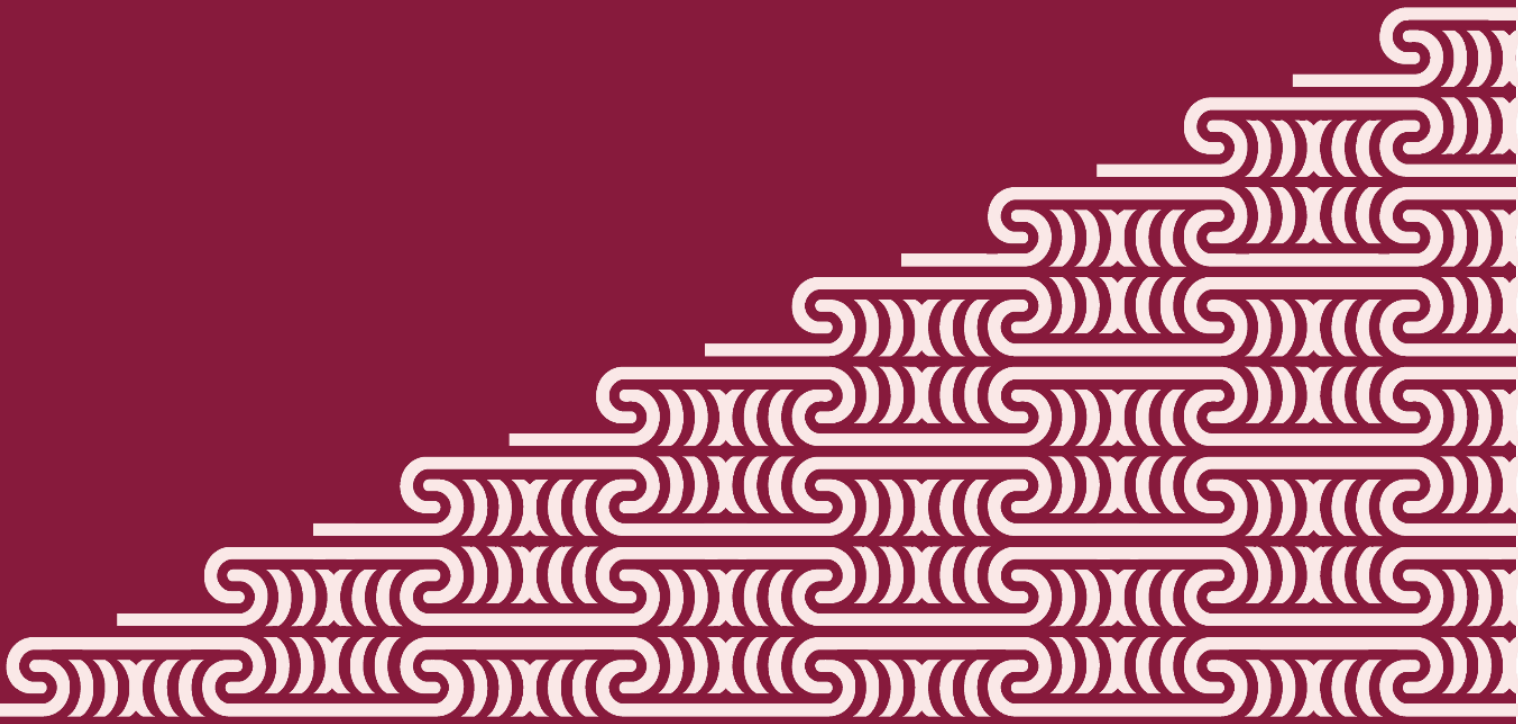


# Vote Te Arawhiti

2023 Briefing to the Incoming Minister  
for Māori Crown Relations: Te Arawhiti



# Contents

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|   |           |
|---|-----------|
| <b>Mihi</b> .....   | <b>1</b>  |
| <b>Your role as the Minister for Māori Crown Relations: Te Arawhiti</b> .....         | <b>1</b>  |
| Your role in Māori Crown relations.....   | 1         |
| Working with the Māori Development portfolio.....                                     | 2         |
| The Māori Crown relationship context.....   | 2         |
| <b>Te Arawhiti establishment, role and strategy</b> .....                             | <b>3</b>  |
| Te Arawhiti establishment.....  | 3         |
| Te Arawhiti work to date.....   | 4         |
| Te Arawhiti strategic framework.....  | 4         |
| Restore Māori Crown relationships.....  | 5         |
| Sustain Māori Crown relationships.....  | 6         |
| Grow Māori Crown relationships.....   | 6         |
| Te Arawhiti priorities.....   | 6         |
| The make-up of Te Arawhiti.....   | 7         |
| <b>Your portfolio responsibilities</b> .....  | <b>8</b>  |
| 1. Enforcing requirements on the Crown to meet its Treaty settlement commitments..... | 8         |
| a) He Korowai Whakamana.....  | 8         |
| b) Te Haeata – the settlement portal.....   | 9         |
| c) Pathways for resolving post-settlement issues.....                                 | 10        |
| d) Delivering accords and relationship redress roles from deeds of settlement.....    | 10        |
| 2. Lifting the Crown’s performance to achieve better outcomes.....                    | 11        |
| a) Supporting Māori Crown engagement.....   | 11        |
| b) Whāinga Amorangi.....  | 11        |
| c) Brokering Māori Crown relationships.....   | 11        |
| d) Whai Hononga: Supporting significant Māori Crown events.....                       | 12        |
| 3. Strategic policy advice on Māori rights and interests.....                         | 12        |
| a) Climate change policy.....   | 13        |
| b) Natural resources – te ao tūroa.....   | 13        |
| c) Supporting the Crown in kaupapa inquiries.....                                     | 14        |
| <b>Other matters relevant to your portfolio</b> .....                                 | <b>14</b> |
| a) Stafford/Wakatū litigation.....  | 14        |
| b) COVID-19 Recovery (Fast-Track Consenting) Act 2020.....                            | 15        |
