



Report to:

Crown Forestry Rental Trust



FUNCTIONS AND COSTS OF OPERATING A POST-SETTLEMENT GOVERNANCE ENTITY

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Functions and Costs of Operating an Economically Sustainable Post-Settlement Governance Entity

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1 Introduction and background

This report presents to Crown Forestry Rental Trust the functions and costs of operating a Post Settlement Governance Entity (PSGE). A PSGE is the legal entity that a claimant group must ratify and establish before settlement with the Crown. The purpose of a PSGE is to hold and manage the settlement redress that is transferred to the claimant group under the Deed of Settlement (DOS).

This report presents BERL's view on establishing a PSGE. It represents an attempt to discuss the various functions a PSGE may complete as well as the costs associated with these roles. The actual functions of an individual PSGE and its operating costs will depend on the components of settlement redress agreed on between the Crown and an iwi. The functions and costs discussed in this report are illustrative rather than an exhaustive list, and are BERL's suggestions on operating a PSGE.

This report is a general discussion that should be used to provide a starting point to discuss and define the establishment of best practice PSGEs. Benchmarking and best practice principles are critical to inform the establishment of PSGES, and to successfully grow iwi-owned assets. However, an iwi needs to consider their goals post settlement, establish and run their PSGE within this context, and choose the functions and types of activities that best fit their situation post settlement.

1.1 Previous Governance Entities

Previous treaty settlements to resolve historic grievances have been termed "full and final". However, these durable settlements have not always provided for the social, economic, environmental and cultural well-being of claimant groups, as the governance entities established as part of these settlements have not always proven to be sustainable.

The various governance entities that have been established previously include:

- Entities to hold Maori assets that have a cultural rather than economic function such as marae, urupa or burial grounds.
- Entities to hold assets that have an economic function such as fisheries or forestry.
- Entities to supply services to an iwi or hapu such as health, social welfare, education or housing.
- Entities to hold title on Maori land either for named owners or hapu, or an iwi.

- Entities to represent an iwi such as a runanga or common law trust.

There is an important distinction between entities that were created out of earlier settlements, such as Maori Trust Boards, and the range of Maori entities that have evolved out of residual iwi land holdings, and land development schemes. Maori trust boards are discussed in the following section, but the latter entities include a number of trusts and companies that are typically accountable only to a restricted number of land owners and not the full kinship group.

1.1.1 Maori Trust Boards

In 1956, the Maori Trust Boards Act established the Maori Trust Boards to administer property or funds received from the Crown. These funds were a payment made by the Crown in respect of some damage or invasion of rights suffered by the tribe or tribes concerned. The boards were set up to act in the interests of their beneficiaries and some dealt with large sums of money and expensive property.

The Government was responsible for ensuring the boards handled their finances in a reasonable way and in the interests of their beneficiaries, and to ensure against any loss by dishonest individuals or unwise investments.

Some of the key reasons why the Crown no longer finds Maori Trust Boards acceptable governance entities are:

- The trust board is accountable to the Minister of Maori Affairs as well as members of the iwi. This undermines the autonomy of an iwi, as they are not free to govern their own structure or affairs.
- Trust board beneficiaries do not have a beneficial interest in or a right to use or benefit from any trust board property.

However, many trust boards have represented their tribe for many years. As a result, some enjoy widespread acceptance and there may be scope for a Maori Trust Board or its assets to be part of an overall governance structure. For example, the Te Arawa Lakes Settlement Act 2006 provides for the winding up of the Arawa Maori Trust Board and a tax neutral transfer of the existing assets and liabilities of the trust board to the governance entity, the Te Arawa Lakes Trust.¹

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¹ Crown Forestry Rental Trust. 'Guide for Claimants Negotiating Treaty Settlements'. May 2007.

1.2 PSGE Requirements

Previous governance entities often had limited accountability requirements, were not transparent in their decision making, and usually had little or no internal dispute resolution mechanisms in place. In addition, many were answerable to an authority external to the iwi.

The Crown now has minimum requirements that a PSGE must meet in order for the settlement redress to be transferred to the claimant group. This veto by the Crown may be due to the factors mentioned in the previous paragraph as well as the under-performance and non-sustainability of several governance entities after settlement. The Crown has, to date, accepted two principal legal entities as suitable PSGEs - common law trusts and statutory bodies.

1.3 Sustainability and Income

To be sustainable, a PSGE's income must be generated in a way that does not reduce its ability to keep generating income at the same or a similar level in the future. The economist J R Hicks has defined income as the maximum amount that can be consumed consistent with the maintenance of wealth.² Hick's theory of income argues that an entity's income can be objectively determined from the change in its wealth plus what is consumed during a period. This concept of objective income only works in complete and perfect markets, and in the real world markets are neither complete nor perfect. In the case of a PSGE, a large element of its future income is not captured in the value of its net assets. The future income of a PSGE depends on its ability to exploit its resources and markets, as well as business, social and political opportunities. This is what Hick's labels human capital.³

Human capital, or developing the expertise and capability of an iwi, contributes to economic growth because economic activity requires appropriately skilled people. Economic growth is generally regarded as positive since growth generates increased income and increased income is required for increased material well-being. But growth also involves the increased use of resources, environmental impacts and social change. Iwi need to be aware of the changes and costs associated with economic growth, and the importance of investing in human capital as well as the running costs of a PSGE.

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² Hicks, J R. 'Value and Capital: An Enquiry into Some Fundamental Principles of Economic Theory'. Clarendon Press. Oxford. 1946.

³ Human capital is the stock of knowledge and skill embodied in an individual as a result of education, training and experience that makes them productive. Human capital is also defined as the stock of skill and knowledge embodied in the population of the economy.

In addition, a PSGE should not rely solely on the income derived from its settlement redress. Rather an iwi should look for opportunities to increase the material well-being of the tribe such as generating income through capital gains, investing part of the settlement redress, establishing commercial businesses, and entering into service contracts such as providing iwi social or health services or completing compliance activities.

1.4 Functions and Costs of a Post Settlement Governance Entity

A PSGE is created for a purpose; to fulfil that purpose a PSGE needs to maintain and build assets as well as human and cultural capital. To do this a PSGE needs to function as a business, represent an iwi, and work closely with central and local government. To maintain and build assets, a PSGE should consider separating its governance and business functions, and operating as a business to complete tasks, generate income and meet operating costs. How a PSGE operates as a business and the level of service it provides will vary between claimant groups and depend on the settlement redress received.

As previously argued, to be sustainable a PSGE needs to generate income in a way that does not reduce its ability to keep generating income at the same or a similar level in the future. It is this income that will build the assets, and human and cultural capital of the iwi.

Four functions have been identified as necessary to support the operation of an economically sustainable PSGE.

These are:

- Business functions
- Iwi representational functions
- Statutory functions
- Treaty partner functions.

In sections 4 and 5, the four functions of a PSGE are described in more detail. As part of this description, reasons are given as to why each function is part of a PSGE. In section 6 a pro forma budget is used to illustrate the potential operating costs, and the appendix includes case studies that discuss the various options available to a PSGE. Sections 2 and 3 set the scene for this discussion by providing information on what a PSGE is, and the settlement redress.

1.4.1 The Issue of the Cost of Governance and Compliance

A particular issue for most PSGEs is around the lack of human capital and the cost of governance and compliance.

It could be argued that adhering to regulations regarding governance and compliance provides a way to consider economic, environmental and social outcomes in decision-making, and helps to promote sustainable development. Governance and compliance could also be seen as important tools for ensuring long-term impacts and opportunities to generate income are not ignored at the expense of short-term benefits.

