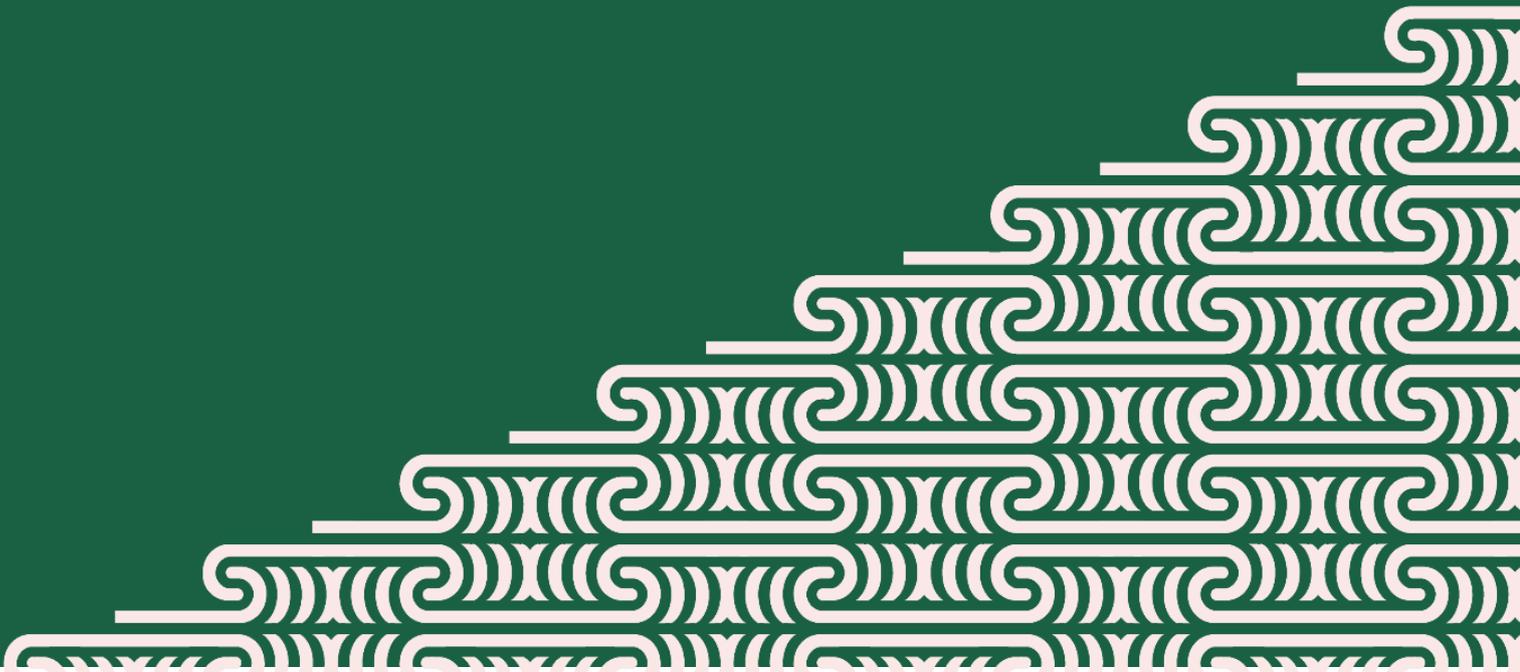


# Vote Te Arawhiti

2023 Briefing to the Incoming Minister  
responsible for Takutai Moana legislation



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## Mihi

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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 aunga o Hinemoana.

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 responsible for Takutai Moana legislation

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This briefing provides you with a broad overview of your portfolio responsibilities 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.

You are responsible for progressing applications with iwi, hapū, and whānau under the Marine and Coastal Area (Takutai Moana) Act 2011 (Te Takutai Moana Act 2011) and Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019. This role has historically been held by the Minister for Treaty of Waitangi Negotiations.

Appropriations in Vote Te Arawhiti are currently the responsibility of the Minister for Treaty of Waitangi Negotiations and Minister for Māori Crown Relations: Te Arawhiti. You are responsible for decisions outlined within Vote Te Arawhiti that relate to Takutai Moana legislation. 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

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Recognising Māori customary interests is fundamental to restoring the Māori Crown relationship. Through recognising and upholding customary interests in the takutai moana, you collaborate closely with a number of your Cabinet colleagues and Ministers responsible for other agencies.