| c) Significant settlement issue – occupation of Stony Creek Station.....              | 15        |

**Other material to support you ..... 16**

**Appendix A – Overview of Vote Te Arawhiti..... 17**

**Appendix B – Details of the Te Arawhiti Executive Team ..... 18**

**Appendix C – Glossary of Māori terms ..... 19**



## Mihi

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E te ranga o te tira, tēnā koe.

Nau mai ki tō mahi nui o Aotearoa whānui, ā, ko te whakahonohono, ko te whakawhanaunga i a hiwi-tangata whenua ki a hiwi-tangata Tiriti ki te waka haurua o Aotearoa ki uta.

Ko koe te aukaha ko koe te māngai nui 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 Māori Crown Relations: Te Arawhiti

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This briefing provides you with a broad overview of the Māori Crown Relations: Te Arawhiti portfolio 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.

Te Arawhiti looks forward to discussing this advice with you.

As the Minister for Māori Crown Relations: Te Arawhiti, your responsibilities include:

- enforcing requirements on the Crown to meet its Treaty settlement commitments.<sup>1</sup>
- supporting the Crown to lift its performance to work with Māori to achieve better outcomes.
- providing strategic leadership and advice across government to enable good policy decisions that uphold Māori rights and interests

You are responsible for certain appropriations in Vote Te Arawhiti. All other appropriations in Vote Te Arawhiti are the responsibility of the Minister for Treaty of Waitangi Negotiations.

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

### Your role in Māori Crown relations

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As the Minister for Māori Crown Relations: Te Arawhiti, you have a stewardship role as the overarching leader for Māori Crown relations across government and within Cabinet. You have oversight across the Crown's approach to restoring, sustaining and growing the Māori Crown relationship alongside the Minister for Treaty of Waitangi Negotiations. This oversight allows you to influence and support Māori Crown relations in support of your role providing strategic leadership and setting priorities for Māori Crown relations. You also have a role to ensure the durability of historical Treaty of Waitangi (Treaty) settlements. The

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<sup>1</sup> There are over 11,000 Treaty settlement commitments.