However, the cost of complying with regulations can be a barrier to development. Investment in some core items may be decreased. High compliance costs can also deter investment in marginal projects or make time-dependent projects unviable.

The combination of high costs, a lack of human capital, and complex processes can also mean that a PSGE may not effectively take part in the process of assessing a proposal or project risks.

While it could be argued that some governance and compliance costs are part of the fixed costs of operating a PSGE, there may be ways to overcome a full or partial lack of human capital, cut high operating costs, and work through complex processes. Some of these options at a base level are discussed in the body of this report. However, at a high level it could be argued that collaboration, co-operation, and fitting business operations to the size of an iwi and the settlement redress could address the cost of governance and compliance.

Collaboration could involve working with other iwi on matters such as managing fishing quota or attending national hui. In addition, a PSGE could share services; where they employ a professional such as a lawyer or accountant to operate the business functions of the PSGE, including any financial reporting or holding of elections, leaving communication with the iwi in the hands of a general manager.

The size of a PSGE in relation to the size of an iwi has an important bearing on cost. The functions a PSGE completes also need to be conducive with the size of the settlement redress and the goals of an iwi. The settlement redress is meant to “contribute to re-establishing an economic base as a platform for future development.”⁴ Therefore some small to medium-sized iwi may not initially be in a position to do all the business functions mentioned in this report, and it may take time to re-build the economic, social and cultural well-being of the tribe.

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⁴ Office of Treaty Settlements. 'Healing the Past, Building a Future'. www.ots.govt.nz.

To illustrate how the settlement redress can impact on the different functions and costs of operating a PSGE, three case studies are provided in the appendix of this report. These case studies are based on three PSGEs currently operating. We have summarised some of the data for consistency and have not named any of the PSGEs involved as the case studies should only be used as illustrative examples not as actual best practise, as the size of each PSGE, iwi, and settlement redress is different.

1.5 Transition to a Post Settlement Governance Entity

While this report focuses on the functions of a PSGE, the development of a PSGE from the time an iwi makes a claim through negotiations to final settlement is not a fluid process.

A transition phase is needed between the disestablishment of the previous iwi authority and the establishment of a PSGE. This phase is distinct in the sense that the transition from one entity to another, needs to recognise the shifting nature and dynamics of the respective entities, as each entity has significantly different goals and activities.

It is important a claimant group is aware of this transition phase and the structures that could be put in place during this period and accesses expertise from appropriately experienced consultants to establish their PSGE.

2 Post Settlement Governance Entity

2.1 Purpose of a Post Settlement Governance Entity

A Post Settlement Governance Entity (PSGE) is the legal entity a claimant group must ratify and establish before settlement with the Crown. The purpose of a PSGE is to hold and manage the settlement redress that is transferred to the claimant group under the Deed of Settlement.

The Crown requires as a minimum a PSGE:

- adequately represents all members of the claimant group
- is accountable to and ratified by the claimant group
- has transparent decision-making and dispute resolution procedures.

2.2 Previous Post Settlement Governance Entities

The Crown has previously accepted two entities as suitable PSGEs - common law trusts and statutory bodies.

2.3 Common Law Trusts as Post Settlement Governance Entities

Common law trusts are the most common PSGE at this time. A trust is a legally recognised arrangement where property is legally owned by certain people (the trustees) but the trustees are legally required to manage the property for the purposes or beneficiaries of the trust. A trust does not have a separate legal identity.

The functions and costs discussed in this report are based on the assumption that the PSGE is a common law trust. This assumption is supported by the 'Digest for Claimants' written by Crown Forestry Rental Trust. This digest illustrates the range of PSGE structures currently in place and the key features that several iwi have built into their PSGE. A common law trust is the most common PSGE discussed in the 'Digest for Claimants'.

The advantages of common law trusts are:

- accountability to beneficiaries
- flexibility of purpose and activities
- ability to reflect the tikanga of the group represented.

However, one disadvantage of common law trusts is the time and cost involved in establishing the trust. A trust may take several weeks to a few months to establish and the cost of establishing a trust could range from a few thousand for a simple trust to tens of thousand for a very complex trust structure.

3 Settlement Redress

3.1 Components of Settlement Redress

On the settlement date, components of settlement redress are transferred from the Crown to a PSGE. These components may include cash, certain commercial properties and certain cultural properties. All Deeds of Settlement also contain components of settlement redress that establish an ongoing direct (protocols) or indirect (statutory acknowledgements) relationship between the Crown and the PSGE. Once this transfer occurs, the Crown has essentially discharged its obligation to the PSGE in respect of these components.

Each Deed of Settlement is unique. The size of a PSGE and its associated functions and costs will depend on the components of settlement redress. However, other variables will also impact on the functions of a PSGE and its operating costs. Typical variables include:

- The components of the settlement redress including quantum size.
- The vision and priorities of an iwi including their short and long-term goals.
- The human capital within an iwi, including the capabilities and qualities of leaders of the PSGE such as the general manager or chairperson.
- The existing relationships with key stakeholders such as central and local government agencies, the wider community, or neighbouring iwi.
- The relationships between leaders of the PSGE such as the general manager or chairperson.
- The position of the existing governance entity in its lifecycle and how well prepared it is to manage and receive assets.

The discussions on business and iwi functions in the following chapters provide some general observations. An iwi should identify their unique variables and apply these, along with the general observations provided, to their situation.

3.2 Plans, policies and personnel

Following settlement, a PSGE will need to have internal plans, policies, and personnel in place to deal with the components of settlement redress and the ongoing relationship between the Crown and the PSGE.

Internal plans and policies could include annual reports, business plans, financial reports, accounting, tax, budgeting and planning, membership registration procedures, and elections. The personnel that could be put in place may include a board, a general manager, and administration staff. These plans, policies, and personnel are the governance of the PSGE.

To meet these governance costs a PSGE may choose to be supported by commercial businesses, and look for potential business opportunities and ways to decrease governance costs.⁵ It is the commercial businesses that a PSGE may establish that could maintain and build the asset base of the iwi, meet the operating costs of the PSGE, and provide the PSGE with an income.

As previously argued, to be sustainable a PSGE needs to generate income in a way that does not reduce its ability to keep generating income at the same or a similar level in the future. It is this income that will build the assets, and human and cultural capital of the iwi.

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⁵ For example, savings can be made indirectly through decreasing the number of meetings a PSGE board has per year and the amount of time administration staff spend servicing these meetings.

4 Business Functions of a Post Settlement Governance Entity

4.1 Governance of a Post Settlement Governance Entity

A PSGE may choose to focus on how it functions as a business to establish a firm financial footing. Key components have been identified as essential to the business functions of a PSGE. These business functions are governance, administration, and establishment of companies.

Each business function will be discussed separately. These functions have been identified in the 'Digest for Claimants' written by Crown Forestry Rental Trust and through discussions with key players.

A PSGE may choose to establish its governance before investing in economic and social developments. There is a risk that if the cost of governance consumes the entire income generated by the settlement, there is little room for future growth.

4.1.1 Governance Functions of a Post Settlement Governance Entity

Governance through a board of trustees makes the PSGE more accountable to the claimant group, enables transparent decision making, and puts in place dispute resolution procedures.⁶ Governance through a board of trustees also meets Crown requirements for a PSGE, and allows the governance and business functions of a PSGE to be separated.

Ideally the board of trustees would:

- Consist of five to eight members appointed at an Annual General Meeting.
- Appoint a Kaumatua Committee to validate applications for iwi membership, and advise the board of trustees on matters of tikanga, the management of cultural redress sites, dispute resolution, and other matters as they arise.
- Appoint a general manager to manage the day-to-day administration of the PSGE.
- Appoint an auditor and an accountant.
- Seek expert and legal advice as and when needed.

