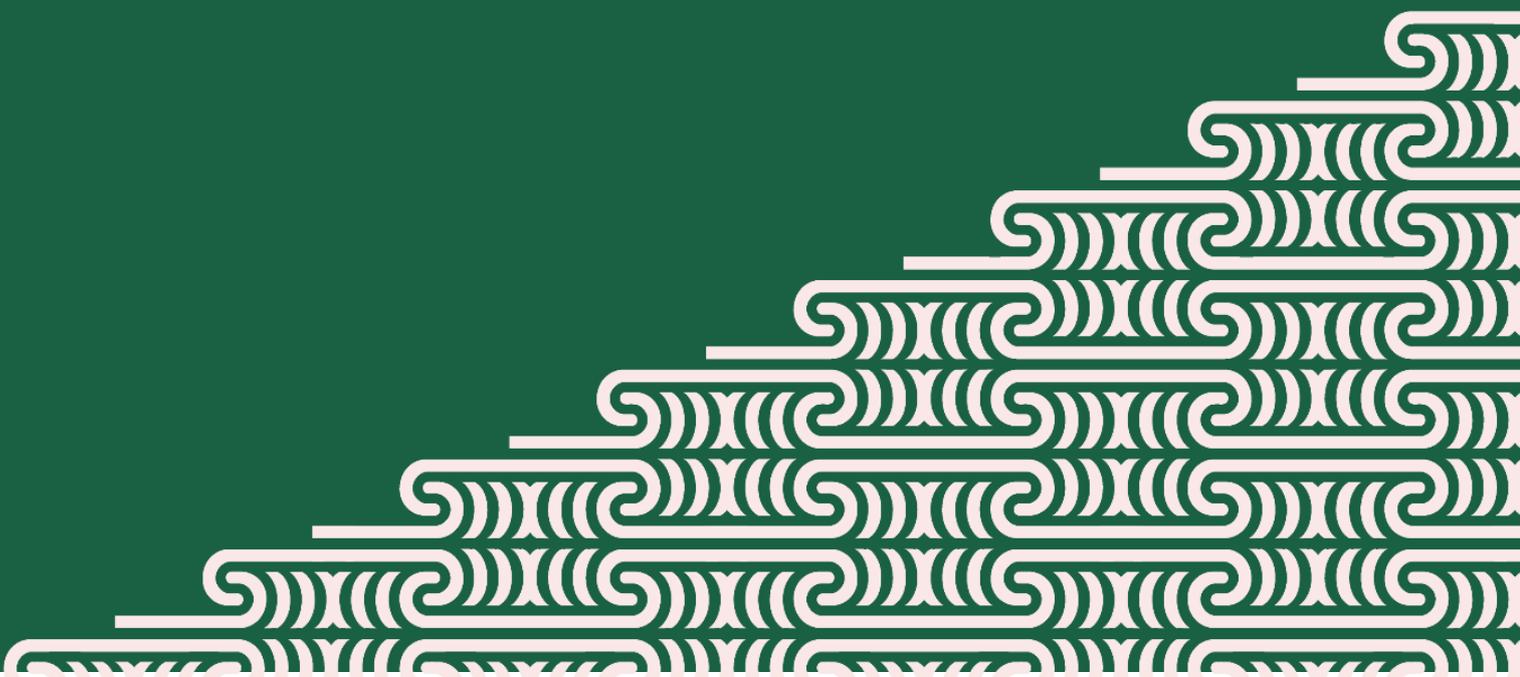


Vote Te Arawhiti

2023 Briefing to the Incoming Minister for
Treaty of Waitangi Negotiations



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Mihi

E te manu kākākura, tēnā koe.

Nau mai ki tō mahi nui o Aotearoa whānui, ā, ko te whakahonohono, ko te whakawhanaunga i a tāngata whenua ki a tāngata Tiriti o te waonui a Tane.

Ko koe te māngai o te Karauna ki ngā iwi huri noa i te motu.

Nau mai tō kaha, nau mai tō māia, nau mai tō manawanui ki te āpōpō e tatari mai nei mou.

Your role as the Minister for Treaty of Waitangi Negotiations

This briefing provides you with a broad overview of the Treaty of Waitangi Negotiations portfolio and Te Arawhiti's role to help situate you in your role. We will provide you with further detailed briefings on key issues and can provide any additional briefings at your request.

