-iwi and Māori relationships and strengthening iwi and Māori leadership. The current arrangements also provide high levels of public accountability, because there are clearly established checks and balances in place in the Māori Television Service Act 2003. In addition, the arrangements for the stewardship of public interests are purpose-built mechanisms that require agreement from the responsible Ministers and Te Pūtahi Paoho jointly.

Criteria	Assessment
Support for the Māori Language	Medium-High
Strengthen Crown-iwi and Māori relationships	Medium-High
Strengthen iwi and Māori leadership of Māori language issues	Medium-High
Public Accountability	High
Stewardship of Public Interests	High

**Option B2: Disestablishing Te Pūtahi Paoho and replacing its functions with Te Mātāwai.**

57. Under this option, Te Pūtahi Paoho will be disestablished and Te Mātāwai would be empowered to undertake all of its functions. This includes: making four of seven appointments to the board of the MTS (with the Ministers of Māori Affairs and Finance making the remaining three appointments); approving MTS' annual statement of intent and receiving its annual report (jointly with the Minister of Māori Affairs and Minister of Finance), and managing spectrum management rights provided to support the broadcasting needs of the Service.

58. This option should be considered in conjunction with **Option C2** below.

*Option B2: Regulatory Impact Assessment*

59. This option will provide positive results in terms of the objectives that the Government is seeking through this work. The proposed arrangements provide for effective service delivery arrangements for Māori language programmes, because it is intended that the current programmes and services delivered by MTS are largely retained over the short-medium term. These programmes and services will be directly connected to other elements of the MLS through: (a) the contract negotiations that will be undertaken by Te Puni Kōkiri; (b) the coordinating role of Te Puni Kōkiri across the entire MLS and (c) the envisaged relationship between Te Mātāwai and the Minister of Māori Affairs. In addition, both iwi and Māori aspirations for the Māori language can be directly reflected, via Te Mātāwai. This provides a *high* assessment. This option will build on an established framework for Crown-iwi and Māori relationships, and the

responsible Ministers and Te Mātāwai will undertake various functions in tandem. The proposed composition of Te Mātāwai will ensure that iwi interests are represented, alongside Māori language stakeholders<sup>2</sup>. This provides a *high* assessment. There will also be opportunities for iwi and Māori to provide leadership of MTS, although this will be undertaken in conjunction with the responsible Ministers in the context of MTS (providing a medium-high assessment).

60. This option provides high levels of public accountability, because there are clearly established checks and balances in place in the Māori Television Service Act 2003 that will be retained. In addition, current arrangements for the stewardship of public interests will be retained, and enhanced by other purpose-built mechanisms that specify the relationship between Te Mātāwai and the Minister of Māori Affairs.
61. In addition, this option creates potential risks for the reduction of competition in Māori television broadcasting. Te Mātāwai will have oversight of Te Māngai Pāho (which provides funding for Māori television broadcasting) and the Māori Television Service (the principal provider of Māori television broadcasting). This has the potential to restrict opportunities for other Māori language television programme makers and broadcasters to access funding from Te Māngai Pāho. To manage this, the Minister of Māori Affairs has proposed that: (a) existing provisions in the Broadcasting Act 1989 about how Te Māngai Pāho must undertake its business will continue to apply; (b) Te Mātāwai is prevented from giving direction to Te Māngai Pāho about particular funding decisions and (c) Te Puni Kōkiri undertakes an annual audit of the provision of funding by Te Māngai Pāho, to ensure that transparent, objective and fair procedures have been used at all times.

Criteria	Assessment
Support for the I Language	High
Strengthen Crown-iwi/I relationships	High
Strengthen iwi/I leadership of I language issues	Medium-High
Public Accountability	High
Stewardship of Public Interests	High

### **Conclusion and Recommendation**

62. Te Puni Kōkiri considers that the Government can best achieve its objectives in regards to the oversight and direction of MTS if Te Pūtahi Paoho is disestablished, and its current ownership functions are transferred to Te Mātāwai (that is, Option B2).

<sup>2</sup> It is proposed that Te Mātāwai will include: seven members appointed by iwi; three members appointed by Māori language stakeholders and two members appointed by the Crown. This is described further in *A New Māori Language Strategy Paper 2: Revised Ownership Arrangements for Māori Language Entities*.

63. This option provides the best balance between the various objectives. In particular, it provides high assessment in terms of support for the Māori language and the priority objective of strengthening Crown-iwi and Māori relationships. It also provides a medium-high level of iwi and Māori leadership, and high levels of public accountability and stewardship of public interest through the proposed implementation of purpose-built tools to manage these.
64. The status quo would provide a satisfactory alternative to the preferred option, although it does provide only a medium assessment against the objective of support for the Māori language.