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⁶ New Zealand Trade and Enterprise (NZTE) offer a Maori trustee training course. It is usually a weekend marae-based programme, and is fully funded.

The board of trustees could achieve accountability through:

- Annual General Meetings held every 12 to 15 months.
- Annual reports.
- Annual and five year business plans.

Annual General Meetings would allow the board of trustees to:

- Report on the operations of the trust during the preceding income year.
- Present the annual report and audited consolidated financial statements.
- Present the proposed annual business plan.
- Announce the names of newly appointed board members.
- Approve the appointment of the auditor for the next income year.
- Undertake all other notified business.

Annual reports allow a PSGE to compare performance against any annual plans and present consolidated financial statements including a statement of financial performance (assets and liabilities), and statement of financial performance (income and expenditure).

Annual and five year plans would also provide accountability and strategic direction for the PSGE.

Annual plans could include a strategic vision, the nature and scope of the activities proposed by the PSGE, a ratio of capital to total assets, performance targets and measures by which the performance of the trust may be judged, how projected income will be dealt with, and ongoing management of the PSGE's assets.

Five year plans could set out the longer term vision of the PSGE and a statement of intent.

4.1.2 Cost of Governance Functions

The number of trustees on a board and the number of meetings trustees attend per year varies between PSGEs. The number of trustees we have presented is an ideal.

It has been noted that some trust boards have up to 25 board members. This situation occurs when each hapu elects a representative. For example, each of the 22 hapu of Ngati Awa elects a

representative to the Runanga and these representatives each serve three years. Some boards meet monthly while others meet bi-monthly.

For many iwi, governance costs consume up to one third of their annual income. These costs relate to the direct costs of holding governance meetings and the indirect costs of administration staff preparing for and servicing these meetings. In addition, board members may have to travel to attend meetings, and be fed and accommodated.

For many iwi, there is an element of volunteer work among their trustees due to the cost associated with representation, and many trustees are paid a nominal amount or are reimbursed for travel costs only. Reducing meeting fees could be one way of reducing governance costs and could be used in conjunction with bimonthly meetings or as an alternative to bimonthly meetings if there is a need for the board to meet monthly.

However, the issue with governance costs such as meeting fees is one of balance. Many iwi want to draw on people with professional expertise to be board members. Unfortunately these people are often the people with the least amount of free time. They often live some distance from their home marae, and have other financial and professional commitments. A meeting fee recognises the sacrifice these people make and provides a small incentive to ensure they provide a greater level of commitment than volunteering.

Governance is important but it can prove costly, particularly in the early stages of developing a PSGE.

4.1.3 Administration Functions of a Post Settlement Governance Entity

Once a general manager has been appointed, it would be useful for a PSGE to purchase or lease an office, and employ administration staff.

While BERL's pro-forma budget illustrates PSGE staff costs of between \$340,000 and \$500,000, these costs include six staff members. This pro-forma budget illustrates the type of staff a PSGE may employ and the range of salaries they may be paid. However, as discussed in Chapter three the components of the settlement redress will determine the budget for staff and operating costs. Some PSGEs may find it is costly to operate in the first few years post settlement with this many staff.

Three claimant groups who have recently passed the stage of Agreement in Principle illustrate this point. These groups are considering establishing their PSGEs with one general manager and two administration staff for the first two years post settlement. Each group's needs vary depending on the components of settlement redress. However, staffing costs for these groups

generally fall within the range of \$160,000 and \$222,000, which is significantly lower than the current minimum of \$340,000 for staff costs in the pro-forma budget.

4.1.4 Post Settlement Governance Entity Office

The office of the PSGE could house the general manager and administration staff, and may provide space for any commercial businesses the PSGE establishes. It could also provide office space for community and health workers, and any other tribal developments that could occur.

The office of the PSGE, and the administration functions it provides, is often the face of the iwi. The office may be where business is transacted and can act as a focal point for consultation and information for Maori and non-Maori in the community. The office may do this by having a physical presence in the community and providing regular communication and consultation between the trust and members of the community.

Given the wide role a PSGE office may have it would be useful for the office to have a meeting room and the appropriate facilities to manage the daily administration of the PSGE.

Some iwi have more than one office for their PSGE as not all members live in the same area or other offices may be established to house the companies established by a PSGE.

4.1.5 Post Settlement Governance Entity Administration Staff

The role of administration staff may include:

- Calling for meeting agenda items for the trust and companies operated by the trust, recording the meeting minutes, and publishing and distributing the meeting minutes.
- Keeping the iwi membership register up to date. This register records births, deaths and ongoing membership applications.
- Publishing and distributing a regular newsletter.
- Developing and maintaining a website.
- Holding postal and local elections to vote on issues of importance to the iwi.

The role of administration staff will vary between PSGEs. Often it will depend on the size of the PSGE and the number of administration staff employed. Administration staff can play a key role in communication between the PSGE and the members of an iwi it represents.

Administration staff may also advertise the Annual General Meeting, distribute meeting documents before and after the meeting, and answer any questions regarding the meeting. Their role may also include being record-keepers as all minutes and proceedings of the meetings of the trust, companies and other entities administered by the iwi need to be recorded and kept for seven years.

Communication allows representation and accountability, and keeps members of an iwi informed of developments. Communication methods that a PSGE can use include regular newsletters, the development and maintenance of a website, and hui.

Some iwi have online newsletters as well as paper publications. On average, these iwi send newsletters to members every two months. Newsletters are often sent after a trust meeting, and some are sent at the same time as an election to save costs. Newsletters may vary in length but most are one to two pages.

Websites can also provide information on the history of the tribe, commercial ventures, and the services that members of the iwi can use. Websites allow members of an iwi to register online and update their details.⁷

Newsletters, websites and email allow members of an iwi that are geographically dispersed to work together.

4.2 Establishment of Commercial Businesses associated with a Post Settlement Governance Entity

If possible, and in some cases if necessary, a PSGE should establish commercial businesses to receive, control and supervise commercial assets on behalf of the iwi. The separation of these companies from the governance of the PSGE is good business practice and allows the separation of key roles and functions. These semi-autonomous entities could make recommendations to the board of trustees as well as operate as commercial businesses. As commercial businesses, these entities would ideally focus on building the commercial capability, asset base and returns of the iwi.

Each entity would have associated set up costs but could reduce these costs through sharing some administration functions and costs with the PSGE and/or the other companies, trusts or statutory bodies established by the PSGE. A company is a separate legal entity, but this does
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⁷ Members of an iwi need to be registered on the settlement group register. The settlement group register records the full names, birth dates, and postal addresses of members of the settlement group. The register also allocates a beneficiary identification number to each adult member of the settlement group on the register.

not mean it has to operate separately. For example, the companies may focus on a specific area such as accounting, secretarial, communications or information technology but share administration staff.

The commercial businesses established by a PSGE may need to:

- Employ staff.
- Lease or buy premises.
- Present an annual report and audited consolidated financial statements to the board.
- Present annual and five year business plans including marketing plans and initiatives.
- Identify new business ventures.
- Administer and maintain properties the PSGE owns such as schools and reserves.

4.2.1 Types of Commercial Businesses

The companies a PSGE establishes will depend on the components of settlement redress such as cash, commercial properties and cultural properties, as well as the resources available to the iwi. These resources can include forestry, fisheries, land, minerals, or lakes and rivers.

In the first few years post settlement, a subsidiary company may be established simply to invest and monitor the performance of the cash assets. The associated set-up costs are reduced as the subsidiary company governance and administration functions can be completed by the PSGE. Staffing and compliance costs will therefore be minimal.