Your role, alongside the work of the Minister for Treaty of Waitangi Negotiations, supports the work of the Minister for Māori Crown Relations. The portfolios are distinct but complementary. The recognition of customary interests, alongside the Treaty settlements work 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, grows its ability to work with Māori, and provides strategic leadership and advice to ensure policy decisions deliver positive Māori Crown outcomes.



## The Māori Crown relationship context

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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).<sup>1</sup> 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.

In 2003 the Court of Appeal decision in the *Ngāti Apa v Attorney General* case brought to the forefront the issue of customary ownership of the foreshore and seabed. This was the start of what was to result in Te Takutai Moana Act which established the mechanism for the Crown to recognise and provide for the rights and interests of whānau, hapū, and iwi in the marine and coastal area. While this remains a contentious process (with recent commentary coming from the Waitangi Tribunal), there is opportunity for the Crown to improve the process and enable the timely recognition of customary rights.

With the Treaty settlements programme moving closer towards completion, and a process to recognise customary takutai moana rights established, 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.

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<sup>1</sup> Ministry of Foreign Affairs – Māori Engagement and Interests in Trade: [www.mfat.govt.nz/en/trade/trade-engagement-with-maori/](http://www.mfat.govt.nz/en/trade/trade-engagement-with-maori/)



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,<sup>2</sup> and recent cases like *Stafford/Wakatū Incorporated* or *Ngāi Tai ki Tāmaki Tribal Trust v Minister of Conservation*. Experience has shown that 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**

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### **Te Arawhiti establishment**

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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 agency<sup>3</sup> 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.

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

<sup>3</sup> A departmental agency is an operationally autonomous agency hosted by a Public Service department.



## Te Arawhiti work to date

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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 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

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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

Restoring Māori Crown relationships through Treaty settlements and the recognition of customary rights in the marine and coastal area establishes a more solid foundation for the Crown's relationship with Māori. It enables groups to play a more active role in their tribal affairs and in wider society. 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.

In your role, you hold central responsibility for Te Takutai Moana Act 2011 and Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019 (the Takutai Moana legislation). The Takutai Moana legislation sets out a framework to protect the interests of all New Zealanders in the marine and coastal area. It recognises the inherited rights or authority derived in accordance with tikanga exercised in the marine and coastal area by iwi, hapū, and whanau as tangata whenua. It also provides for the legal expression of customary interests through determinations of customary marine title (CMT) and protected customary rights (PCR).

The takutai moana legislation provides two pathways for the recognition of customary interests: either through direct engagement with the Crown, or by application to the High



Court. The administration of the Act requires you to make determinations of those customary interests under the Crown engagement pathway.

## Sustain Māori Crown relationships

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The settlement of historical Treaty claims and recognition of customary rights 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

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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

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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](http://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

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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 Takutai Moana** supports fair, transparent and timely determinations 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 Kāhui Whakatau** is responsible for negotiating Treaty settlements, implementing redress, and litigation regarding settlements and the resumption of land;
- **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

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

### Recognising customary rights in the takutai moana (common marine and coastal area)

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You are responsible for Te Takutai Moana Act 2011 and Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019 (collectively referred to as the takutai moana legislation) Te Arawhiti supports you by administering all applications made for recognition of customary interests in the takutai moana.

#### Te Takutai Moana Act 2011

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Te Takutai Moana Act 2011 repealed and replaced the Foreshore and Seabed Act 2004 which vested the public foreshore and seabed in the Crown. Under Te Takutai Moana Act, the common marine and coastal area became a new category of land which has 'special status', owned neither by the Crown nor any other person. The purpose of the Act is to:

- (a) establish a durable scheme to ensure the protection of the legitimate interests of all New Zealanders in the marine and coastal area of New Zealand; and
- (b) recognise the mana tuku iho exercised in the marine and coastal area by iwi, hapū, and whānau as tangata whenua; and
- (c) provide for the exercise of customary interests in the common marine and coastal area; and
- (d) acknowledge the Treaty of Waitangi (te Tiriti o Waitangi).

#### Recognition of customary interests

The takutai moana legislation enables applicant groups – whānau, hapū and iwi, to apply to have their customary interests in the common marine and coastal area legally recognised in two ways: customary marine title (CMT) and protected customary rights (PCR).

