

Hon Kelvin Davis

Minister for Māori Crown Relations: Te Arawhiti

Proactive release – Practical work programmes for delivering Te Arawhiti responsibilities

Date of issue: 25 November 2019

The following documents have been proactively released in accordance with Cabinet Office Circular CO (18) 4.

Some information has been withheld on the basis that it would not, if requested under the Official Information Act 1982 (OIA), be released. Where that is the case, the relevant section of the OIA has been noted and no public interest has been identified that would outweigh the reasons for withholding it.

No.	Document	Comments
1	<p>Practical work programmes for delivering Te Arawhiti responsibilities</p> <p>Cabinet paper MCR-19-Min-0032 Office for Māori Crown Relations: Te Arawhiti 23 September 2019</p>	<p>Some information has been withheld in accordance with:</p> <ul style="list-style-type: none">• section 9(2)(j) of the OIA - to enable a Minister of the Crown or any department or organisation holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations);• section 9(2)(f)(iv) of the OIA – to protect the confidentiality of advice tendered by Ministers of the Crown and officials; and• section 9(2)(g)(i) of the OIA – to maintain the effective conduct of public affairs through the free and frank expression of opinions by or between or to Ministers of the Crown or members of an organisation or officers and employees of any department or organisation in the course of their duty.
2	<p>Practical work programmes for delivering Te Arawhiti responsibilities</p> <p>Cabinet Committee Minute MCR-19-Min-0032 Cabinet Office 17 September 2019</p>	<p>Some information has been withheld in accordance with:</p> <ul style="list-style-type: none">• section 9(2)(j) of the OIA - to enable a Minister of the Crown or any department or organisation holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations); and• 9(2)(f)(iv) of the OIA – to protect the confidentiality of advice tendered by Ministers of the Crown and officials.



Cabinet Māori Crown Relations - Te Arawhiti Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Practical Work Programmes for Delivering Te Arawhiti Responsibilities

Portfolio Māori Crown Relations Te Arawhiti / Treaty of Waitangi Negotiations

On 17 September 2019, the Cabinet Māori Crown Relations - Te Arawhiti Committee (MCR):

- 1 **noted** that in April 2019 Cabinet invited:
 - 1.1 the Minister for Māori Crown Relations: Te Arawhiti to report back in September 2019 with a practical work programme for delivering responsibilities under the Maori Crown Relations: Te Arawhiti portfolio and an account of progress to date [CAB-19-MIN-0174.22];
 - 1.2 the Minister for Treaty of Waitangi Negotiations to report back on progress to date in the Treaty of Waitangi (Treaty) settlements and Marine and Coastal Area (Takutai Moana) Act 2011 work programmes [CAB-19-MIN-0174.42];
- 2 **noted** that the four work programmes contained within Te Arawhiti (Treaty settlements, Takutai Moana, Settlement Commitments and Māori Crown Relations) contribute to a system-wide change in approach to the Māori Crown relationship which is needed to achieve improved intergenerational wellbeing outcomes;

Treaty settlements and Takutai Moana

Treaty settlements

- 3 **noted** that in 2018/19, ten settlement milestones were achieved, including three signed agreements in principle, two initialled deeds of settlement and two signed deeds of settlement;

s9(2)(j)

4

[REDACTED]

4.1

[REDACTED]

4.2

[REDACTED]

4.3

[REDACTED]

4.4

[REDACTED]

5 **noted** that the objective remains to complete Treaty settlements as quickly and as fairly as possible by providing the opportunity for all willing and able groups to enter negotiations by the end of 2020, and focusing efforts over the next four years to finalise deeds of settlement and settlement legislation, with the aim of completed Treaty settlements by 2024/25;

6 **noted** that the timeframe outlined in paragraph 5 above differs from the government’s publicly stated commitment to complete Treaty settlements by 2020;

s9(2)(j) 7

[Redacted]

7.1 [Redacted]

7.2 [Redacted]

7.3 [Redacted]

8 **noted** that in 2019/20, the aim is to achieve the following Treaty milestones:

8.1 one piece of settlement legislation enacted;

8.2 [Redacted]

8.3 [Redacted]

8.4 [Redacted]

8.5 [Redacted]