Minister for Māori Crown Relations: Te Arawhiti has previously chaired the Cabinet Māori Crown Relations: Te Arawhiti Committee (MCR).<sup>2</sup>

As the Minister for Māori Crown Relations: Te Arawhiti, you are often called on to broker Māori Crown relationships, not only where challenges arise but also to facilitate the Government's priorities and the aspirations of iwi. Sometimes these will be complementary, other times they may challenge and test the relationship.

You are the convening Minister for the Statement of Engagement with the National Iwi Chairs Forum, overseeing its implementation and serving as an escalation point (further information on this is provided at page 14).

The work of the Minister for Treaty of Waitangi Negotiations is critically important to your portfolio. The restoration of relationships achieved through the Treaty settlements programme provides the platform for your work.

## **Working with the Māori Development portfolio**

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Te Arawhiti and Te Puni Kōkiri: the Ministry of Māori Development have complementary yet distinct roles in Māori Crown relations. Broadly speaking, Te Arawhiti is the public service and strategic leader across all of the broad elements of the Māori-Crown relationship, with strong engagement networks through the National Iwi Chairs Forum and with all iwi in Aotearoa. Te Puni Kōkiri is government's principal policy advisor on Māori wellbeing and development, with a focus on community level interventions (such as housing initiatives and Whānau Ora).

## **The Māori Crown relationship context**


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The Treaty of Waitangi was signed in 1840 between the Crown and Māori. 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 settled groups to play a more active role in their tribal affairs and in wider society. Māori organisations now hold significant land and assets – the Māori economy has recently been estimated to be worth \$68.7 billion (previously

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<sup>2</sup> MCR considers strategic and policy matters relating to Treaty of Waitangi settlement negotiations and the delivery of post-settlement commitments, the Crown's Treaty obligations, the revitalisation of te reo Māori, and opportunities that exist in the post-Treaty settlement environment on behalf of Cabinet.



estimated at \$42.6 billion in 2013).<sup>3</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.

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, ensure decisions will practically work, and 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,<sup>4</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 Crown Māori 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

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<sup>3</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/)

<sup>4</sup> Kaupapa Inquiries are thematic and deal with nationally significant issues affecting Māori as a whole.



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>5</sup> hosted by the Ministry of Justice, bringing together the previous Office of Treaty Settlements (including the Takutai Moana team) and Post 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**

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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 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

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<sup>5</sup> A departmental agency is an operationally autonomous agency hosted by a Public Service department.



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 the Minister for Treaty of Waitangi Negotiations to achieve fair and durable settlements that contribute to the cultural, social and economic development of Māori and to recognise Māori customary interests in the takutai moana. 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.

Settling historical Treaty breaches acknowledges and addresses past Treaty breaches, establishes a more solid foundation for the Crown's relationship with Māori, and enables settled groups to play a more active role in their tribal affairs and in wider society.

You are not responsible for negotiating Treaty settlements or the recognition of Māori customary interests in the takutai moana. Nevertheless, these are critical aspects of the work of Te Arawhiti and they provide a platform for your portfolio and post-settlement responsibilities.





## Sustain Māori Crown relationships

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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 of Waitangi and subsequent Treaty settlements are ongoing. The outcome sought here is that the Crown delivers on its promises and responsibilities through its actions, policies and practices.

Your role as Minister for Māori Crown Relations is to ensure that the Crown keeps its promises from settlement commitments and Treaty obligations through decision-making, policies and actions. The Cabinet Manual notes this requirement.<sup>6</sup> Your role is also to ensure that Māori see the Crown operating with consistency from settlements through to future action. This work helps mitigate relationship and litigation risk and reduces the costs of remediation.

## 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 of 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.

As the Minister for Māori Crown Relations, you hold primary responsibility for this pou.

