Takutai Moana Draft Crown Engagement Strategy

The Minister for Treaty of Waitangi Negotiations (the Minister) recently approved engagement on a draft strategy to progress Crown engagement applications under the Marine and Coastal Area (Takutai Moana) Act 2011 (te Takutai Moana Act).

The strategy proposes to progress applications in clusters along sections of the coastline, coordinating engagement across all applications in that area. The strategy also sets out which areas of the coastline would be considered initially and in which order.

The need for a Crown engagement strategy

Te Takutai Moana Act allows for groups to apply for the recognition of their customary interests through the High Court (High Court pathway) or directly to the responsible Minister (Crown engagement pathway).

The deadline for filing applications under te Takutai Moana Act was 3 April 2017. 202 applications were received by the High Court and 387 were lodged for Crown engagement. Of these, 175 applied for both the High Court and Crown engagement pathways.

These applications collectively cover all of the common marine and coastal area of Aotearoa New Zealand, including its offshore islands. There are significant overlaps across many application areas.

Te Arawhiti progresses applications made directly to the responsible Minister in the Crown engagement pathway. We have heard your frustration with the pace of progress in this pathway.

We need a clear and transparent strategy for when and how we will engage with you and your application, including the broad timeframes for processing your application.

A regional coastline approach

It is not possible for all applications to be progressed at once. It is likely to take 20-30 years to assess all applications for a Ministerial determination.

We think the most effective and efficient way to move forward is to progress applications in clusters along sections of the coastline.

A regional coastline approach to Crown engagement aims to progress all applications within selected areas at the same time, while maintaining the individual nature of each application.

By focussing resources and effort on certain coastlines, we hope to enable greater opportunities for partnership between applicants and the Crown in how we make progress.

The strategy is made up of five key elements. These have been expanded on below.

SEQUENCING ENGAGEMENT

The strategy makes an assessment on which areas of the coastline should be progressed initially. The factors below were guiding considerations for determining the order to progress coastlines.

The degree of overlaps between applications for customary rights

- Areas of coastline with fewer overlapping applications suggests that overlaps may be easier to resolve and engagement may be more straightforward.

The level of third-party use and the extent to which land abutting the coast is Māori owned

- These can help give an indication of exclusive use and an applicant group's ability to control access to an area.

The readiness and willingness of individual applicants to proceed to terms of engagement:

- If a group has the capacity, capability and willingness to engage this will help the progression of applications in the coastline approach.

Not an area where a hearing date has been set by the High Court:

- This avoids duplication of effort and potential conflicts with High Court processes as applications can only be progressed through one pathway at a time.

Consideration of the efficient use of Crown resources:

- This works to facilitate the speedy resolution of applications and to prevent Crown resources being locked up for extended periods of time in one area.

HE PĀTAI

Have we considered the appropriate factors in deciding where to prioritise engagement?

Are there other factors we should take into account?

A COORDINATED APPROACH TO ENGAGEMENT

The first element of the strategy seeks to sequence the coastlines for engagement. However, the second part of the strategy focuses on the actual method of engagement.

A key element of the strategy is for the Crown and applicants to co-develop the coastline approach. We want to work with applicants to design a process for Crown engagement along each section of coastline that best suits the needs of applicants. We envision that these processes may vary across coastlines depending on the nature of the area and relationships along the coastline.

Coordinating engagement across all applications for customary rights in a coastal area is likely to be fairer and more closely aligned with the inter-connected nature of relationships along the coastline. The strategy also allows for applicants to work through issues of overlapping customary interests using their own tikanga-based processes should they wish to.

A coordinated approach across areas may also promote efficiencies by avoiding the duplication of key processes and evidence gathering.

HE PĀTAI

How do you envision this approach working on your coastline?

UPHOLDING EXISTING COMMITMENTS

Prior to the 2017 deadline for applications under te Takutai Moana Act, Te Arawhiti had been progressing applications carried over from the Foreshore and Seabed Act 2004 and applications where engagement was agreed to previously.

It is important that the Crown continue to honour these commitments to engage. The following commitments have informed the draft strategy:

- Ngāti Pāhauwera
- Ngāti Koata
- Ngāti Porou ki Hauraki
- Te Korowai o Ngāruahine Inc.
- Te Uri o Hau
- Rongomaiwahine
- Ngāruahine

We are also working with ngā hapū o Ngāti Porou to determine their customary interests under the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019.