<b>Criteria</b>	<b>Option B1 Retain Te Pūtahi Paoho</b>	<b>Option B2 Replace Te Pūtahi Paoho with Te Mātāwai</b>
Support for the Māori Language	Medium	High
<i>Strengthen Crown-iwi and Māori relationships</i>	<i>Medium-High</i>	<i>High</i>
<i>Strengthen iwi and Māori leadership of Māori language issues</i>	<i>Medium-High</i>	<i>Medium-High</i>
Public Accountability	High	High
Stewardship of Public Interests	High	High
		<b>Preferred</b>

#### *Results of Public Consultation*

65. There was limited comment about the proposal to disestablish Te Pūtahi Paoho and replace it with Te Mātāwai during public consultation. However, some member organisations expressed strong disagreement about the proposals, and one (the New Zealand Māori Council) has threatened litigation in the Waitangi Tribunal.

## **Section C: The Optimal Legal Form of Te Mātāwai.**

### *Objective*

66. The aim of this RIS analysis is to determine an optimal legal form of an entity to undertake various functions with regard to Māori language entities on behalf of iwi and Māori (to be known as Te Mātāwai)<sup>3</sup>.

67. Three options have been considered:

- a. establishing Te Mātāwai as a Crown Entity;
- b. establishing Te Mātāwai as an independent statutory entity; and
- c. establishing Te Mātāwai as a private entity.

68. In each of these options, it will be necessary to provide some funding to Te Mātāwai (approximately \$2m) to undertake its various functions. The Minister of Māori Affairs has indicated that this funding will be absorbed within existing baselines within Vote: Māori Affairs.

### ***Option C1: Establishing Te Mātāwai as a Crown Entity***

69. In this option, Te Mātāwai would be established as a Crown Entity. Its form, functions, funding and accountability arrangements, and other operating parameters, would reflect provisions within the Crown Entities Act 2004. Te Taura Whiri and Te Māngai Pāho would be positioned as subsidiaries of Te Mātāwai, and they would continue to be Crown Entities. The Minister of Māori Affairs would make appointments to Te Mātāwai, based on recommendations from iwi and Māori.

70. This option should be considered in conjunction with **Option A1** above.

### *Option C1: Regulatory Impact Analysis*

71. In terms of support for the Māori language, this approach will provide effective service delivery arrangements, that is, service delivery will be undertaken within the context of existing planning and reporting frameworks that are well-established across the public sector. The direction of the programmes and services will remain well-connected to the Māori Language Strategy through ongoing Ministerial direction and monitoring by Te Puni Kōkiri. However, Māori language programmes and services will not directly reflect the aspirations of iwi and Māori for the Māori language, because the Minister of Māori Affairs would be responsible for appointing members to Te Mātāwai (albeit based on advice from iwi and Māori). In addition, there will be confused relationships between Te Mātāwai and Te Taura Whiri and Te Māngai Pāho if all three are Crown

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<sup>3</sup> For further information about the proposed shape and operating arrangements of Te Mātāwai, refer *A New Māori Language Strategy Paper 2: Revised Ownership Arrangements for Māori Language Entities*.



Entities, resulting in risks of ‘double-handling’ of funding and lack of clarity about accountability. On this basis, this option provides a medium level of support for the Māori language. This option would provide low levels of support for (a) strengthening Crown-iwi and Māori relationships and (b) strengthening iwi and Māori leadership of Māori language issues. The forms and functions of Te Mātāwai would be determined by the Crown, appointments to Te Mātāwai would be made by the Crown (albeit, based on recommendations from iwi and Māori), and the Crown would be directly responsible for administering the funding and performance of Te Mātāwai. Iwi and Māori would be able to provide advice, but overall decision-making would ultimately reside with the Crown. On the other hand, there will be high levels of public accountability through well-established tools. There are also several mechanisms within the Crown Entities Act 2004 for the Crown to intervene in the event of governance and management failure, and this provides a high assessment in terms of the stewardship of public interests.

72. This option would create confusion about the roles and relationships of Te Mātāwai with regard to Te Taura Whiri and Te Māngai Pāho.

Criteria	Assessment
Support for the Māori Language	Medium
Strengthen Crown-iwi and Māori relationships	Low
Strengthen iwi and Māori leadership of Māori language issues	Low
Public Accountability	High
Stewardship of Public Interests	High

***Option C2: Establishing Te Mātāwai as an Independent Statutory Entity.***

73. In this option, Te Mātāwai would be established as an independent statutory entity within a revised Māori Language Act. It would be necessary to specify form, functions and other operating parameters for Te Mātāwai within the revised legislation. Te Mātāwai would not be subject to the Crown Entities Act 2004. It would be necessary to disestablish Te Taura Whiri and Te Māngai Pāho as Crown Entities, and establish them as independent statutory entities that are subsidiaries of Te Mātāwai. It will also be necessary to specify the form, functions and other operating parameters of Te Taura Whiri and Te Māngai Pāho in legislation. Iwi would appoint seven members to Te Mātāwai, Māori language stakeholders would appoint three members, and the Minister of Māori Affairs would appoint two members on behalf of the Crown.