As the Minister for Treaty of Waitangi Negotiations, you support the Māori Crown relationship by overseeing the negotiation and settlement of historical (pre-1992) Treaty of Waitangi/Tiriti o Waitangi (Treaty) claims.

You are responsible for certain appropriations in Vote Te Arawhiti. All other appropriations in Vote Te Arawhiti are the responsibility of the Minister for Māori Crown Relations: Te Arawhiti.

An overview of Vote Te Arawhiti is provided at **Appendix A**.

Te Arawhiti looks forward to discussing this advice with you.

Your role in Māori Crown relations

Treaty settlements are fundamental to restoring the Māori Crown relationship. When overseeing Treaty settlement negotiations, you collaborate closely with a number of your Cabinet colleagues and Ministers responsible for other agencies.

Your work supports the work of the Minister for Māori Crown Relations. The portfolios are distinct but complementary. The restoration of relationships achieved through the Treaty settlements programme provides the platform for the work of the Minister for Māori Crown Relations. The Minister for Māori Crown Relations is responsible for ensuring the Crown meets its settlement commitments and grows its ability to work with Māori, and provides strategic leadership and advice to ensure policy decisions deliver positive Māori Crown outcomes.

You also act as a spokesperson for Treaty settlements on behalf of the government. This work sees you engaging with hapū and iwi leaders across the country. The Office for Māori Crown Relations – Te Arawhiti (Te Arawhiti) supports you in this work.



The Māori Crown relationship context

The Treaty of Waitangi was signed in 1840 between the Crown and iwi/hapū. Today the Treaty helps to guide the relationship between the Crown and Māori. Māori have told the Crown for generations that the promise of the Treaty has been repeatedly dishonoured. These Treaty breaches have led to low trust in the Crown and have deeply affected the Māori Crown relationship.

Settling historical Treaty claims has been (and remains) critical to restoring the Māori Crown relationship. The Crown is closer than ever to settling all historical claims with 100 deeds of settlement signed and approximately 38 deeds of settlement remaining with 28 already being progressed. Settling historical Treaty breaches establishes a more solid foundation for the Crown's relationship with Māori, and supports whānau, hapū, and iwi to play a more active role in their tribal affairs and in wider society. Māori organisations hold significant land and assets – the Māori economy has recently been estimated to be worth \$68.7 billion (previously estimated at \$42.6 billion in 2013).¹ Treaty settlements have been a big contributing factor to Māori economic growth.

As more settlements are completed, the task of monitoring and ensuring the durability of the Crown's Treaty settlement commitments has become more pressing. Post-settlement issues are arising constantly and need to be addressed by the Crown in order to uphold the commitments made, ensure durability of settlements into the future and mitigate any potential delivery issues going forward. Not doing so is a relationship risk, a legal risk and a financial risk.

With the Treaty settlements programme moving closer towards completion, the focus of the Crown and Māori has shifted towards the future of the relationship. This shift has resulted in increased Crown engagement with Māori on a broad range of government reform programmes, particularly in relation to their practical effects in Māori communities. These factors have highlighted an opportunity for the Crown to improve its decision making, assure decisions will practically work, and to deepen its understanding of Māori expectations and aspirations.

The Courts and the Waitangi Tribunal are being asked to scrutinise an increasing range of issues that raise Māori rights and interests, and tikanga as a source of law. Consequently, the Crown is being asked to respond to these often-wide-ranging legal challenges, with many outside of the historical Treaty settlements context – for instance, with the Waitangi Tribunal's Kaupapa Inquiry programme,² and recent cases like *Stafford/Wakatū Incorporated* or *Ngāi Tai ki Tāmaki Tribal Trust v Minister of Conservation*. Experience has shown that

¹ Ministry of Foreign Affairs – Māori Engagement and Interests in Trade: www.mfat.govt.nz/en/trade/trade-engagement-with-maori/

² Kaupapa Inquiries are thematic and deal with nationally significant issues affecting Māori as a whole.



co-ordination across agencies in responding to these challenges is critical. Te Arawhiti finances and fronts a number of these pieces of litigation on behalf of government.

These features are now part of the Māori Crown relationship landscape and are critical contextual factors for your role and for the role of Te Arawhiti.

Te Arawhiti establishment, role and strategy

Te Arawhiti establishment

The Crown/Māori Relations Ministerial Portfolio was established in 2017 in recognition of the need to shift the relationship between Māori and the Crown from one based solely on historical grievance to one focussed on the future.