The companies may also focus on developments occurring within the rohe or further afield, or tribal developments.

4.2.2 Developing Capability and Expertise

While some iwi have already developed effective management structures, and business acumen and skills, many may have little capacity in this respect. Staff professional development may be an area where investment is needed. There may be no developed skills to draw on within or near the rohe. Networking with other iwi may provide critical support but there is a need to develop expertise and capability within the tribe. An iwi needs to encourage direct mentoring between professionally qualified people and iwi members who may one day fill important positions within the PSGE. Initially employing trained professionals can be helpful but PSGE staff and members

of the iwi need to develop expertise relevant to the rohe to identify opportunities and build a broad range of knowledge in areas such as land use capability, forestry, fisheries, horticulture and agriculture.

Once the governance of a PSGE has been established then an iwi can focus on programmes of tribal development. Programmes of tribal development can include education scholarships, business mentoring, and a focus on health, education, and employment. These programmes can not be sustainably funded until the commercial businesses established by an iwi are viable.

5 Iwi Functions of a Post Settlement Governance Entity

Many iwi initially struggle developing the business functions of their PSGE. They have received their quantum from the Crown and have their PSGE in place, but grapple with the costs associated with setting up a business and lack the skills to take their trust and move it to being a commercially viable business. For many iwi it is difficult to move from being a claimant group to a commercial entity. In instances, iwi have identified it has taken three to five years for this transition to take place.

This difficulty is increased with the expectations placed on the PSGE of instant success and benefits. Many members of an iwi expect to see instant benefits after settling with the Crown. The office of a PSGE may receive a large number of telephone calls and applications for scholarships and assistance. But this money may not be readily available.

This expectation is created because the quantum an iwi receives from the Crown may seem a large figure but when the costs and functions of operating a PSGE are considered, this redress needs to be prudently managed. Governance costs should be covered before an iwi invests in economic development, and if these costs are not met there is little room for the future growth or development of the iwi. In addition, these costs are ongoing and must be met on an annual basis.

However, a PSGE is not just a commercial business. There are a range of other critical responsibilities that a PSGE must fulfil. The following sections on the statutory functions and iwi partner functions of a PSGE illustrate some of the other responsibilities a PSGE has.

This section of the report discusses iwi functions and assumes that an iwi has already set in place the business functions of their PSGE, and now focuses on iwi functions that develop and grow the tribe.

5.1 Tribal Development

Once commercial businesses are established, an iwi can then consider if it needs to create entities that deal with tribal development. Tribal developments meet the social, economic, and educational needs of an iwi as well as recreational, cultural, and environmental requirements.

Ngati Awa, for example, has a commercial company as well as three trusts that deal with tribal development. The iwi has established a community development trust, research and archives trust, and environment Ngati Awa. Environment Ngati Awa is the environment unit of the

Runanga responsible for maintaining Ngati Awa's interest under the Resource Management Act (RMA), developing policy, and protecting reserves. Environment Ngati Awa has three staff and a manager, and their responsibilities include resource consents, statutory planning, Ngati Awa planning, Maori enhancement, and monitoring and managing relationships with statutory and other organisations.

Tribal development can include entities involved in social, educational, and health issues. For example, the PSGE of Te Uri o Hau is the Te Uri o Hau Settlement Trust. This trust makes grants to businesses operated by the trust to improve the social and economic well-being of the tribe. Te Uri o Hau has a company called the Renaissance Group to advocate, protect, maintain, and preserve the kaitiakitanga status of the iwi. They also have a company called Tangata Development that focuses on the cultural and social well-being of the iwi. This company works with marae and schools in the region, as well as a wide range of health providers, and government and non-government agencies. Tangata Development has four directors appointed by their trust (Te Uri O Hau Settlement Trust), and the company provides the trust with six month and annual reports on financial and non-financial performance.

Tribal development can also include grants allocated to individuals and organisations that support activities within the iwi. Grants can be provided for a range of activities from supporting local schools to take groups to kapa haka and manu korero competitions, to assisting individuals in sport. Grants can also include an annual allocation to the upkeep and support of marae. Grants can help to meet social needs among people and families in the community, as well as development priorities such as the rebuilding of whare or addition of associated services and ablution block buildings. Grants can be used to support the long-term social and cultural benefits of the tribe.

5.2 Representation

A PSGE needs to represent a claimant group. Representation is important for two reasons; to ensure those who should benefit from the claim do, and to ensure adequate representation of the iwi post settlement.

The Crown needs to ensure the settlement redress is managed by and for those who will rightfully benefit from the settlement of their claims. To ensure the right people are benefiting from the claim, members of the settlement group need to be identified.

5.2.1 Settlement Group Register

A settlement group register is one way of identifying members of the settlement group. This register is established prior to the PSGE, but maintained by the PSGE once it is established.

Members of the settlement group who are registered on the settlement group register are involved in developing and ratifying the PSGE. An up to date register means adequate representation, and avoids any delay in the settlement redress being transferred to the iwi.

Applications for membership of a settlement group need to be decided by a Membership Validation or Kaumatua Committee established by the PSGE.

5.2.2 Elections

To act as a representative body, a PSGE needs to consider holding elections and voting by secret ballot. Voting forms can be delivered to members of the iwi using the register. These forms may be delivered to the chief returning officer by post or at a Wahi Pooti, which can be advertised in the newspaper 28 days prior to the day it will be held.

The PSGE should appoint a chief returning officer for elections. And chief returning officers need to count the votes and notify the PSGE of the results. If a review of the election results is needed the PSGE could then appoint an electoral review officer.

5.2.3 Developing and Maintaining Representation

To maintain representation and increase the number of people registering as members of the iwi, a good communication strategy is needed. This strategy can inform current members of developments in the rohe and encourage more people to register as members of the iwi.

Previous experiences have seen settlement groups rapidly expand, and then once settlement occurs the iwi gradually increases in number. These experiences further illustrate the need to maintain cohesiveness through communication.

Many iwi have a Kaumatua Committee. This committee may sit beneath or beside the PSGE and provide advice as and when necessary. Kaumatua committees are often responsible for protecting the Mauri of the iwi. These committees may facilitate any disputes that arise in connection with the PSGE or any part of the group regarding the tikanga, reo, kawa, and korero. Kaumatua committees may also be involved in iwi membership applications.

5.3 Statutory Functions of the Post Settlement Governance Entity

As part of the Deed of Settlement the Minister in Charge of Treaty Negotiations will write to the relevant local authorities (local and regional councils) to encourage each council to enter into a Memorandum of Understanding (or similar document) with a PSGE.⁸ This Memorandum of Understanding forms the basis of the relationship between local authorities and the PSGE, and puts in place one of the statutory functions of a PSGE.

The deed of settlement, and in particular the cultural redress, encourages greater interaction between an iwi and statutory bodies.

5.3.1 The Cost of Consultation

Cultural redress includes greater participation of an iwi in the management of natural resources and the environment, and the decision-making processes involved in this management.

Cultural redress acknowledges and recognises:

- Traditional, historical, cultural, and spiritual associations of an iwi with the natural environment.
- The mana of an iwi in its rohe.
- The ability of an iwi to exercise kaitiakitanga (active guardianship) in their rohe.

A variety of areas of significance may be returned to an iwi as part of the cultural redress. These areas can include historic reserves and conservation areas, and remain subject to covenants protecting natural values and continuing public access.