8.6 [Redacted]

s9(2)(f)(iv)

9 **noted** that:

9.1 [Redacted]

9.2 [Redacted]

s9(2)(f)(iv)

Takutai Moana

10 **noted** that in 2018/19, the Takutai Moana work programme has focussed on:

10.1 progressing Ngā Rohe Moana o ngā hapū o Ngāti Porou Bill through the legislative process;

10.2 historical research to inform and enable decisions under the Marine and Coastal Area (Takutai Moana) Act 2011;

10.3 providing \$1.9 million in financial assistance to applicants;

10.4 engaging with applicants who have signed formal terms of engagement with the Crown, as well as progressing discussions with approximately 30 applicants who have indicated a desire to engage with the Crown;

10.5 participating in the Waitangi Tribunal kaupapa inquiry into the Marine and Coastal Area (Takutai Moana) Act 2011;

- 11 **noted** that the 2019/20 Takutai Moana work programme focuses on:
- s9(2)(g)(i) 11.1 [REDACTED]
- 11.2 implementing Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019;
- 11.3 administering funding to assist Takutai Moana applicants in High Court or Crown engagement processes;
- 11.4 continuing the historical research programme to support the responsible Minister under the Marine and Coastal Area (Takutai Moana) Act 2011 and the High Court to make decisions;
- s9(2)(j) 11.5 [REDACTED]
- 11.6 administering Crown Engagement applications;

Māori Crown Relations: Te Arawhiti portfolio

- 12 **noted** that in 2018/19 the following progress was made in the Māori Crown Relations: Te Arawhiti portfolio:
- 12.1 launch of Te Haeata – the settlement portal;
- 12.2 supported the resolution of several post-settlement issues;
- 12.3 advice provided on new Crown policy to ensure integrity of settlements maintained;
- 12.4 Cabinet approved the *Engagement Framework and Guidelines* in September 2018 [CAB-18-MIN-0456], and *Partnership Principles* in March 2019 [MCR-19-MIN-0004];
- 12.5 public sector capability framework in development;
- 12.6 advice provided to government agencies on over 100 engagement processes;
- 12.7 publication of Cabinet Office circular (19) 3 – *Better coordination of contemporary Treaty issues*;
- 12.8 ongoing work with Ministers and agencies to broker solutions to challenging relationship issues with Māori;
- 12.9 the successful delivery of Waitangi 2019 commemorations;
- 12.10 facilitation and advice to agencies and Māori on partnerships;
- 13 **noted** that the Minister for Māori Crown Relations: Te Arawhiti intends to report back to MCR:
- 13.1 in November 2019, with the Minister of Education, on proposals to resolve issues raised in the Kōhanga Reo claim Wai 2336;
- 13.2 in December 2019 on the development of co-design principles and guidance and initial partnerships heatmap;
- 13.3 in March 2020 on indicators to measure the health of the Māori Crown relationship;

- 14 **noted** that the Minister for Māori Crown Relations: Te Arawhiti intends to provide updates to Cabinet on plans to undertake further engagement on the delivery of his portfolio responsibilities.

Rachel Clarke
Committee Secretary

Present:

Rt Hon Winston Peters
Hon Kelvin Davis (Chair)
Hon Grant Robertson
Hon Andrew Little
Hon Stuart Nash
Hon Shane Jones
Hon Peeni Henare
Hon Willie Jackson

Officials present from:

Office of the Prime Minister
Officials Committee for MCR

Hard-copy distribution:

Minister for Māori Crown Relations: Te Arawhiti
Minister of Education
Minister for Treaty of Waitangi Negotiations

In Confidence

Office of the Minister for Māori Crown Relations: Te Arawhiti
Office of the Minister for Treaty of Waitangi Negotiations

Chair, Cabinet Māori Crown Relations: Te Arawhiti Committee

Practical work programmes for delivering Te Arawhiti responsibilities

Purpose

1. This paper responds to Cabinet's decisions in April 2019 [CAB-19-MIN-174.22 and CAB-19-MIN-0174.42] and provides:
 - 1.1. an overview of Te Arawhiti work programmes and how they contribute to this government's long-term vision; and
 - 1.2. an account of progress to date and practical workplans looking forward for those work programmes.
2. Note this paper reports concurrently with a joint Cabinet paper submitted by the Minister for Māori Crown Relations: Te Arawhiti and the Minister for Māori Development outlining the respective roles and responsibilities of each agency.