In April and May 2018, the Minister for Māori Crown Relations led an engagement process with Māori and the wider public on the initial scope of the portfolio. A strong element of feedback from that consultation was that the Minister and Māori Crown relationships more generally deserve to be served by an agency with a focus on upholding Crown commitments and supporting the Māori Crown relationship across its breadth and depth.

In December 2018, The Office for Māori Crown Relations – Te Arawhiti was established through legislation as a departmental agency³ hosted by the Ministry of Justice, bringing together the previous Office of Treaty Settlements (including the Takutai Moana team), and Settlement Commitments Unit (Te Kāhui Whakamana), alongside the newly established Te Kāhui Hīkina (Crown Māori Relations Unit).

Te Arawhiti's establishment signalled a change in the Crown's understanding of its Treaty obligations – as a relationship that requires ongoing investment, rather than just a set of wrongs to be settled. Our establishment recognised the opportunity that good faith engagement with Māori presents – effective engagement is critical to producing better quality outcomes. It also responded to the increasing need to monitor and ensure the durability of Treaty settlements as they are completed.

Te Arawhiti work to date

Te Arawhiti has worked hard to deliver its functions and has achieved significant milestones. We have provided strategic influence; sustained, brokered and built relationships; developed legislative, policy and decision-making mechanisms; provided practical engagement and financial support in response to crisis events; and contributed to a wide and varied range of work across government (often going over and above the delivery of our core functions).

Te Arawhiti has had the privilege of establishing close working relationships with all iwi through Treaty settlements (which have enjoyed over 30 years of bipartisan support), takutai

³ A departmental agency is an operationally autonomous agency hosted by a Public Service department.



moana, and post-settlement work. When things go wrong in the Māori Crown relationship, or where Māori lack trust or confidence in the Crown, Te Arawhiti has been a familiar and reassuring face of the Crown with the skills to help broker solutions to difficult situations. We are the first port of call for agencies, iwi, and ministers when issues require experience, knowledge, and workable, practical solutions. For example, through its relationships, Te Arawhiti was the only agency able to quickly bring together iwi, national Māori organisations, and agencies during COVID-19 and recent adverse weather events.

Te Arawhiti is well placed to continue to evolve in response to the priorities of government and the aspirations of Māori.

Te Arawhiti strategic framework

The Ministers for Māori Crown Relations: Te Arawhiti and Treaty of Waitangi Negotiations reported to Cabinet on 1 August 2023 on Te Arawhiti’s future priorities, workplan and next steps [CAB-23-MIN-0337 refers]. This included a refreshed strategic framework that confirms the original vision of Te Arawhiti when it was established: to realise the true promise of the Treaty of Waitangi for all New Zealanders ahead of the 200-year anniversary of its signing in 1840.

The framework sets out three foundations (pou): to restore, sustain and grow the Māori Crown relationship. It establishes three new associated medium-term outcomes and five work programme priority areas:





Restore Māori Crown relationships

Te Arawhiti supports you to achieve fair and durable settlements that contribute to the cultural, social and economic development of Māori. The outcome sought from this work is that the Crown addresses breaches and obligations under the Treaty and seeks to restore its relationships with Māori after breaking its promises.

Your role as the Minister for Treaty of Waitangi Negotiations is particularly important in helping to restore Māori Crown relationships. To build closer relationships with Māori today, the Crown must acknowledge and address past breaches of the Treaty. By addressing these issues, we can support better outcomes for Māori, restore the Crown's honour and move forward with renewed relationships built on trust and confidence.

The Treaty settlements framework is the Crown's policy framework for addressing historical Treaty/Tiriti claims. It is published online in what is known as the Red Book – 'Ka tika ā muri, ka tika ā mua — Healing the past, building a future'. While settlement policies have evolved over time, the framework is substantially the same and remains focussed on settling claims in a way that is fair, durable and final.

Sustain Māori Crown relationships

The settlement of historical Treaty claims is not the end of Crown obligations under the Treaty – it marks the restoration of relationships between Māori and the Crown and recognises that the obligations flowing from the Treaty and negotiated settlements are ongoing. The outcome sought here is that the Crown delivers on its promises and responsibilities through its actions, policies and practices.

The Minister for Māori Crown Relations holds primary responsibility for the work under this pou. Your work supporting the restoration of Māori Crown relationships is integral to the success of this work, however.