Historic reserves often continue to be managed as historic reserves but the iwi will be responsible for the management of the reserve and administer them under the Reserves Act 1977. Scenic

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⁸ Settlements often include an offer to write to the local authorities in the claimants' area of interest encouraging them to enter into Memoranda of Understanding with the claimants in relation to particular matters. Such matters can include Resource Management Act processes, the naming of streets and places, and the management of council-administered reserves. Statutory acknowledgements also record the traditional significance to claimants of sites that are in Crown ownership. They require that the claimant group must be informed whenever a local authority receives a resource consent application affecting a site that is subject to a statutory acknowledgement and that a local authority must have regard for the statutory acknowledgement when deciding whether the claimant group is adversely affected by an activity for which resource consent is sought.

reserves that are smaller in scale such as two to 15 hectares may be transferred to the iwi as well as stewardship areas.

Camping licences or nohoanga of up to one hectare are often created as part of the cultural redress. These sites may be within existing scenic reserves and are set aside for the gathering of traditional sources of food. Members of the iwi have the right to use this entitlement for non-commercial, lawful, fishing and food gathering for up to 210 days a year.

Urupa (burial ground) may be returned to an iwi under cultural redress and subject to a covenant protecting its natural values.

An iwi will need to work with central government agencies such as the Department of Conservation, the Ministry for the Environment, and their local representatives, as well as local government bodies to maintain and protect these areas. This maintenance may include any pest control, fencing, interpretation material, biosecurity responses, and the removal of refuse.

Some claimant groups have found that the maintenance costs of these areas are much higher than they anticipated. These costs can include:

- If a wahi tapu site is returned, the claimant group will take on the responsibility of protecting and preserving the site.
- If a piece of land is vested in a claimant group as a reserve, the group will have to prepare a management plan and meet the costs of administering the reserve.

5.3.2 Resource Consents

Resource consents are part of a wider system of planning and allocating resources at a regional and local level. To be involved in the resource consent process, a PSGE needs to participate in the planning process such as regional policy statements, regional and district plans, and long-term council community plans. An iwi management plan is an important part of this participation.⁹

Iwi management plans can play an important part in managing resources through the Resource Management Act 1991 (RMA).¹⁰ The RMA recognises iwi management plans are a critical part

⁹ The Ministry for the Environment has published a guide to developing iwi management plans called Te Raranga a Mahi.

¹⁰ Iwi management plans provide a framework to build resource management strategies for the sustainable development of natural and physical resources. These plans may contain information relating to specific cultural values, historical accounts, descriptions of areas of interest (hapu/iwi boundaries/rohe), and consultation/engagement protocols for resource consents and/or plan changes. However, iwi management plans are not a substitute for consultation or partnership.

of effective resource consent processes and councils should take into account iwi management plans when they are developing long-term council community plans. Long term council community plans (LTCCPs) are important for an iwi because they can ensure that resources are devoted to supporting an iwi in various ways - including participation in resource management.

Once a PSGE has been allocated responsibility for resource consents and resource management, they should contact the council by writing a letter to the Chief Executive or formalising the relationship with an agreement that details who the council should deal with and for what issues. A lack of any clear agreement about representation can affect a PSGE's ability to respond to requests for consultation. This can in turn reduce influence in the process and effectiveness in dealing with applicants. Also, without a clear allocation of responsibilities, the council might receive multiple responses and become confused about the officially endorsed view.

Consulting and advisory activities in relation to the RMA are additional activities for a PSGE. These are important activities for hapu and iwi to be involved in, and some PSGEs complete these activities, but a PSGE does not necessarily have to carry out these functions itself. Resources and needs will vary greatly. For some iwi it will be possible and necessary to establish a resource management unit to deal with resource consents and resource management. In other cases, an iwi might nominate a person to oversee resource consent matters on a part-time and/or voluntary basis. The extent to which these activities are carried out within iwi will vary considerably.

5.3.3 Funding Resource Consents

While a PSGE may be fortunate in being able to access funding and other resources from within their iwi, councils or other sources, this is not always the case. Establishing and maintaining resource management capacity, at least in the early stages, is likely to have real costs. A PSGE needs to be realistic about how these will be resourced.

If a PSGE is going to charge for involvement in RMA processes, it should have a charging policy. Two approaches are common:

- A fixed price to look at an application and another fixed price for subsequent tasks like preparing a report or holding hui.
- Charge according to the time spent on a project.

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Disbursements could be charged at either an incurred rate such as the actual cost of telephone calls associated with a particular application, or on a fixed rate basis such as a standard 5% on top of the time spent looking at an application, to cover fixed costs such as telephone and computer use, and power.

5.3.4 Resources for Effective Consultation

Councils are increasingly providing resources to enable effective consultation. This might involve one or more of a variety of measures including:

- Providing funding assistance.
- Assisting in capacity building.
- Appointing liaison officers to facilitate information exchange and consultation between an iwi, applicants, and councils.
- Providing access to information held by councils that might assist an iwi make useful responses to applicants.
- Making commitments to attend regular hui, and review processes and practices.

The nature of the support may depend on the commitment and resources of the council, the needs of an iwi, and the ongoing number of applications of interest to a PSGE.

5.3.5 Developing Capability and Expertise

While some iwi have developed effective resource management units, many have little capacity in this respect. There may be no developed skills to draw on within or near the rohe. Networking with other iwi or PSGEs may help provide critical support. Although resource management professionals in councils and private practice can be helpful, there may be situations where they fail to understand the kaitiaki perspective of an iwi and may not provide the sought-after level of assistance required. Networking with other iwi or PSGEs can provide a PSGE with access to others' experiences and understanding that can be built on.

It is important that a PSGE builds organisational capability in the area of resource consents and management as this can lead to active involvement by the iwi in the monitoring and managing of cultural assets, the exploration of the potential for cultural redress of other sites, and representation on environmental working groups. It could also potentially allow an iwi to lead its

own development and align itself with government strategies, further enabling a settlement redress to have intergenerational relevance.

5.4 Treaty Partner Functions of the Post Settlement Governance Entity

As part of the Deed of Settlement the Minister in Charge of Treaty Negotiations writes to the relevant ministries to encourage the establishment of protocols and to develop good working relationships between the iwi and the Ministry of Fisheries, the Ministry of Commerce, the Ministry for the Environment, the Department of Conservation, and the Department of Internal Affairs. The Minister in Charge of Treaty Negotiations also writes to organisations such as New Zealand Historic Places Trust, Fish and Game New Zealand, and Regional Conservation Boards encouraging them to enter into Memorandum of Understandings (MOUs) on matters of common interest. These protocols and working relationships are valuable to both parties, particularly as it puts an iwi in a better position to give advice, and engage with and endorse a range of projects.

5.4.1 Consultation as a Treaty Partner

Protocols setting out how the Department of Conservation and an iwi will work together on specialised matters of cultural importance are developed and finalised before the Deed of Settlement is signed. These protocols:

- Recognise the importance of certain areas to an iwi.
- Formalise an iwi's involvement in the conservation management of these sites.

The importance of native species to an iwi may also be recognised and protocols established to ensure the iwi is involved in the management of these species.

To restore access to traditional food and gathering areas, and provide advice on management and customary interests, members of an iwi may be appointed to Ministry of Fisheries and Department of Conservation advisory committees.

The Ministry for the Environment also plays a role in monitoring local government and the application of the Resource Management Act in an iwi's rohe under the Resource Management Act 1991. This is termed a monitoring provision and is a requirement arranged at the time of settlement.

A Deed of Recognition is where a statutory acknowledgement exists over a site that the Crown owns and manages. The Crown may enter into a deed of recognition with the claimant group prior to settlement and this deed outlines that the iwi be consulted on certain matters.