## Te Arawhiti priorities


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The updated strategic framework includes a refreshed 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

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<sup>6</sup> Cabinet Office *Cabinet Manual 2023* at [7.37] notes that: *Agencies should assess the implications of bills on existing Treaty of Waitangi settlements and consult the Office for Māori Crown Relations – Te Arawhiti if they conclude there will be a potential impact. This is to ensure agencies safeguard the durability of Treaty settlements, and the renewed relationship that settlements have established. Te Haeata – the Settlement Portal is a tool that can assist agencies to understand the range of commitments made in Treaty settlements.*

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- 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 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 i.e., 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;
- **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 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; 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 under each priority area you hold primary responsibility for:

1. enforcing requirements on the Crown to meet its Treaty settlements commitments;
2. supporting the Crown to lift its performance to work with Māori to achieve better outcomes; and
3. providing strategic advice across government to enable good policy decisions that uphold Māori rights and interests.

### 1. Enforcing requirements on the Crown to meet its Treaty settlement commitments

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Te Arawhiti is the public service lead for enforcing requirements on the Crown to meet its Treaty settlement commitments. The Crown and iwi have worked for over 30 years to settle historical Treaty claims. To sustain those relationships, maintain good faith and uphold any contractual relationships made, it is crucial that the commitments made in those settlements are met.

All settlements have a clause that captures an intent for the future relationship. These relationships provide a foundation to build upon. Post-settlement governance entities (PSGEs) will look to you as a lead Minister to give effect to these enduring relationships. Some of the tools we use to support your role are:

#### a) He Korowai Whakamana

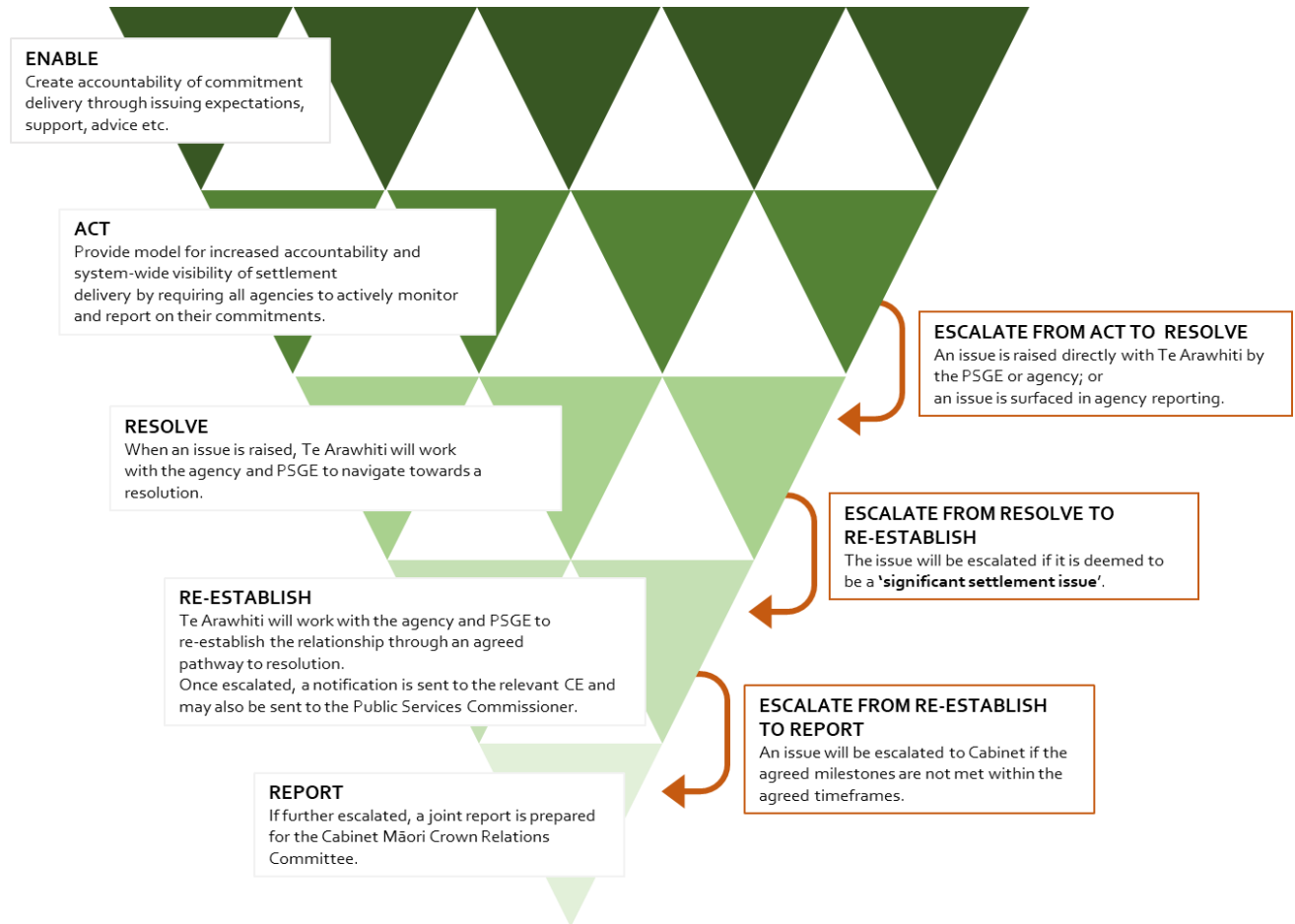
He Korowai Whakamana is a Cabinet approved framework for achieving oversight of and enhancing accountability for the Crown's commitments. Cabinet also confirmed a strengthened mandate for Te Arawhiti as system lead for the oversight of Treaty settlements.