Grow Māori Crown relationships

This pou supports the changing shape of the Māori Crown relationship with a focus on the post-settlement era. With 14 deeds of settlement signed in the last six years, there are now 100 deeds of settlement – tipping the landscape into a post-settlement era, where there are increased expectations for the Māori Crown relationship.

Te Arawhiti maintains a strong, tested and trusted network of national and regional iwi connections, built over 30 years of working together. In this pou we acknowledge that iwi are long-term investors into their communities and as they progress through the post-settlement journey, there are opportunities for both parties to utilise these relationships to achieve better outcomes.



The Minister for Māori Crown Relations holds primary responsibility for this pou. As with the sustain pou, your work supporting the restoration of Māori Crown relationships is integral to the success of this work.

Te Arawhiti priorities

The updated strategic framework includes a focus on Te Arawhiti's five high-level priorities:

- We complete the settlement of all historical Treaty claims;
- We enable the recognition of customary takutai moana legislative rights;
- We enforce requirements on the Crown to meet its Treaty settlement commitments;
- We support the Crown to lift its performance to work with Māori to achieve better outcomes; and
- We are the strategic advisor to Cabinet, Ministers, and public service agencies to enable good policy decisions that uphold Māori rights and interests.

Further detail on our priorities and recent successes can be found in the Te Arawhiti 2022/2023 annual report, which can be found at:

www.tearawhiti.govt.nz/assets/Publications/Corporate/Ministry-of-Justice-Annual-Report-1-July-2022-to-30-June-2023.pdf

The make-up of Te Arawhiti

Te Arawhiti (approximately 189 FTE) is led by Tumu Whakarae (Chief Executive), Lil Anderson. The Tumu Whakarae is supported by five Executive Leadership Team members. The contact details of the Executive Team are set out at **Appendix B**.

Te Arawhiti comprises four kāhui and two hāpai:

- **Te Kāhui Whakatau** is responsible for negotiating Treaty settlements, implementing redress, and litigation regarding settlements and the resumption of land;
- **Te Kāhui Takutai Moana** supports fair, transparent and timely determination of applications to recognise customary marine titles and protected customary rights or activities under Te Takutai Moana Act 2011 and Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019;
- **Te Hāpai o Strategy, Policy, and Legal** provides policy and legal advice to Te Arawhiti business groups, advises the government on Treaty rights and interests and the Māori Crown relationship, and supports the Executive Leadership Team on organisational strategy;
- **Te Kāhui Hikina** leads Te Arawhiti's post-settlement forums, supports Crown agencies to make existing relationships work effectively and to broker new working



relationships with iwi, supports the Crown to lift its performance to work with Māori to achieve better outcomes, and leads the organisation of significant Māori Crown events e.g., Waitangi;

- **Te Kāhui Whakamana** works with the Crown and post-settlement iwi to safeguard the durability of historical Treaty settlements, and supports Crown agencies to resolve post-settlement issues; and
- **Te Hāpai o Organisational Services** supports Te Arawhiti to operate effectively. Its functions include finance, human resources, contracts and procurement, communications, business planning and reporting.

Your portfolio responsibilities

The following sections provide further detail on work programmes you hold primary responsibility for.

Settling historical Treaty of Waitangi claims

Te Arawhiti Treaty settlement work

Te Arawhiti negotiates the settlement of historical Treaty claims with all willing and able groups. An outline of achievements in the Treaty settlement work programme is provided below at page 9.

An overview of the settlement process is provided at **Appendix C**.

A snapshot of the current status of all historical settlements is provided at **Appendix D**.

What makes up a settlement

Settlements play an essential part in resolving grievances caused by the Crown's historical acts and omissions in breach of the Treaty.

Treaty settlements typically include Crown apology redress, cultural redress, and financial and commercial redress. Through settlements, the Crown acknowledges and apologises for its historical acts and/or omissions which breached te Tiriti o Waitangi/the Treaty of Waitangi and its principles, and that resulted in prejudice to claimant groups. For example, the Crown's breaches in warfare and raupatu/land confiscation have resulted in loss of tribal lands accompanied by loss of access to forests, waterways, food resources, wāhi tapu, and other taonga. These losses have also had significant socio-economic repercussions. Settlements can also provide opportunities for parties to address contemporary issues of concern to settling groups such as lack of involvement in decision-making on natural resources with which Māori have strong associations.