The Ministry for the Environment also helps the Government to define its obligations and relationships when working with Maori under the Environment Act 1986. Other relevant legislation includes the Hazardous Substances and New Organisms Act 1996, the Conservation Act 1987, and the Historic Places Act 1996.

5.4.2 *Developing Capability and Expertise*

While some iwi may have developed effective ways to deal with treaty partner obligations such as resource development and sustainability, there may be no developed skills to draw on within or near the rohe. As a result, there is a need to develop expertise and capacity. Although professionals can be helpful, they may not always provide the sought after level of assistance required. Networking with other iwi or PSGEs can provide access to others' experiences and understanding, build the capacity and expertise of members of the iwi, and allow them to work at a level equal to the Crown. This will also build the capacity of the PSGE and develop awareness, understanding and participation within the iwi. Developing capacity and expertise will allow the PSGE to respond to and participate in matters as a treaty partner.

6 Post Settlement Governance Entity Budget

The following pro forma budget indicates the approximate costs of operating an economically sustainable PSGE. The information provided in this budget has been identified from the 'Digest for Claimants' written by Crown Forestry Rental Trust, through discussions with key players, and gathered from our knowledge of the costs associated with running a small business.

The expenses for the financial year presented in this scenario fall between \$530,000 and \$1,555,000. This is made up of governance, compliance, and fixed operating costs.

In the budget below, the low number is the minimum amount required to operate a PSGE, and the low rate is the minimum amount that could be paid for goods and services, while the high rate is the maximum that could be paid. The low and high number is the number of times a rate is paid for goods or services.

In practice, a PSGE's expenditure will fall somewhere between the low and high amount in this pro-forma budget. Expenditure would also reasonably vary between the low and high number for each item on the budget depending on the specific circumstances and needs of an iwi. A PSGE is unlikely to operate at the low number or rate on all items. The low total expenditure of just over \$530,000 is also a minimal figure and assumes a full range of cost-saving measures are taking place.

The size of a PSGE needs to be conducive with the size of the settlement redress and the goals of an iwi. The settlement redress is meant to "contribute to re-establishing an economic base as a platform for future development."¹¹ Therefore some small to medium-sized iwi may not initially be in a position to do all the business, statutory, and iwi functions mentioned in this report, and it may take time to re-build the economic, social and cultural well-being of the tribe. They may not have all the expenses detailed in this pro-forma budget and as discussed in a previous section, may only employ a small number of staff in the first few years post settlement.

The staff costs section of the pro-forma budget includes expenditure related to staffing. As mentioned in a previous section, this pro-forma budget illustrates the type of staff a PSGE may employ and the range of salaries they may be paid. However, as discussed in Chapter three the components of the settlement redress will determine the budget for staff and operating costs. Some PSGEs may find it is costly to operate in the first few years post settlement with this many staff.

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¹¹ Office of Treaty Settlements. 'Healing the Past, Building a Future'. www.ots.govt.nz

The **governance section** of the pro-forma budget includes expenditure related to board meetings such as trustee fees, venue costs, return airfares, and accommodation. As well as the administration associated with the board and communicating with the wider group such as annual reports, maintaining the iwi's website, advertising forthcoming elections, running elections, and publishing panui.

The **specialist services section** of the pro-forma budget includes advice and expertise that may be outsourced initially. A PSGE may employ others to provide policy, procedures, and project advice. Alternatively, a PSGE may have the expertise within the iwi and employ people in these positions. Staff professional development, as mentioned in an earlier section of this report, is an important investment in human capital. The legal advice could range between business as normal legal costs, to the costs involved in a significant legal challenge or other engagement that is underway. Similar to other expenditure mentioned in this pro-forma budget, the amount spent on legal advice may vary yearly.

The **grants section** of the pro-forma budget includes some examples of the type of tribal developments an iwi may wish to get involved in. These grants may be allocated to individuals or organisations that support activities within the iwi.

The **administration section** of the pro-forma budget includes items related to the governance functions of the PSGE such as auditing and accounting services, and the running of the PSGE office. Expenditure such as information technology and telecommunications relate to the running of the office such as computers, computer programs, telephones, faxes, and internet access. Office equipment includes expenditure on furniture, office décor, or kitchen facilities. While rent, repairs and maintenance, electricity, and rates relate to the physical structure of the PSGE office, and ACC levies relate to the physical well-being of the PSGE staff.

This budget does not include funding projects such as strategic planning or new initiatives. These projects are often one-off, long-term, and/or expensive ventures that are planned in advance rather than an annual cost. For example, an iwi may budget for \$50,000 to be spent in a financial year on a strategic planning project, or an iwi may budget for a new housing initiative that has been negotiated with a government agency such as Housing New Zealand.

This budget also does not include an operating income but focuses instead on expenditure. The following section discusses some potential areas where operating income could be generated.

	Rate		Number		Total	
	Low	High	Low	High	Low	High
Staff Costs						
Chief Executive Officer					\$80,000	\$120,000
Administration Staff (2 FTEs)					\$80,000	\$100,000
Asset Manager					\$50,000	\$90,000
Business Development Manager					\$50,000	\$90,000
Resource Manager					\$80,000	\$100,000
					\$340,000	\$500,000
Governance						
Trustee fees (per meeting, including travel costs)	\$150	\$200	60	80	\$9,000	\$16,000
Venue costs (per hui)	\$1,000	\$2,000	4	8	\$4,000	\$16,000
Return airfares	\$250	\$700	2	4	\$500	\$2,800
Accommodation (breakfast and dinner)	\$100	\$200	2	4	\$200	\$800
Panui printing (per 100)	\$150	\$350	10	80	\$1,500	\$28,000
Advertising					\$250	\$2,000
Website maintenance					\$2,000	\$5,000
Annual report					\$500	\$1,500
Election costs					\$500	\$25,000
					\$18,450	\$97,100
Specialist Services						
Legal advice					\$12,000	\$350,000
Policy and procedures advice					\$5,000	\$50,000
Project development executive					\$65,000	\$90,000
Staff professional development					\$500	\$10,000
					\$82,500	\$500,000
Grants						
Cultural Grants	\$500	\$1,500	14	4	\$10,000	\$15,000
Education Grants	\$1,000	\$5,000	20	3	\$25,000	\$35,000
Sport Grants	\$1,500	\$2,000	4	2	\$5,000	\$10,000
Marae Grant	\$10,000		1	14	\$10,000	\$140,000
					\$50,000	\$200,000
Administration						
Auditor					\$4,000	\$20,000
Accountant					\$8,000	\$80,000
Information Technology					\$10,000	\$50,000
ACC Levies					\$500	\$2,000
Office equipment					\$3,000	\$10,000
Telecommunications					\$4,000	\$25,000
Electricity and Rates					\$2,000	\$20,000
Insurance					\$650	\$12,000
Repairs and Maintenance					\$2,000	\$6,000
Rent (15 metres squared per person)	100	150	90	200	\$9,000	\$30,000
					\$43,150	\$255,000
Total Expenditure					\$534,100	\$1,552,100

6.1 Potential Areas to Earn Income

As part of the settlement redress, an iwi may receive a financial and commercial redress in the form of cash or Crown-owned property or a combination of the two. There are a number of other items that may be included in the redress including, forest related assets such as land, accumulated rentals and compensation, commercial property, residential property, taonga, rights of first refusal, deferred selection for six months (or longer) after settlement on certain property, and statutory concessions. These items could potentially generate income for a PSGE.

A PSGE may benefit from capital gains on the value of property such as land and buildings included in the settlement. Rent from properties such as commercial buildings, houses and schools, as well as farm leases and forestry provide a PSGE with an income. Fish quota and fisheries may also be a significant income for some iwi.