HE PĀTAI

How might these existing commitments impact on the progression of your application?

HIGH COURT HEARINGS

The strategy focuses engagement on areas where applications are not actively being advanced in the High Court. This is to avoid the duplication of effort and potential conflicts with High Court processes.

The current priority applications in the High Court are:

- Edwards (Whakatōhea)
- Reeder (Ngā Pōtiki)
- Clarkson (Eriha Whānau)
- Taylor (Pāhauwera)

HE PĀTAI

What are the implications for your application if we do not progress Crown engagement applications in areas where the High Court is active?

ENGAGEMENT FOR AREAS NOT INITIALLY SEQUENCED

The draft strategy sets out an approach for selecting areas of the coastline to be considered first. This means that there will be applications that will not be considered for some time.

Applications outside sequenced areas include:

- areas where there is a high level of overlap between applications.
- applications in areas of high third-party use and occupation (such as developed port cities and coastal urban areas).

The strategy initially focuses on areas with fewer overlaps as we anticipate delays in areas with high levels of overlaps. The strategy also initially focuses on areas with lower levels of third-party use and occupation.

HE PĀTAI

How might the sequencing impact your application area?

Proposed timeframes for engagement

We have applied the five key elements of the strategy to create four initial areas for engagement. A detailed map of these areas can be found on pages 15 and 16 of this document.

Area 1 (proposed timeframe for engagement 2020-2023)

- The coastline from the northern boundary of the rohe of Ngāti Porou to the southern boundary of the rohe of Ngāi Tāmanuhiri
- The coastline within the rohe of Rongomaiwahine
- The Taranaki coastline (Whanganui River to Mokau River)

Area 2 (proposed timeframe for engagement 2023-2027)

- The coastline within the rohe of Te Whānau ā Apanui hapū
- Hawke's Bay (western boundary of Rongomaiwahine) to Cape Turnagain (excluding Ngāti Pāhauwera High Court application area)
- Tītī Rakiura/Foveaux Strait (Ruapuke Island)

Area 3 (proposed timeframe for engagement 2027-2035)

- Cape Turnagain to Pencarrow Head
- Mokau River to Waikato Heads
- Ngāi Tahu (excluding Tītī Rakiura/Foveaux Strait)

Area 4 (proposed timeframe for engagement 2035-2045)

- Top of the South Island (Te Tau Ihu)
- Northland (excluding Te Uri o Hau)
- Coromandel Peninsula to Bowentown

Support prior to engagement

As demonstrated in the timeframes above, we do not expect to be able to begin engaging with applicants in areas three or four until at least 2027.

We recognise that some groups, independent of the sequencing of their application, may want to engage prior to the timeframes detailed above.

In seeking your feedback we want to hear your views on the draft strategy and its approach to ensure all potential challenges and opportunities are identified.

We also want to understand what type of assistance you may require to progress your application prior to engagement with the Minister.

For example you may find it useful to have support to resolve overlaps or to begin historical research, so you are in a positive position when it comes time to progress your coastline. We would like to hear from you about any forms of assistance you might find useful.

HE PĀTAI

What support should be provided to applicants in areas which are not initially sequenced?