Although settlements tend to have the same core elements, importantly, the settlement framework allows for innovation with novel redress being developed to meet the specific aspirations of the settling group. The impact of each innovation must, however, be considered carefully as it is possible for major changes to the settlement framework to undermine a sense of fairness across all settlements and their durability.

The key benefits of settlements

Settlements can be transformative. They help to restore relationships between Māori and the Crown that have been strained by many years of grievance and the exclusion of Māori from meaningful participation in issues of deep significance to them. The negotiating table often presents the first opportunity for Māori to connect with Ministers and agencies across a spectrum of issues. The positive connections established through the negotiations between Māori and various levels of government present significant opportunities for rebuilding relationships to enable both parties to jointly define aspirations for the future and plan together accordingly.

Settlements can assist settled groups to become stronger and more resilient leaders in their communities. Settlements contribute to the cultural, social and economic development of Māori and, through the flow-on effects, to the development of communities and regions. They strengthen the capital of settled groups alongside existing Māori commerce and assets built up outside of settlements.

Balancing the timely completion of settlements with durability

Since the earliest settlements in the 1990s, successive governments have confirmed their commitment to the timely completion of Treaty settlements. Significant progress has been made.

In recent years, government has moved away from setting deadlines on the completion of Treaty settlements in recognition of the time required not only to work through the issues raised in negotiations but to do so in a way that is consistent with the overall aim to restore the relationship with the claimant group.

The Waitangi Tribunal has made a number of findings in recent years suggesting the Crown has been too intent on finalising settlements and has not taken sufficient time to resolve matters such as overlapping interests between Māori or to ensure there is widespread and ongoing support for the mandated entity representing a claimant group. Relationship quality and settlement durability are the primary drivers, rather than pace and 'just getting it done'. For example, experience has shown that prioritising speed at the mandate stage can create increased relationship and litigation risks. These risks can compromise both the timeliness and durability of settlements.

In seeking to resolve past wrongs, the Crown should not create new grievances. As a result of these findings, Te Arawhiti acknowledges the importance of taking the time to achieve durable settlements.

Current negotiation landscape



Working with public sector agencies

Negotiating Treaty settlements requires the active involvement of a wide range of agencies responsible for redress and for ongoing relationships with Māori. Te Arawhiti works collaboratively with agencies to deliver Treaty settlements and broker relationships with Māori.

You may need to raise matters with your Ministerial colleagues when agencies are unable to resolve differences (for instance, with the Minister of Finance in relation to settlement quantum, or the Minister of Conservation in relation to cultural redress).

The roles of agencies often engaged on Treaty issues are set out at **Appendix E**.

What has been achieved since 2020

We have signed a total of 100 deeds of settlement since the first Treaty settlements were negotiated in the early 1990s.⁵ Over the last three years, we have achieved 41 milestones. These encompass ten deeds signed, eight enacted pieces of settlement legislation, twelve settlement bills introduced, six deeds initialled, three agreements in principle signed and two

⁴ The Crown's policy is to negotiate settlements with what it calls 'large natural groups' – usually iwi or amalgamations of hapū groups, rather than with individual hapū or whānau.

⁵ The Crown has paid a total of \$2.738 billion in financial and commercial redress for Treaty settlements to date.



S 9(2)(j)

█ In December 2022, the Waitangi Tribunal released the first part of its Stage 2 Te Paparahi o Te Raki Inquiry (Wai 1040) report. The report affirmed its Stage 1 conclusion that rangatira did not cede sovereignty in signing the Treaty/te Tiriti and made a number of recommendations. █

S 9(2)(j)

The Ngāpuhi Investment Fund Limited – Tupu Tonu

The Ngāpuhi Investment Fund Limited (trading as Tupu Tonu) was established in 2020. Tupu Tonu is a Crown-owned company tasked with acquiring and developing a portfolio of high value assets for the Crown to offer to mandated Ngāpuhi groups in redress discussions. A portion of Tupu Tonu’s annual net cash investment returns is already being provided to Ngāpuhi hapū and whānau through a disbursements programme aimed at supporting activities relating to capacity and capability building, and social and cultural development.

You and the Minister of Finance are the shareholding Ministers of Tupu Tonu.

Natural resources – te ao tūroa

In response to iwi aspirations, Treaty settlements often include arrangements that recognise Māori relationships with, and responsibilities for, environmental taonga. These arrangements provide influence and mechanisms for Māori to participate in resource management decision making. Prominent examples include the arrangements relating to the Waikato and Whanganui Rivers, but almost every Treaty settlement interacts with the resource management system to some extent. No other sector, apart from conservation, has been so transformed by settlements.