A PSGE may also invest part of the settlement redress. There are a wide range of investment options that a PSGE may use, such as trading banks and finance companies, as well as the option of short or long-term investment. Alternatively a PSGE may invest part of the settlement redress in an economic development opportunity such as a tourist venture.

Any companies, trusts or statutory bodies a PSGE operates should attempt to find 100% of their operating costs. Entering into service contracts such as providing iwi social services, or completing compliance activities may help to secure this funding.

One example of this is that a PSGE may enter into non-government health provider contracts with District Health Boards (DHB) to provide community health services, disability services or mental health services. A PSGE may also work closely with a DHB to develop Maori health plans for the iwi. Members of a PSGE or iwi may also be members of a Maori health runanga, attending meetings or providing consultation services.

As mentioned in a previous section, involvement in the RMA process may also generate an income through comment and consultation, preparing reports, and holding hui on resource consent and resource management issues.

However, few PSGEs can offset their basic administration or operational costs through charges and fees. Additional revenue streams can only be achieved by taking on additional activities over and above the daily operational and administrative activities.

7 Conclusions

The purpose of a PSGE is to hold and manage the settlement redress that is transferred to a claimant group under the Deed of Settlement. This report presents BERL's view on establishing a PSGE and represents a best practice approach in an attempt to discuss the various functions a PSGE may complete, as well as the associated costs. Four functions have been identified as necessary to operate a PSGE. These are business functions, iwi functions, statutory functions, and treaty partner functions. It is our opinion that an iwi should choose the functions and types of activities that best fit their goals and situation post settlement.

In addition, a PSGE should not rely solely on the income derived from its settlement redress. Rather an iwi should look for various opportunities to increase the material well-being of the tribe such as generating income through capital gains, investing part of the settlement redress, establishing companies, and entering into service contracts such as providing iwi social or health services, or completing compliance activities. It has also been argued that to be sustainable any income should be generated in a way that does not reduce the ability of the PSGE to keep generating income at the same or a similar level in the future.

It has also been argued that an iwi needs to be aware of the changes and costs associated with economic growth, and the importance of human capital. Human capital contributes to economic growth because economic activity requires appropriately skilled people. Collaboration and co-operation with other iwi on a variety of matters can provide critical support, and help build the human capital of the PSGE, but an iwi must develop its own expertise and capability.

8 Appendix

The functions and costs discussed in this report are BERL's suggestions on operating a PSGE. It is our opinion that an iwi should choose the functions and activities that best fit their situation post settlement.

As discussed earlier in this report, income should be generated in a way that does not reduce the ability of a PSGE to keep generating income at the same or a similar level in the future.

Opportunities to generate income could include capital gains, investments, establishing companies and entering into service contracts.

Collaboration and co-operation with other iwi on a variety of matters could also allow a PSGE to potentially expand its functions and activities, build human capital, and decrease governance and compliance costs.

The following case studies discuss the various options available to a PSGE. These options may vary depending on key variables such as the components of the settlement redress including quantum size; the vision and priorities of an iwi including their short and long-term goals; the human capital within an iwi, including the capabilities and qualities of leaders of the PSGE such as the general manager or chairperson; the existing relationships with key stakeholders such as central and local government agencies, the wider community, or neighbouring iwi; the relationships between leaders of the PSGE such as the general manager or chairperson; and the position of the existing governance entity in its lifecycle and how well prepared it is to manage and receive assets.

Case study one discusses the options for a small iwi that has received a settlement redress of \$5 million or less, while case study two looks at the options for a small to medium-sized iwi that has received a settlement redress of \$10 to \$15 million, and case study three considers the options available to an iwi that has received a settlement redress larger than \$15 million.

8.1 Case Study One

The functions and costs of a PSGE need to be conducive to the size of the settlement redress received and the goals of an iwi. Some iwi may not initially be in a position to have or complete all the business functions mentioned in this report and it may take time to re-build the economic, social, and cultural well-being of the tribe.

8.1.1 Business Functions

For a small iwi with a settlement redress of \$5 million or less, governance costs, including staff, could be one of their largest expenditures. This may limit the amount of money a PSGE has to invest in iwi functions, statutory functions, and treaty partner functions. The following discusses some of the basic governance requirements and ways to cut costs.

Governance costs relate to the board and board meetings, and can include trustee fees, venue costs, accommodation and travel costs, and election costs. The production of annual reports, and communication between the PSGE and an iwi could also be included in these costs as well as the need for auditors and accountants. In the pro forma budget included in this report we have proposed that between \$18,000 and \$97,000 could be spent per annum on governance. However, as noted in the discussion in this section, expenditure will fall somewhere between the low and high amount.

Staff will also need to be employed and these costs add to the operating costs of a PSGE. Staff costs could include a chief executive officer or general manager (\$80-120,000) and administration staff (\$80-100,000). These staff could be employed part-time.

As discussed earlier in this report, there are ways to reduce governance costs. Some options include:

- Limiting the number of PSGE board members.
- Decreasing the number of board meetings held per year.
- Using accountants as the chief returning officer when holding elections.
- Using the office of an accountant or lawyer as the office of a PSGE.
- Using contractors and contracting work out rather than completing tasks.

Building human capital is another important feature of a sustainable PSGE. One way of building human capital is by drawing on the expertise and capability within the iwi to teach others. Another is by working in collaboration with other iwi who are familiar with establishing and running a PSGE. Business Facilitation Services at Te Puni Kokiri can also provide help on establishing and running a business. They can provide information on mentoring, networking, business planning, and project management. These services may help with the professional development of trustees and staff, and build the expertise and capability of the PSGE.

8.1.2 Iwi Functions

Representing the iwi at national and international forums, and attending hui may involve collaboration and co-operation with other iwi to ensure iwi responsibilities are met and the voice of the iwi is heard and represented.

With a settlement redress of \$5 million or less, a PSGE may not be able to support activities within the iwi such as grants. It may take several years before the asset and income has been expanded to a size that money is available to establish grants and allocate them to individuals and organisations. However, a calendar of events could be used to celebrate history, activities, and events important to the tribe. These events could promote the iwi and raise the profile of the PSGE with members as well as the wider community.

8.1.3 Statutory and Treaty Partner Functions

Prior to settlement it is important for an iwi to consider the costs associated with cultural redress. Cultural redress includes greater participation in the management of natural resources and the environment, and the decision-making processes involved in this management. An iwi needs to consider the costs associated with managing and maintaining any returned property, and what the management of natural resources and the environment may involve.

To get a sense of these costs and for information on resource consents and management, an iwi can contact the Ministry for the Environment. Co-management with government departments, such as the Department of Conservation, could also reduce costs associated with statutory agreements.

The Ministry for the Environment runs workshops on the Resource Management Act and provides information on iwi management plans. Iwi management plans play an important part in managing resources and participating in the resource consent process. These plans can set out the expectations of an iwi, but they can also allow an iwi to be realistic about the volume of work they can complete, and what consents they can provide comment on.

Iwi in this case study may not have the capability or the finances to get proactively involved in the resource consent process or resource management. Their involvement in statutory functions may be minimal and they may often have to work with and support other iwi to provide comment on resource consents, regional policy statements, regional and district plans, and long-term council community plans.

8.2 Case Study Two

A small to medium-sized iwi with a settlement redress of \$10 to \$15 million could rely on the expertise and professional services of others in the initial stages of establishing and running their PSGE, but in the medium to long-term gain autonomy over their affairs through building human capital and generating income in a variety of ways.