74. This option should be considered in conjunction with **Option A3** above.

***Option Two: Regulatory Impact Analysis***

75. This option provides positive results in terms of the objectives that the Government is seeking through this work (in particular, it scores well in terms of the priority objectives). The proposed arrangements provide effective service delivery arrangements for Māori language programmes

and services, because (a) the current programmes and services delivered by Te Taura Whiri and Te Māngai Pāho would be retained, and there would be some specific planning, reporting and accountability requirements to support the effectiveness of service delivery. The Māori language programmes and services to be provided by Te Taura Whiri and Te Māngai Pāho will be connected to other elements of the MLS through: (a) the contract negotiations that will be undertaken by Te Puni Kōkiri; (b) the coordinating role of Te Puni Kōkiri across the entire MLS; and (c) the envisaged relationship between Te Mātāwai and the Minister of Māori Affairs. In addition, this option will ensure that iwi and Māori aspirations for the Māori language are reflected in the provision of programmes and services. This provides a *high* assessment in terms of support for the Māori language.

76. The proposed arrangements provide for high levels of Crown-iwi and Māori relationships because they require the parties to engage with each other on a regular and systematic basis, at a range of levels (for example, appointment of members to Te Mātāwai; consultation on overall direction; reporting; and opportunities for regular engagement on Māori language issues). There will also be high levels of opportunities for iwi and Māori leadership because iwi and Māori will set the overall direction for Te Mātāwai and its subsidiaries. There will be high levels of public accountability, and high levels of stewardship of public interests because there will be (a) Crown membership of Te Mātāwai and (b) several purpose-built mechanisms to manage public accountability that will have the force of legislation to support them.

Criteria	Assessment
Support for the Māori Language	High
Strengthen Crown-iwi and Māori relationships	High
Strengthen iwi and Māori leadership of Māori language issues	High
Public Accountability	High
Stewardship of Public Interests	High

### ***Option C3: Establishing Te Mātāwai as a Private Entity***

77. In this option, Te Mātāwai would be established as a private entity. It would not be subject to legislation, but would be governed by the terms and conditions of its establishment instruments (for example, a trust deed). In addition, Te Taura Whiri and Te Māngai Pāho would cease to be Crown Entities. Te Mātāwai would reconfigure these entities as subsidiary private entities, in the form that it considered to be most appropriate. In this option, iwi and Māori would determine the form and functions of Te Mātāwai, and Te Taura Whiri and Te Māngai Pāho. Iwi and Māori would also appoint the board members to Te Mātāwai, and Te Mātāwai would in turn appoint members to Te Taura Whiri and Te Māngai Pāho. The Crown would purchase Māori language programmes and services from Te Taura Whiri and Te Māngai Pāho through a tripartite negotiation between the Crown, Te Mātāwai and Te Taura Whiri or Te Māngai Pāho. The Crown will have

no insight into the form, functions and other operating parameters of Te Mātāwai, Te Taura Whiri and Te Māngai Pāho.

78. This option should be considered in conjunction with **Option A4** above.

*Option C3: Regulatory Impact Analysis*

79. In this option, the Crown will have limited opportunity to specify how Māori language programmes and services should be delivered by Te Mātāwai, Te Taura Whiri and Te Māngai Pāho. It will only be able to monitor the delivery of programmes and services through contract management, and will have less opportunity to manage how these programmes and services should be priced. These factors are likely to impact negatively on the effectiveness of service provision of Māori language spend. There will be no connections to other aspects of the Māori Language Strategy, because Te Mātāwai will have a limited relationship with government. This provides a medium-low assessment with regard to *Support for the Māori Language*.

80. In this option, leadership of Te Mātāwai, Te Taura Whiri and Te Māngai Pāho will reside exclusively with iwi and Māori, providing a high assessment of this objective. On the other hand, there will be limited Crown-iwi/Māori relationships, with the Crown positioned solely as a purchaser of programmes and services. There will be much less external probity that is the case for Crown Entities or the proposed statutory entity (set out in Option C2 above). This means that public accountability will have to be managed through blunt instruments (for example, contract management). There will be few or no opportunities for the Crown to intervene to protect the public interest if this is required, because it will have no mandate for intervention in a private entity.