Such arrangements are often vitally important components of Treaty settlements. They also support better environmental outcomes and help the resource management system work well for Māori communities.

The resource management system was comprehensively reformed in the last term of government, with the enactment of the Natural and Built Environment Act (NBA) and the Spatial Planning Act (SPA). The reforms were intended to improve resource management outcomes for Māori, but Treaty settlements will continue to include natural resource arrangements because:

S 9(2)(f)(iv), S 9(2)(g)(i)

Waitangi Tribunal's power of resumption

The Waitangi Tribunal has jurisdiction to make binding recommendations for the transfer to Māori of Crown Forest Licenced (CFL) land and land memorialised under section 27B of the State-Owned Enterprises Act 1986, to remedy prejudice caused by Crown Treaty/Tiriti breaches. This jurisdiction is commonly referred to as the Tribunal's 'resumption' jurisdiction. The Crown must also pay monetary compensation to recipients of CFL land.

S 9(2)(j)

Two current Waitangi Tribunal inquiries are considering binding recommendations. Te Arawhiti leads these cases on behalf of the Crown:

- **Mangatū CFL land** S 9(2)(j) This land was offered to the 'Māhaki cluster' of Gisborne-area groups as part of a comprehensive Treaty settlement. However, the settlement is paused while the groups seek the land and associated compensation through Tribunal binding recommendations. S 9(2)(h) however the claimants have appealed to the Court of Appeal. A hearing is scheduled for October 2024.
- **Ngāti Kahu memorialised and CFL land** S 9(2)(j) The Tribunal has chosen to hold a broad inquiry into unheard claims before considering binding recommendations. The process will involve Ngāpuhi groups as well as Ngāti Kahu in the Muriwhenua (Far North) inquiry district and is likely to take several years.

Unimplemented ancillary claims redress

In the 1990s, the Crown committed to redress in favour of ancillary claimants⁷ outside of the settlement packages for the benefit of the iwi or large natural group. There are several instances where this redress remains unimplemented. This includes:

- Section 14 of the Ngāi Tahu deed of settlement: Taiaroa Head;
- Section 15 of the Ngāi Tahu deed of settlement in relation to un-transferred South Island Natives Act 1906 (SILNA) lands, including:
 - Hāwea/Wānaka;
 - Toi Toi;
 - Port Adventure; and
 - Whakapoai; and
- Crescent Reserve (Ngāti Tūrangitukua ancillary claim).⁸

The two workstreams where there is an agreed process to implementation at this time are Hāwea/Wānaka SILNA and Crescent Reserve.

Hāwea/Wānaka SILNA

In 2023, Te Arawhiti and Te Puni Kōkiri are facilitating a voting process for Hāwea/Wānaka SILNA successors identified by the Māori Land Court. This process is to establish representation for the successors so they can engage with the Crown on issues associated with the substitute land committed to them under Section 15 of the Ngāi Tahu deed of

⁶ *Attorney-General v Waitangi Tribunal* [2023] NZHC 132.

⁷ The term "ancillary claimants" is defined in relevant deeds of settlement and typically refers to claims brought against the Crown by individual members or whānau of the settling group in contrast to collective group claims.

⁸ Ngāti Tūrangitukua Deed of Settlement; Ancillary Claims Deed; and Heads of Agreement between the Department of Conservation, Taupō District Council and Wai 13 & 20 whānau.



settlement and develop a proposal as to how the successors should receive and hold that land.

The outcome of the voting process is expected to be known by early December 2023, on the

S 9(2)(f)(iv)

Crescent Reserve

In August 2023, Te Arawhiti and the Department of Conservation (the responsible agency for implementation) met with the whānau to whom the Crescent Reserve was committed in 1998 to initiate Crown re-engagement and present to the whānau the proposed approach to transfer; being a deed of acknowledgement and vesting bill ready for introduction in 2024/25.

Te Arawhiti and the Department of Conservation will prepare advice for you to take to Cabinet on outstanding matters to finalise terms of transfer in 2024.