He Korowai Whakamana:

- provides a strengthened mandate for Te Kāhui Whakamana to carry out its core function of enforcing requirements on the Crown to meet its Treaty settlement commitments;
- commits core Crown agencies to review the status of their settlement commitments and enter their status information into *Te Haata – the Settlement Portal* (outlined below) and present a summary through each agency's annual report. From this, Te Arawhiti will collate a system-wide report on settlement delivery; and
- provides a set of tools, expectations and pathways that enable the Crown to uphold its commitments. The aim is to increase accountability and promote effective settlement delivery.



## He Korowai Whakamana diagram



Core Crown agencies with less than 1,000 commitments have now recorded the status of all of their settlement commitments on *Te Haeata*.

Te Arawhiti is currently supporting the four remaining agencies (Department of Conservation, Land Information New Zealand, the Ministry of Education, and Te Arawhiti) who have more than 1,000 commitments to enter their statuses by 22 December 2023.

For the purposes of He Korowai Whakamana, 'core Crown' refers to public service departments and departmental agencies, New Zealand Defence Force and New Zealand Police.

### b) Te Haeata – the settlement portal

Te Haeata – the Settlement Portal ([www.tehaeata.govt.nz](http://www.tehaeata.govt.nz)) is an online, searchable database of over 11,000 commitments from legislated Treaty settlements and related arrangements (for instance, the Wai 94 settlement with Ngāti Whakaeu, which did not require legislation). Access to Te Haeata is limited to Crown and iwi organisations with settlement commitments. The purpose of Te Haeata is to raise the visibility of commitments and help agencies manage their commitments. While Te Haeata records commitments from Deeds of Settlement and Legislation, these original documents remain the authoritative sources for settlement commitments.



Before Te Haeata was created there was no equivalent database which meant that the Crown lacked assurance that settlements were being honoured and therefore was unable to provide that assurance to iwi. When settlement commitments are not honoured, this undermines the confidence of iwi in the Crown and can lead to a slow and expensive resolution process.

As at 3 August 2023, there are 1,253 registered users of Te Haeata from central government, Crown entities, local government and PSGEs. The number changes as staff move.

The status function enables agencies to provide a high-level overview of their progress delivering commitments. Under He Korowai Whakamana (discussed above) Cabinet has directed core Crown agencies to begin reporting on the status of their commitments in their annual reports from financial year 2023/24.

You will receive the first ever whole-of-system report on the status of core-Crown commitments across settlements.