If an applicant has their customary marine title recognised, they may exercise specified rights in relation to their customary marine title area, including:

- the right to say yes or no to certain activities that need resource consents or permits (RMA permission right);
- the right to seek recognition of wāhi tapu and wāhi tapu areas and restrict access if necessary (a wāhi tapu protection right);
- the right to ownership of minerals other than petroleum, gold, silver, uranium and, if the Ngai Tahu (Pounamu Vesting) Act 1997 applies, pounamu; and

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- the right to create and lodge a planning document for management of natural and physical resources, which then must be taken account of by local authorities and relevant government agencies.

Customary marine title cannot be sold. Public access, fishing and other recreational activities in a customary marine title area are unaffected (except for some lawful restrictions, including for the protection of wāhi tapu and wāhi tapu areas).

If protected customary rights are recognised, the protected customary rights group may carry out the protected activity without the need to have a resource consent. Local authorities cannot grant resource consents for any activity that would have an adverse effect on the exercise of the protected customary right (with some exceptions).

### Two pathways

The Act provides for two ways for whānau, hapū, and iwi to apply to have their customary rights recognised under the Act; either through direct engagement with the Crown (the Crown engagement pathway) or by application to the High Court (the High Court pathway). You are responsible for making these determinations in the Crown engagement pathway.

The Act sets out the tests for CMT and PCR. You must be satisfied that the evidence establishes that the applicant group holds the area in accordance with tikanga; they have exclusively used and occupied the area from 1840 to the present day without substantial interruption, and that customary interests have not been extinguished as a matter of law.

For rights to be recognised the tests must be met. The tests are the same whether the application has been made to the Crown or the High Court.

As the responsible Minister, you may enter into a recognition agreement with an applicant group if you are satisfied the group has met the tests for recognition of CMT or PCR as set out in the Act. Recognition agreements for CMT are given effect through an Act of Parliament. Recognition agreements for PCR are given effect through an Order in Council.

### Applications

The statutory deadline for applications under the takutai moana legislation was 3 April 2017. Applicants were given the option of choosing which pathway they wished their applications to be considered under. 580 applications were received. A breakdown of the applications shows that:

- 30 applicants indicated a preference to seek a High Court decision only;
- 206 applicants indicated a preference to seek a ministerial decision only; and
- 172 applicants applied under both pathways. Dual pathway applicants have the option of progressing their application down either pathway.



## Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019

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The Nga Rohe Moana o Nga Hapū o Ngāti Porou Act 2019 (the 2019 Act) gave effect to agreement reached by the Crown and Nga hapū o Ngāti Porou under the Foreshore and Seabed Act 2004. Ngāti Porou were the only group to negotiate and reach a deed of agreement with the Crown (the Deed) under the Foreshore and Seabed Act 2004.

The Deed gives legal expression to, and protection and recognition of, the mana of ngā hapū o Ngāti Porou in relation to their rohe moana as unbroken, inalienable, and enduring. The Deed was amended in 2017 to reflect changes in legislation including the enactment of Te Takutai Moana Act 2011.

The 2019 Act was passed to give effect to Crown commitments in the amended Deed and provides the framework for recognition of customary interests within ngā rohe moana.

The 2019 Act applies to all hapū of Ngāti Porou who ratified the amended Deed and are represented by seven management arrangement trusts. Applications for recognition of customary interests by hapū of Ngāti Porou who did not ratify the amended Deed and/or are not represented by a management arrangement trust remain under Te Takutai Moana Act 2011.

The statutory tests for recognition of customary interests under both Te Takutai Moana Act 2011 and the 2019 Act are the same. As with te Takutai Moana Act 2011, you are responsible for recognising customary interests on behalf of the Crown. You must first be satisfied the hapū have met the statutory tests for recognition of CMT or PCR (called protected customary activities in the 2019 Act). If you decide to recognise their CMT or PCR, recognition is given effect through Orders in Council.

## Takutai Moana Engagement Strategy

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You are responsible for the implementation of the Takutai Moana Engagement Strategy agreed to by Cabinet in 2021. The strategy enables Te Arawhiti to engage with all whānau, hapū and iwi applicants across 20 coastal areas. The intention of the strategy is to achieve the fair, transparent and timely determination of applications under the takutai moana legislation.

Cabinet agreed that engagement with applicant groups would be collaborative and focus on building an understanding of the relevant tikanga, preparing the historical research and evidence needed to meet the legal tests for recognition, and working through shared or overlapping interests. Cabinet also agreed that support from Te Arawhiti will be available to all applicant groups, irrespective of whether recognition is being sought from the High Court or from the Crown.