Other matters relevant to your portfolio

COVID-19 Recovery (Fast-Track Consenting) Act 2020

The COVID-19 Recovery (Fast-Track Consenting) Act 2020 (the Act) was enacted in 2020 to urgently promote employment growth and support economic recovery by providing for alternative 'fast track' processes for resource consent applications and confirming or modifying designations of land. The Act has since repealed but transitional provisions allow for applications started before the repeal date to continue progressing until completed. You have a role under the Act to provide comments on applications for resource consent. Your comments generally relate to which Māori groups ought to be consulted, and whether Treaty settlements negotiations are potentially affected by proposals. There are approximately 77 applications remaining which you may be required to provide comments on. Te Arawhiti will support you to respond to requests for your comment.

Other material to support you

This document provides you with a brief overview of your role as Minister for Treaty of Waitangi Negotiations. We will provide you with further detailed briefings on key issues and can provide additional briefings at your request.



Appendix A – Overview of Vote Te Arawhiti

(extract from Vote Te Arawhiti- The Estimates of Appropriations 2023/24 – Māori Affairs Sector B.5 Vol.7)

The Minister for Māori Crown Relations: Te Arawhiti is responsible for appropriations in the Vote (M98) for the 2023/24 financial year covering the following:

- nearly \$12 million for strengthening Crown capability and supporting significant events that demonstrate and strengthen the Māori Crown relationship; and
- a multi-year appropriation of over \$5 million for the three-year period from 2021/22 to 2023/24 for the costs associated with the Wakatū Litigation.
- over \$25 million for funding to address contamination issues at the Royal New Zealand Air Force Base Woodbourne in a specific post settlement context;

The Minister for Treaty of Waitangi Negotiations is responsible for appropriations in the Vote (M74) for the 2023/24 financial year covering the following:

- a multi-year appropriation of \$1,400 million for the four-year period from 2022/23 to 2025/26. This appropriation is for the settlement of historical Treaty of Waitangi claims and provides for the payment of redress through the transfer of assets (cash and property) from the Crown to claimant groups and for the payment of interest on the settlements;
- nearly \$37 million for the departmental expenses in settling historical Treaty of Waitangi claims and determining customary interests in the takutai moana (marine and coastal areas);
- over \$12 million for financial assistance to applicants to support determining customary interests in the takutai moana marine and coastal area;
- nearly \$8 million for claimant funding to support the settlement of historical Treaty of Waitangi claims;
- nearly \$2 million for the operations of Ngāpuhi Investment Fund Limited; and
- nearly \$1 million for financial assistance to support finalising transfer of ancillary redress.

Appendix B – Details of the Te Arawhiti Executive Team

Tumu Whakarae – Chief Executive	Lil Anderson	S 9(2)(a)
Deputy Chief Executive – Treaty Reconciliation and Takutai Moana	Tui Marsh	
Acting Deputy Chief Executive – Partnerships	Sheridan Smith	
Tumu-ā-tikanga	Mikaere Paki	
Deputy Chief Executive – Strategy, Policy and Legal	Warren Fraser	
Deputy Chief Executive – Organisational Support	Raymond Hall	



Appendix C – Key stages in Treaty/Tiriti settlement negotiations

Deed of mandate - The Crown recognises the right of the body mandated by the claimant community to represent that claimant community in negotiations with the Crown.

Terms of negotiation - Outlines the 'ground rules' and objectives for the negotiations.

Agreement in principle - A non-binding agreement reached between the Crown and the mandated body which outlines, at a high-level, all redress proposed to settle claims. Technical and drafting details are agreed during the deed of settlement and legislation stages.

Initial a deed of settlement - Sets out in technical detail the historical claims and the redress agreed between the Crown and mandated body. For the purposes of the Crown's internal accountancy this is the point at which the value of the settlement is counted against the multi-year appropriation.

Ratification - During ratification, the claimant community has the opportunity to vote on the final Crown offer as set out in the initialled deed of settlement. At this stage, the claimant community often also votes on the proposed post-settlement governance entity to receive, hold, and manage settlement redress on their behalf.

Sign a deed of settlement - The mandated body, the post-settlement governance entity and the Crown sign the final deed of settlement when the claimant community has accepted, by ratifying, the deed of settlement as settling all their historical claims. The deed of settlement is given effect through legislation.

Legislation - The Crown (Parliamentary Counsel Office) drafts a Treaty Claims Settlement Bill for introduction to Parliament. This legislation is agreed to by settling groups and gives effect to the ratified deed of settlement. It also authorises settlement redress, as relevant, to transfer to the ratified post settlement governance entity.