### c) Pathways for resolving post-settlement issues

A key role of Te Arawhiti is to work with agencies and PSGEs to resolve issues that arise in settlements. He Korowai Whakamana sets out Cabinet approved pathways to resolve issues. At least one quarter of all legislated settlements are experiencing settlement issues at any one time. Any issue can undermine trust in the Crown to deliver on Treaty settlements and could be costly to resolve.


At the Resolve step of He Korowai Whakamana, we inform you an issue has arisen. If an issue is deemed significant it escalates to the Re-establish step. Such issues include breaches, inability to deliver redress as intended, the need for an all-of-Crown view, a material breakdown in relationship, a lack of reasonable progress or engagement, or the cumulative impact of a number of issues.

Te Arawhiti and other agencies may jointly seek decisions from you and other relevant Ministers on appropriate steps for resolution of significant issues. PSGEs may wish to meet with you and relevant Ministers to discuss issues. The most serious step is Report, where Cabinet decisions are required to reach resolution.

### d) Delivering accords and relationship redress roles from deeds of settlement

Te Arawhiti co-leads relationship accords with two PSGEs and participates in the coordination of annual Ministerial hui under these arrangements: the Ngāti Porou – Crown Taumata, and the refreshed Ngaa Rauru Kaitahi Relationship Accord (Te Mata o te Here) and Paepae Rangatira hui.

Te Arawhiti gives advice to other agencies leading similar arrangements. Ministers are invited to these hui to discuss issues at a Rangatira ki te Rangatira level. Te Arawhiti supports you when you attend.



Te Arawhiti has other relationship redress responsibilities that it leads. This includes the development of Te Pākukururu, the relationship agreement with Ngā Tangata Tiaki, the PSGE for the Whanganui River/Te Awa Tupua settlement.

## 2. Lifting the Crown's performance to achieve better outcomes

Te Arawhiti has set expectations and benchmarks for the Crown to lift its performance to work with Māori to achieve better outcomes. We also support the public sector to meet its responsibilities under the Public Service Act 2020.<sup>7</sup>

### a) Supporting Māori Crown engagement

Te Arawhiti supports agencies by providing clear guidance, frameworks and practical examples to help Crown agencies practically improve their engagement and wider relationships with Māori.

Te Arawhiti also promotes good engagement practice through:

- providing specific advice to agencies on Māori engagement in the preparation of their engagement plans, and in the development of Cabinet papers; and
- delivering engagement workshops to core Crown agencies and Crown entities.

### b) Whāinga Amorangi

Whāinga Amorangi is a programme designed to lift the Māori Crown relations performance across the public service. Chief Executives of the public service have a responsibility under section 14 of the Public Service Act 2020 to build the Māori Crown relations capability of their staff. Te Arawhiti supports the 38 core Crown agencies and respective Chief Executives to meet their responsibilities by setting the direction, pace and guidance for lifting the performance of Crown agencies. As the system lead for Māori Crown relations, Te Arawhiti is the owner of *Whāinga Amorangi: Transforming Leadership* programme.

Whāinga Amorangi is one of the mechanisms through which we execute our role to set expectations and benchmarks for the Crown to lift its performance across the public service. It supports a coordinated approach through the development of a consistent framework, tools and resources.

### c) Brokering Māori Crown relationships

Te Arawhiti maintains a strong, tested and trusted network of national and regional iwi connections, built over 30 years of working together. Te Arawhiti's brokering relationships role supports agencies to make existing relationships work effectively and to broker new relationships with iwi across social, environment, cultural, and economic development where this is seen as important to achieve better outcomes.

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<sup>7</sup> Section 14(1) of the Public Service Act 2020 provides that the role of the public service includes supporting the Crown in its relationships with Māori under the Treaty of Waitangi (te Tiriti o Waitangi).



Te Arawhiti works with you to support the resolution of Māori Crown relationship issues when they arise such as the Kōhanga Reo claim, telecommunications spectrum, emergency management and responses, and urgent issues like **S 9(2)(f)(iv)**

Te Arawhiti leads the Crown's engagement with the National Iwi Chairs Forum (NICF). The Crown and NICF have had a relationship since its inception. The National Iwi Chairs Forum – Crown Statement of Engagement (Statement of Engagement) sets out a way of working between the Crown and NICF. It was agreed in August 2019 at the quarterly hui in Hastings and endorsed by Cabinet. The Statement of Engagement is an agreed process for how and why the NICF and the Crown should work together.