Te Arawhiti also supports the implementation of the engagement strategy by administering funding, preparing third party historical research, collating progress information in our client



management system, Te Kete Kōrero o ngā Kaitono a Te Ture Takutai, and providing maps through our information hub, Te Kete Kōrero a Te Takutai Moana.

Under the High Court pathway Te Arawhiti also provides instructions and information to the Crown Law Office for hearings and related case management, judicial conferences, and appeal proceedings. Te Arawhiti supports the Attorney-General in the High Court through third party historical research and geospatial mapping to hearings.

Last year, Te Arawhiti supported over 200 applicant groups to progress their applications for customary interests. We provided applicants with information to understand the process of the respective pathways, administered \$10.8million of financial assistance, and delivered third party historical research reports across 5 coastlines in advance of High Court hearings or those applicants progressing through the Crown engagement pathway.

### Upcoming work

We are currently improving the policy settings for the Crown engagement pathway, taking on board learnings from our engagement to date with Ngā Hapū o Ngāti Porou and Ngāti Koata to reflect the jurisprudence of the High Court and Waitangi Tribunal.

We will provide you further information on an unintended problem with the legislation arising from the operation of the two pathways, referred to as the dual pathways issue. The Takutai Moana Act provides no way for CMT to be recognised in both pathways where applications overlap. Currently the decision maker in each pathway cannot make a determination on applications that have been made in the other pathway. This leads to a risk that recognition in one pathway effectively deprives groups in the other pathway, to the extent their applications overlap, of having their customary interests recognised. **s 9(2)(f)**

**(iv) and**  
**s 9(2)(g)**  
**(i)**  
[Redacted text block]

It is important that through these processes, relationships with whānau, hapū and iwi are sustained and built upon. Te Arawhiti also works to ensure that New Zealanders understand the relationships between public interests and customary interests under the takutai moana legislation. This is done through public consultation processes in the assessment of applications, which provide opportunities for the public to provide information on their interests to be considered in decision-making.

### Te Kete Kōrero o ngā Kaitono a Te Ture Takutai – client management system

Te Kete Kōrero o ngā Kaitono a Te Ture Takutai (Kōrero Kaitono) is a client management system developed to help Te Arawhiti support applicants under the takutai moana legislation. The system improves the way we hold and manage data related to our applicant



groups and their applications. It also allows us to monitor, report and better understand where and how applicants are making progress and where we may need to focus our future effort and engagement.

### **Takutai moana financial assistance scheme**

Te Arawhiti administers the takutai moana financial assistance scheme which supports applicant groups by contributing to the costs of progressing applications for recognition of customary interests under the takutai moana legislation. You and the Minister of Finance have joint responsibility for the scheme.

In February 2022, Cabinet agreed fundamental changes to the policy settings for the scheme following a comprehensive review by Te Arawhiti and relevant findings and recommendations by the Waitangi Tribunal in its Wai 2660 Stage 1 report.

On 1 March 2023, Te Arawhiti implemented the new scheme. The changes to the scheme increased the funding available to applicant groups, improved the structure of the scheme and introduced the option of grant funding.

We have already identified refinements to improve the operation of the scheme. These include making larger grants available (the current limit is \$5,000) and developing settings for exceptional circumstances funding.

### **Te Kete Kōrero a Te Takutai Moana Information Hub**

We launched our geospatial tool Te Kete Kōrero a Te Takutai Moana Information Hub (Kōrero Takutai) in 2019. Kōrero Takutai is an interactive online tool that provides data-rich, dynamic coastline maps to help with research and evidence-gathering under the takutai moana legislation.

## **Determinations recognising customary interests**

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### **Crown Engagement Pathway**



### **Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019**

In September 2020, under Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019, your predecessor made the first Ministerial determinations of CMT in ngā rohe moana. The Order in Council came into effect in February 2021. A second set of Ministerial determinations were Provided in confidence – not for broader distribution outside of the government

made in September 2022 and came into effect in April 2023. S 9(2)(j)

## High Court

In 2018, the first High Court recognition order was made following the *Re Tipene* hearing. The High Court recognised CMT for a whānau group over part of the Tītī islands in Foveaux Strait.