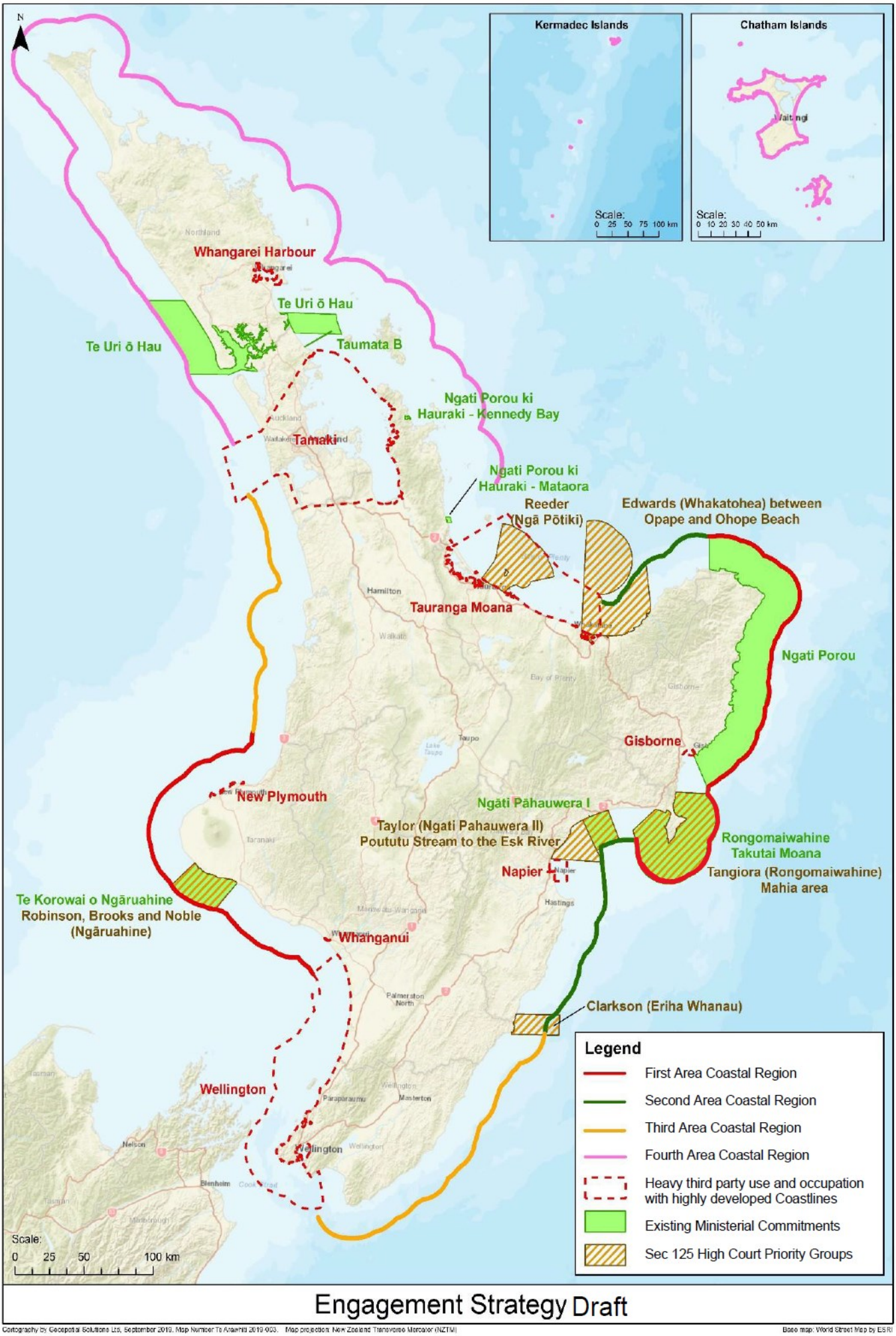
Have your say

⇒ Fill out the 'Submission Form' or write your own submission and send to: Level 3/19 Aitken St, Wellington 6011.

⇒ Talk to us: send us an email at maca@tearawhiti.govt.nz or call us on 0800 866 222.