Te Arawhiti's brokering function enabled us to be part of the across government team that led the work to establish Te Rā Aro ki a Matariki, a nation-building holiday that is a celebration of mātauranga Māori for all New Zealanders.

#### d) Whai Hononga: Supporting significant Māori Crown events

As part of Budget 2019, Te Arawhiti became responsible for the administration of a funding programme to support significant Crown Māori events. Supporting Significant Crown Māori Events: Whai Hononga has an annual budget of \$1 million to support initiatives that strengthen a shared national identity realised through strong relationships between the Crown and Māori. Budget 2021 included a one-off funding extension of \$1 million to support the design, build and installation of statues and symbols which celebrate the Māori-Crown relationship by honouring significant Māori leaders and events.


You are the Minister with responsibility for this appropriation in Vote Te Arawhiti.

### 3. Strategic policy advice on Māori rights and interests

Te Arawhiti provides advice across government policy processes to ensure there is a clear understanding of Māori rights and interests (including those arising from Treaty settlement commitments) and how the Treaty of Waitangi might bear on policy in the contemporary context where this is relevant.

While responsibility for ensuring policies are consistent with the Treaty and Māori rights and interests ultimately falls to all Ministers and their agencies, you and Te Arawhiti have an important role to support and assure the quality of policy advice. Accordingly, Te Arawhiti develops guidance for agencies to deepen their understanding of their obligations where this is required and to apply Treaty analysis in their policy development and decision-making. Te Arawhiti also chairs the Treaty Provisions Oversight Group.<sup>8</sup>

<sup>8</sup> The Treaty provisions oversight group (TPOG) was established on Cabinet's direction in April 2022 [CAB-22-MIN-0064 refers]. TPOG is a cross-agency group that provides hands-on assistance to agencies thinking about what the Treaty means in the context of legislative design or reform, particularly in regard to the inclusion and form of Treaty clauses in their legislation.



Current issues of particular significance for the Māori Crown relationship that Te Arawhiti is involved in are outlined below.

#### a) Climate change policy

Māori will be disproportionately impacted by both climate change itself and mitigation measures. This is in part due to existing socio-economic circumstances, a high proportion of Māori living in coastal, rural and remote areas, and projected impacts of climate change on forestry, seafood, and primary sectors, which are major areas of investment and employment for Māori. Many sites of cultural significance will also be affected by climate change – including marae, urupā, wāhi tapu, and mahinga kai. There is significant overlap with severe weather events response and resource management reform.

A significant number of Māori businesses are in the primary sectors, where climate change effects will be significant. Adaptation policies such as managed retreat risk disrupting ancestral lands and waters. Care also needs to be taken to ensure policies being put in place do not impact redress provided through Treaty settlements and Takutai Moana rights.

You have a specific role in supporting the Minister for Climate Change in implementing actions under the Government's Emissions Reduction Plan to enable better Māori participation in the climate response.

#### b) Natural resources – te ao tūroa

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 2023 (NBEA) and the Spatial Planning Act 2023 (SPA). To ensure that Treaty settlements are upheld in the new system the NBEA requires the Crown to uphold the integrity, intent and effect of relevant Treaty settlements and sets out a high-level process to support this goal. This will require the Crown to reach agreement with around seventy PSGEs about how their settlements will be upheld, and also with Ngā Hapū o Ngāti Porou about their bespoke arrangements for the marine and coastal area.

As an additional safeguard, for a period of two years, key parts of the system at a regional level cannot be implemented without the agreement of you and the Minister for the



Environment. The Ministry for the Environment is leading the engagement with PSGEs to uphold settlements, with Te Arawhiti support.

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

### c) Supporting the Crown in kaupapa inquiries

Since 2015, the Waitangi Tribunal has been running a programme of 'kaupapa' inquiries. These inquiries look at both historical and contemporary claims and inquire into broad topics of relevance to the Māori Crown relationship (e.g., health, housing).