Appendix E – Treaty/Tiriti sector agencies

The following agencies support Te Arawhiti and play key roles in Treaty/Tiriti settlements via:

The Treasury

Advises on overall fiscal management of settlement processes, consistency with wider regulatory and policy frameworks and assessment of fiscal risks to the Crown for settlement redress options.

Te Puni Kōkiri

Advises on mandating, authority under Te Takutai Moana Act 2011, ratification and governance issues with Te Arawhiti, and also monitors Crown actions in response to Waitangi Tribunal recommendations.

Department of Conservation

Advises on issues affecting conservation land (which is frequently transferred to Māori as redress), and flora and fauna. It commonly accepts long-term implementation obligations including a variety of relationship arrangements.

DOC is responsible for abandoned structures under Te Takutai Moana Act 2011.

Ministry for Primary Industries

Advises on commercial and non-commercial fisheries issues, primary sector and bio-security issues.

Department of Internal Affairs

Advises on issues affecting local government, in particular on arrangements for involving Māori in the management of natural resources where management is delegated to local authorities.

Ministry for the Environment

Advises on resource management and environmental issues. The Ministry for the Environment is one of the key agencies involved in developing new arrangements for involving Māori in natural resource management, as part of settlements.

Land Information New Zealand

Advises on Crown landholding issues, including Public Works Act 1981 issues and on the transfer of title. LINZ also negotiates the provision of areas of Crown land as redress and holds and manages CFL land until it can be returned as redress. The New Zealand Geographic Board facilitates place naming redress.

LINZ also manages the Treaty Settlements Land Bank.

LINZ is responsible for reclamation of land in the coastal marine area under Te Takutai Moana Act 2011.

Ministry for Culture and Heritage

Advises on culture and heritage matters, including the custody, care and ownership of newly-found taonga.

Ministry of Education

Advises on issues affecting school sites and other education property. The Ministry of Education also provides education land as redress and negotiates agreed leases for these sites.

Crown Law Office

As and when required, advises Te Arawhiti on legal issues, represents the Crown at the Waitangi Tribunal and represents the Crown in applications to the High Court under Te Takutai Moana Act 2011 for 'recognition orders.'

Parliamentary Counsel Office

Drafts settlement legislation and legislation recognising customary rights under Te Takutai Moana Act 2011.

Other Agencies

Other government agencies that are key stakeholders with regard to Treaty/Tiriti settlements are the Ministry of Business, Innovation and Employment, Inland Revenue, the Department of Corrections and the Department of the Prime Minister and Cabinet.

Other agencies, including the Ministry of Justice, New Zealand Police and the Ministry of Defence, often provide properties for purchase and sometimes sale and leaseback.

Independent Organisations

Independent agencies also contribute to the resolution of historical Treaty/Tiriti claims. These include:

Waitangi Tribunal

An independent permanent commission of inquiry charged with making findings and recommendations on claims brought by Māori that the Crown has breached the principles of the Treaty/te Tiriti. Its members are appointed by the Governor-General on the recommendation of the Minister for Māori Development in consultation with the Minister of Justice. The Tribunal is supported by the Ministry of Justice.

Crown Forestry Rental Trust

Receives rental proceeds from CFL land on which Crown Forest Assets are located and makes the interest earned from the investment of these proceeds available to assist Māori in the preparation of claims before the Waitangi Tribunal that involve CFL land.

Local Government

Local government does not form part of the Crown but plays a pivotal role in redress providing for the involvement of Māori in natural resource management.

Landcorp

Landcorp land is sometimes considered for use in Treaty/Tiriti settlements where this land is of strong cultural significance to a claimant group.

Appendix F– Glossary of Māori terms

Kāhui	Team
Hīkina	To lift, support
Whakatau	To settle, confirm
Whakamana	To uphold, adhere
Hāpai Ō	Support
Tumu Whakarae	Chief Executive
Wāhi tapu	Sacred place, sacred site
Taonga	Property, goods, possession, effects
Raupatu	to conquer, overcome, take without any right
Hapū	Sub-tribe
Takutai Moana	Foreshore and seabed
Kaupapa	Topic, theme
Te ao Māori	Māori world
Pākehā	not of Māori descent
Mana tuku iho	Inherited right or authority derived in accordance with tikanga ⁹

⁹ As defined in section 9 of the Marine and Coastal Area (Takutai Moana) Act 2011



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