Submissions close

5 pm, Friday 30 October 2020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Tamaki
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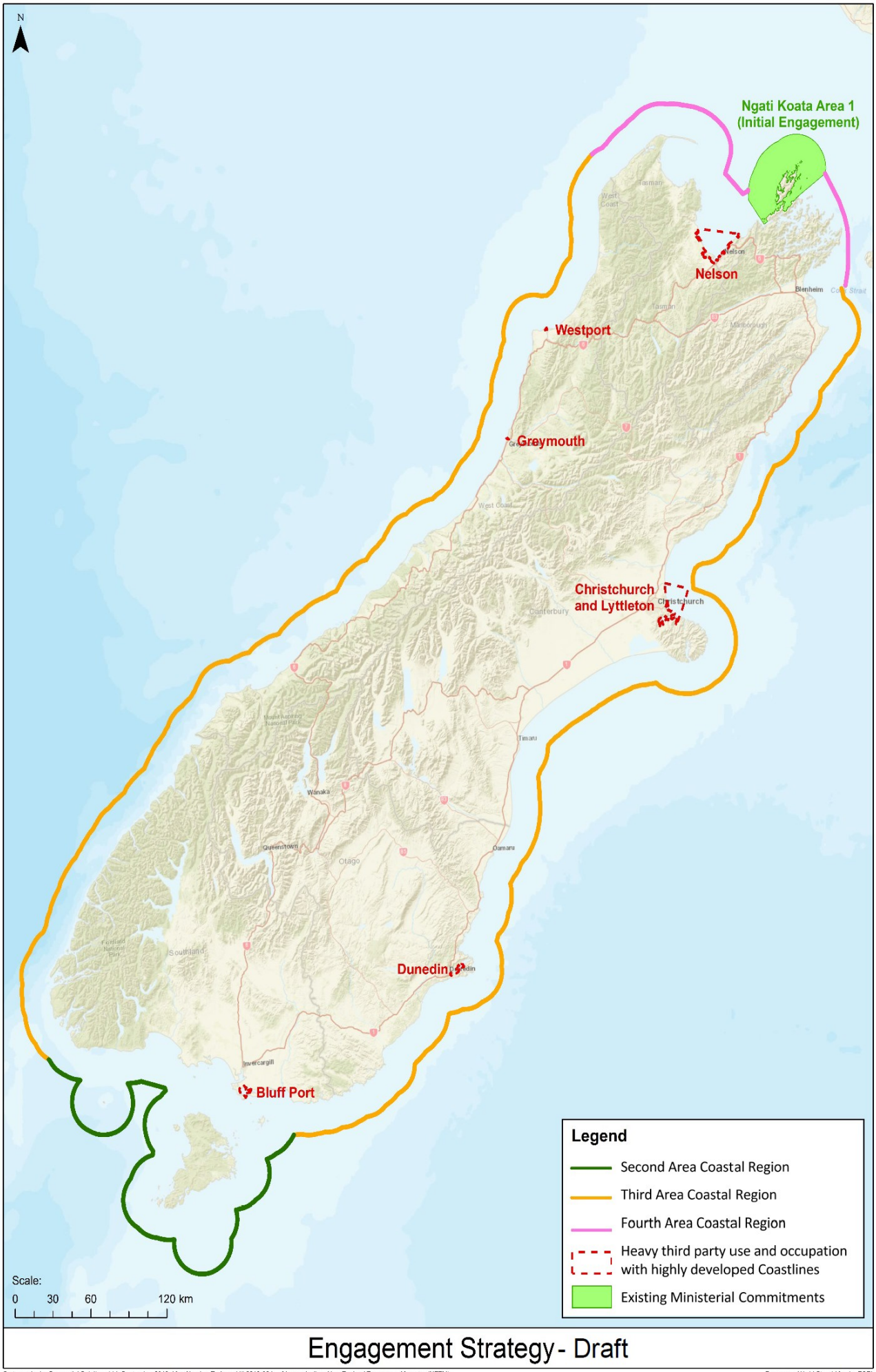
Hauraki - Mataora
Reeder
(Ngā Pōtiki)
Edwards (Whakatohea) between
Opape and Ohope Beach
Tauranga Moana
Ngati Porou
Gisborne
New Plymouth
Ngāti Pāhauwera I
Taylor (Ngati Pahauwera II)
Poututu Stream to the Esk River
Rongomaiwahine
Takutai Moana
Napier
Tangiora (Rongomaiwahine)
Mahia area
Te Korowai o Ngāruahine
Robinson, Brooks and Noble
(Ngāruahine)
Whanganui
Clarkson (Eriha Whanau)
Wellington
Wellington
Legend
First Area Coastal Region
Second Area Coastal Region
Third Area Coastal Region
Fourth Area Coastal Region
Heavy third party use and occupation with highly developed Coastlines
Existing Ministerial Commitments
Sec 125 High Court Priority Groups
Scale:
0 25 50 100 km
Engagement Strategy Draft
Cartography by Geospatial Solutions Ltd, September 2019. Map Number Te Arawhiti 2019-003. Map projection: New Zealand Transverse Mercator (NZTM)
Base map: World Street Map by ESRI



Engagement Strategy - Draft

Cartography by Geospatial Solutions Ltd, September 2019. Map Number Te Awawhiti 2019-004. Map projection: New Zealand Transverse Mercator (NZTM) Base map: World Street Map by ESRI