<b>Criteria</b>	<b>Assessment</b>
Support for the Māori Language	Medium-Low
Strengthen Crown-iwi and Māori relationships	Low
Strengthen iwi and Māori leadership of Māori language issues	High
Public Accountability	Low
Stewardship of Public Interests	Nil

**Conclusion and Recommendation**

81. Te Puni Kōkiri considers that the Government can best achieve its objectives in regards to establishing Te Mātāwai if the entity is established as an independent statutory entity. This option balances the various objectives, and best achieves the priority objectives of strengthening Crown-iwi and Māori relationships and strengthening iwi and Māori leadership of Māori language issues.

82. Te Puni Kōkiri considers that establishing Te Mātāwai as a Crown Entity is unsatisfactory, because it rates poorly against the priority objectives. The option of establishing Te Mātāwai as a private entity is unsatisfactory,

because of the very poor ratings achieved for public accountability and the stewardship of public interests.

<b>Criteria</b>	<b>Option 1 Crown Entity</b>	<b>Option 2 Independent Statutory Entity</b>	<b>Option 3 Private Trust</b>
Support for the Māori Language	Medium-High	High	Medium-low
<i>Strengthen Crown-iwi and Māori relationships</i>	<i>Low</i>	<i>High</i>	<i>Low</i>
<i>Strengthen iwi and Māori leadership of Māori language issues</i>	<i>Low</i>	<i>High</i>	<i>High</i>
Public Accountability	High	High	Low
Stewardship of Public Interests	High	High	Nil
		<b>Preferred</b>	

## **Implementation Plan**

83. Te Puni Kōkiri has not had the opportunity to develop a detailed implementation plan for the preferred options in the available time. Te Puni Kōkiri considers that further work is required to develop the implementation plan. A general overview of implementation is provided below.
84. Pending confirmation of policy decisions by Cabinet, Te Puni Kōkiri will prepare drafting instructions for the Parliamentary Counsel Office for amendments to the Māori Language Act 1987 to give effect to the preferred options. A Māori Language Amendment Bill has been included in the Legislation Programme for 2014 with a priority 3 (to be passed if possible in the current year). The Minister of Māori Affairs has indicated that he seeks to introduce the necessary legislation in July 2014, to be followed by a first reading before the House rises for the 2014 General Election. Following the resumption of Parliament, the Minister of Māori Affairs intends that the legislation be enacted in 2015. It is expected that the legislation will include a significant level of detail about the functions, form and operating parameters of Te Mātāwai and a reconfigured Te Taura Whiri and Te Māngai Pāho. In addition, the Minister of Māori Affairs has proposed to establish a small group of iwi and Māori language experts to provide a 'sounding board' for the details that will be required to underpin the agreed options.
85. Following enactment, the iwi, Māori and Crown appointment process for Te Mātāwai will be activated. It is expected that the initial appointment process will take no longer than three months. Following appointment of the initial members of Te Mātāwai, Te Puni Kōkiri will facilitate an induction process for these members. Following that, Te Mātāwai will appoint a chief executive and undertake work to prepare various planning documents (in particular, a statement of its strategic direction over a 3-5 year window, and its operating directions for Te Taura Whiri and Te Māngai Pāho). The new arrangements for Te Taura Whiri and Te Māngai Pāho will commence on 1 July in the year following the establishment of Te Mātāwai.
86. During this transition period, the current board members of Te Taura Whiri, Te Māngai Pāho and MTS will remain in place, and the Crown will continue to purchase the current Māori language programmes and services from these entities. In short, it will be 'business as usual' for these entities until Te Mātāwai is established and positioned to assume its functions.

## **Monitoring, Evaluation and Review**

87. It is proposed that a 'first principles' review of the preferred options be undertaken after three years (that is, three years from the enactment of the necessary legislation). This will provide for consideration of the impact of these arrangements on the objectives that are sought. It is expected that Te Mātāwai will lead this review, but the Government will be closely involved in the development of the terms of reference for the review, the

selection of the review team, and the assessment of the review findings. The establishment of Te Mātāwai as an independent statutory entity will enable future Parliaments to make changes to these arrangements based on the review, or as they otherwise see fit.

88. In addition, it is proposed that Te Mātāwai be required to prepare and publish its strategic direction and operating intentions on an annual basis, in consultation with the Minister of Māori Affairs. It will also be required to submit an annual report to Parliament, and Te Puni Kōkiri will prepare a stand-alone report to Parliament about the services purchased from Te Mātāwai, Te Taura Whiri and Te Māngai Pāho as an adjunct to its annual report. It is also proposed that Te Mātāwai be subject to the Ombudsmen Act 1975 and the Official Information Act 1982.
89. Finally, it is proposed that the Minister of Māori Affairs retains some 'reserve powers' to appoint board advisors or a statutory manager if circumstances require it (the particular circumstances will be specified in the necessary legislation).