Te Arawhiti has previously provided policy advice to agencies involved in kaupapa inquiries and promotes the use of the Cabinet Office circular *Better Co-ordination of Contemporary Treaty of Waitangi Issues* (CO (19) 3). That circular outlines guidelines and requirements agreed by Cabinet for Ministers and departments involved in contemporary Treaty issues, including kaupapa inquiries.

You are not currently responsible for any kaupapa inquiries, though the upcoming inquiry into Constitutional and Electoral issues will be of significant interest – S 9(2)(f)(iv)

The dates for this inquiry have not been confirmed. We will update you on timing and approach as the inquiry progresses.

## **Other matters relevant to your portfolio**

### a) Stafford/Wakatū litigation

Te Arawhiti is the responsible agency for the longstanding Stafford/Wakatū litigation.

This litigation is about 'the tenths land' at the top of the South Island. One tenth of the land purchased by the New Zealand Company in the 1800s was to be set aside for the customary owners as reserves. In addition, pā, urupā and cultivations were to be excluded from the land granted to the New Zealand Company. The Crown later took over the responsibilities of the New Zealand Company.

<sup>9</sup> Lead agencies are responsible for instructing Crown Law Office during the inquiry and leading the policy response to inquiry findings. Lead Ministers are required to report to the Māori Crown Relations: Te Arawhiti committee early on to seek approval for the Crown approach.



The full amount of tenths land was not set aside as reserves for various reasons. Of the land that was set aside, only some remained when Wakatū Incorporation was established in 1977 to manage the reserves for the benefit of the customary owners.

A private law claim under trust law was commenced against the Crown in 2010. In 2017, the Supreme Court found that the Crown owed fiduciary duties to reserve 15,100 acres of land in the Nelson region for the benefit of the customary owners and to exclude their pā, urupā and cultivations from the land obtained by the Crown.

However, the Supreme Court did not say whether the Crown had breached those fiduciary duties. Instead, it referred decisions about breach, liability and remedy back to the High Court. Those issues were recently considered by the High Court, with a decision pending.

The case is important because:



Te Arawhiti will update you on the findings of the High Court when a decision has been made.

#### b) 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 been 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 settlement commitments are potentially affected by proposals. There are 77 applications remaining for which you may be required to provide comments on. Te Arawhiti will support you to respond to requests for your comment.

#### c) Significant settlement issue – occupation of Stony Creek Station

Treaty settlement negotiations with Ngātikahu ki Whangaroa extended from 2004-2015. Core to these discussions was the inclusion of Stony Creek Station (2,000 hectare) as property redress. In 2008, whānau members connected to the iwi began to unlawfully occupy Stony Creek Station. Following the signing of the Deed of Settlement in 2015, the then Minister for Treaty of Waitangi Negotiations committed to work with the Trust to ensure



vacant possession of the Station. Attempts before and after deed-signing to resolve the occupation have been unsuccessful – the station remains occupied.

In October 2017, Stony Creek Station was transferred to Ngātikahu ki Whangaroa as part of the Treaty settlement. As the occupation has persisted, to date the iwi have not been able to access the property or draw an income from it – while having to service rates and other costs. The benefits of the settlement as intended have therefore not been able to be realised by Kahukuraariki Trust (the post settlement governance entity).

In October 2023, Te Arawhiti officials and Kahukuraariki Trust workshopped options to resolve the impact of the occupation on the iwi's settlement. Te Arawhiti undertook to brief the incoming Minister on the situation. Te Arawhiti will report to you with recommendations and to seek decisions on options and a course of action to enable the iwi to benefit from the settlement as intended.

## **Other material to support you**

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This document has provided you with a brief overview of your role as Minister for Māori Crown Relations: Te Arawhiti. 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

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

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## Appendix C – 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>10</sup> |

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<sup>10</sup> As defined in section 9 of the Marine and Coastal Area (Takutai Moana) Act 2011



The Office for Māori Crown Relations - Te Arawhiti

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