8.2.1 Business Functions

For a small to medium-sized iwi with a settlement redress of \$10 to \$15 million, the governance costs of the PSGE could potentially be paid by companies, trusts and statutory bodies established by the trust. These entities could be set up to receive, control and supervise commercial assets on behalf of the iwi, and build commercial capability. While not all the entities established by a PSGE may have a commercial focus, those that do not generate an income will need to be supported by those that do.

Each entity may have associated set up costs but could reduce these costs through sharing administration costs and/or office space with the PSGE and/or the other entities established by the PSGE. In the pro forma budget included in this report we have proposed that between \$43,000 and \$255,000 could be spent per annum on administration associated with running an office. In addition, the PSGE could contract specialist services such as legal advice and project management. Costs in the specialist services section of the pro forma budget are higher and fall between \$82,500 and \$500,000 per annum. However, not all of these services would be employed and the costs may vary.

Any entities a PSGE operates should attempt to find 100% of their operating costs. Entering into service contracts such as providing iwi social services or completing compliance activities may help to secure this funding.

8.2.2 Iwi Functions

Representing the iwi at national and international forums and attending hui may still involve collaboration and co-operation with other iwi, but a PSGE could begin to focus on tribal development.

A PSGE may decide to focus on iwi functions and programmes of tribal development once governance has been set up and it's companies are commercially viable. Tribal development can include education scholarships, business mentoring, and a focus on health, education and employment.

Grants can be provided for a range of activities from supporting local schools to the upkeep and support of marae. Grants can help to meet social needs as well as development priorities and can vary in amount and frequency. In the pro forma budget included in this report we have proposed between \$50,000 and \$200,000 could be spent on grants per annum. However, grants are an additional activity and a PSGE may choose to delay allocating grants for a few years post settlement.

8.2.3 Statutory and Treaty Partner Functions

A small to medium-sized iwi with a settlement redress of \$10 to \$15 million may not have the expertise or capability to get actively involved in resource management and the resource consent process. However, as mentioned in a previous section this is an additional activity and an iwi may choose to develop expertise and build capability in this area.

Initially an iwi might nominate a person to oversee resource consent matters on a part-time and/or voluntary basis. However, once capability and expertise has been built in this area ideally the PSGE would employ a person full-time as a resource manager and potentially build this area into an entity of the PSGE.

Once expertise is built in this area, then a PSGE could start to look at developing an iwi management plan and getting actively involved in resource management. For example, a PSGE could start to look at a state of the environment plan, begin to get involved in annual and long-term council planning, and work on cultural impact assessments. It could also start to work with iwi liaison officers at a local government level, and have representatives on decision-making bodies at a local and central government level.

In addition to building expertise, the PSGE could take a more active role as a treaty partner by entering into Memorandums of Understanding or similar documents with central government and other agencies, and actively monitor if the conditions of these agreements are being upheld.

8.3 Case Study Three

Similar to the other case studies discussed, a PSGE in case study three will need to function as a business, represent an iwi, and work closely with central and local government. It will also need to use the settlement redress to build assets and the human and cultural capital of the iwi, and generate an income.

For an iwi with a settlement redress over \$15 million, the cost of governance and compliance will continue to be an issue. How a PSGE operates as a business and the level of service it provides

will continue to vary between claimant groups, but a PSGE with a settlement redress over \$15 million is more likely to complete most of the functions discussed in this report.

8.3.1 Business Functions

For an iwi with a settlement redress over \$15 million, governance costs could be paid by the companies established by the PSGE. These companies, similar to case study two, would be set up to receive, control and supervise commercial assets on behalf of the iwi, and build commercial capability. In addition to establishing the governance structures and business functions of the PSGE, an iwi in this case study could regularly review and improve the governance and business structures put in place, build capability through professional development, and become a preferred employer.

To ensure ongoing efficient management, an iwi in this case study could review the governance structure of the PSGE at regular intervals, making recommendations and putting new structures in place. Members of the board could also receive governance training to ensure they have a skill set relevant to their role, and a policy and procedure booklet could be created to provide board members with guidance. Organisational reviews could also be completed of the entities operated by the PSGE.

Policy and procedure manuals could also be developed for areas such as human resources, health and safety, risk management or financial planning and management. The PSGE and its entities could also focus on becoming a preferred employer by providing competitive salaries. As a preferred employer, a PSGE would want to leverage the skills, experience, and capability of staff internally, build on these areas as well as offer professional development and training.

An iwi with a settlement redress over \$15 million could also look at employing managers to work in specialist areas such as an asset manager, business development manager, and resource manager. In the pro forma budget attached to this report we have budgeted salaries between \$50,000 and \$100,000 for each of these positions.

The asset manager could administer and grow any assets that the iwi has such as land, forestry, fisheries, horticulture and agriculture, or lakes and rivers. Ideally this person would have developed expertise relevant to the rohe, a broad knowledge of the issues in this area, and an awareness of the potential opportunities to grow these assets. The asset manager would also be involved in expanding the influence of the iwi and growing the asset base of the PSGE.

The business development manager could be involved in developing local businesses, providing business mentoring services, and identifying and developing business opportunities within the

rohe and further afield. This role may also involve setting up new companies on behalf of the PSGE. The companies that could be established will depend on the resources available to the iwi but could include electricity generation through wind farms or hydro, or tourist ventures such as interpretative walks and tours. These companies may have been identified as part of the goals of the iwi and built into strategic or five year plans.

Improving the capability of the iwi through mentoring may also involve working in the areas of health and well-being, and education and training. This education and training could involve mainstream institutes as well as marae based education to promote and support life long learning.

The resource manager could take an active role in working with local and central government on resource management and development issues. This role could involve developing resource management plans, and planning and completing environmental projects. It may also involve managing the statutory acknowledgements and protocols established in the Deed of Settlement as well as actively engaging in matters relevant to the Resource Management Act 1991, the Local Government Act 2002, the Resources Act 1987, the Conservation Act, the Historic Places Act, and any other relevant legislation.

The resource manager could engage in environmental projects such as researching the geography and population of the iwi, and look at other issues like flood control and the potential restoration of area or properties returned to the iwi. They could also begin to look at the effectiveness of central government agencies in monitoring and controlling pests and species, and the maintenance of specie numbers.

8.3.2 Iwi Functions

Building expertise and capability also includes building the tribe. For example, rebuilding of a whare could involve a carving team lead by senior carvers who work on restoration of the carving work of the whare as well as new carvings. In this situation, a PSGE could not just provide the money to maintain the marae but give people the opportunity to learn skills and knowledge.

An iwi with a settlement redress over \$15 million could also become involved in health and social services; employing social workers, youth workers and careers advisors to inspire and motivate members of the iwi as well as promote self-determination. Health and social services established by the PSGE could also work with local schools and focus on strengthening the reo, kawa, and tikanga of the tribe.

8.3.3 Statutory and Treaty Partner Functions

It is important that a PSGE builds organisational capability in the area of resource consents and management as this can lead to active involvement by the iwi in the monitoring and managing of cultural assets, the exploration of the potential for cultural redress of other sites, and representation on environmental working groups. An iwi with a settlement redress over \$15 million can become actively involved in the management of species, restore access to traditional food and gathering areas, and provide advice on management and customary interests to advisory committees.

As discussed earlier, the appointment of a resource manager is one way to actively engage in this area, another is to establish a resource management unit to deal with resource consents and resource management. This unit could vary in size from one full-time employee to a manager, several employees, and office staff. This unit could operate as a research and consulting firm, charging for their involvement in the RMA process as well as receive funding from the PSGE.

This unit could also potentially allow an iwi to lead it's own development and align itself with government strategies, further enabling a PSGE to be economically sustainable, and a settlement redress to have intergenerational relevance.

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