Over 2020-2022, High Court hearings were held for applications in parts of the eastern and western Bay of Plenty, Hawke's Bay, and East Coast and Wairarapa. Further hearings are scheduled in 2023 and 2025 for Te Raki, Kāpiti/Wellington, Wairarapa, Tainui, Taranaki and Bay of Plenty.

Decisions have been issued in *Re Edwards (Te Whakatōhea No2)* in May 2021, which involved 15 applications for CMTs and PCRs; *Re Clarkson* in July 2021 in which an application for CMT was declined; Ngāti Pahauwera in December 2021, which involved four applications where all applicants met the test for a section of the CMT they applied for, and Ngā Pōtiki Stage 1 in 2021 where a joint CMT was granted to five applicant groups. Recognition orders from these hearings are yet to be finalised by the High Court. Appeal proceedings are also underway. In 2023, the Court of Appeal has heard appeals regarding the judgment issued in *Re Edwards (Te Whakatōhea)*. An appeal hearing for *Re Taylor (Ngāti Pāhauwera)* has been adjourned and is yet to be rescheduled.

The Attorney-General appears in the High Court hearings as an interested party representing the interests of the public (including Māori), and in the Court of Appeal and Supreme Court as an interested party, intervenor and/or respondent, depending on the circumstances. While you are not directly involved in the High Court proceedings, decisions in the High Court create case law and precedent that also inform your decision-making through the Crown engagement pathway under the Act.

## Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Whakamana Accord Forum

In 2019, prior to the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act's third reading, ngā hapū and the Crown signed a Whakamana Accord (the Accord). The Accord initiated a formal relationship in ngā rohe moana between the Crown and ngā hapū. It provides for an annual Whakamana Forum between ngā hapū and the Crown to address issues of shared importance relating to ngā rohe moana, to be held alongside the annual Ngāti Porou – Crown Taumata. You are the co-chair for the Whakamana Forum, while the Prime Minister co-chairs the Taumata.

S 9(2)(j)



## Waitangi Tribunal kaupapa inquiry into te Takutai Moana Act 2011 (Wai 2660)

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In 2017, the Waitangi Tribunal (the Tribunal) agreed to hear, as a matter of priority, claims regarding te Takutai Moana Act 2011 through the Tribunal's kaupapa inquiry programme. The inquiry has been conducted in two stages.

Stage 1 of the inquiry focused primarily on the procedural arrangements and resources available to applicants to assist them with the progression of their applications under Te Takutai Moana Act 2011. The Tribunal released its Stage 1 report in June 2020.

Since the release of that report, a comprehensive review of the funding scheme was undertaken, and the Takutai Moana Engagement Strategy was adopted which enables the Crown to support applicants to make progress on their applications in a fair, transparent, and timely manner.

The hearings for Stage 2 of the inquiry began in September 2020 and concluded in November 2021. Stage 2 focussed on the policies and principles that underpin Te Takutai Moana Act 2011 and whether Crown policy and practice in applying Te Takutai Moana Act 2011 is inconsistent with the Treaty/Te Tiriti.

The Waitangi Tribunal's Wai 2660 stage 2 report was released on 6 October 2023. We will update you on the Tribunal's findings in the supplementary briefing.

### **Other material to support you**

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This document provides you with a brief overview of your role as Minister responsible for Takutai Moana Legislation. We will provide you with a further detailed briefing on key issues and can provide additional briefings at your request.

## Appendix A – Overview of Vote Te Arawhiti

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*(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

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

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## Appendix F– Glossary of Māori terms

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<b>Kāhui</b>	Team
<b>Hīkina</b>	To lift, support
<b>Whakatau</b>	To settle, confirm
<b>Whakamana</b>	To uphold, adhere
<b>Hāpai Ō</b>	Support
<b>Tumu Whakarae</b>	Chief Executive
<b>Wāhi tapu</b>	Sacred place, sacred site
<b>Taonga</b>	Property, goods, possession, effects
<b>Raupatu</b>	to conquer, overcome, take without any right
<b>Hapū</b>	Sub-tribe
<b>Takutai Moana</b>	Foreshore and seabed
<b>Kaupapa</b>	Topic, theme
<b>Te ao Māori</b>	Māori world
<b>Pākehā</b>	not of Māori descent
<b>Mana tuku iho</b>	Inherited right or authority derived in accordance with tikanga <sup>4</sup>

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<sup>4</sup> As defined in section 9 of the Marine and Coastal Area (Takutai Moana) Act 2011



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