Executive Summary

3. The true promise of the Treaty of Waitangi has largely remained unrealised since its signing in 1840. This promise is the Crown and Māori working together in partnerships to achieve better economic, social, cultural, environmental and intergenerational wellbeing outcomes for Māori and all New Zealanders. In December 2018 we agreed to establish the Office for Māori Crown Relations – Te Arawhiti (Te Arawhiti), a decision which would support a vision of realising this promise by the 200th anniversary of the signing of the Treaty in 2040 [CAB-18-Min-0456].
4. Genuine Treaty partnerships require a resetting of the relationship. We have recognised that a different approach is required to achieve a system wide change to support intergenerational wellbeing. Te Arawhiti brings together four work programmes (Treaty settlements, Takutai Moana, Settlement Commitments and Māori Crown Relations) which are critical to this reset.
5. Less than a year since Te Arawhiti has been established, a considerable contribution to our long-term goals has been made:
 - 5.1. steady progress towards the completion of Treaty settlements and the implementation of the Takutai Moana Act;
 - 5.2. the launch of Te Haeata - the settlement portal, which records settlement commitments and strengthens the durability of settlements;

- 5.3. development of a number of tools and guidance to support government's engagement with Māori;
- 5.4. development of a coordinated and consistent policy approach to contemporary Treaty issues; and
- 5.5. support to other Ministers and agencies in brokering solutions to challenging relationship issues with Māori.

6. In 2019/20, across all four work programmes, Te Arawhiti is setting out to:

s9(2)(j)

- 6.1. 
- 6.2. ensure the Crown's approach to implementing the Takutai Moana Act is fair and accessible;
- 6.3. strengthen the Crown's ability to maintain the integrity of Treaty settlements and build upon the opportunities they provide;
- 6.4. finalise indicators and a full set of tools which will complete a suite of guidance around public sector capability and engagement;
- 6.5. support a strategic approach across government to cement partnerships between Māori and the Crown, with a focus on government priorities; and
- 6.6. develop an approach to resolving contemporary Treaty issues that supports our broader goals of building closer partnerships with Māori.

7. Each work programme provides a crucial contribution to the vision underpinning the establishment of Te Arawhiti. If we as a country are to act in the manner envisioned by the signatories to the Treaty, we need to maintain our focus on Treaty settlements, ensuring their durability, progressing the Takutai Moana Act process and lifting the capability of all government agencies in their relationships with Māori into the future.

Background

8. Since the historical Treaty settlement process began, the Māori Crown relationship has to a large degree been defined by grievance. Through settlements the Crown has acknowledged and apologised for its historical acts and omissions that breached the Treaty of Waitangi, and addressed the impact these had on Māori across Aotearoa.
9. Although strong Māori Crown relationships should not be contingent on historical Treaty settlements, the settlement process enables a crucial reset of the relationship between the Crown and settled groups, and for the focus to shift from past grievance to future partnerships and opportunities. Ensuring remaining settlements are completed and relationships are nurtured is vital if we are to realise the promise of the Treaty of Waitangi.

10. During the engagement on the scope of the Māori Crown Relations portfolio in 2018, people focused on the desire of Māori to partner with the Crown, but importantly questioned the ability of the Crown to achieve this. As a response to this, the government's focus on intergenerational wellbeing outcomes and the need to make a transformational change to the existing system - Te Arawhiti was established in December 2018.
11. Te Arawhiti was launched as a departmental agency hosted by the Ministry of Justice. The establishment brought together four work programmes (Treaty settlements, Takutai Moana, Settlement Commitments and Māori Crown Relations) and created an agency whose core focus was the Māori Crown relationship.
12. The key responsibilities of Te Arawhiti are to:
 - 12.1. complete historical Treaty of Waitangi settlements as quickly and as fairly as possible (under the leadership of the Minister for Treaty of Waitangi Negotiations);
 - 12.2. administer and implement the Marine and Coastal Area (Takutai Moana) Act 2011 (under the leadership of the Minister responsible under the Takutai Moana Act);
 - 12.3. ensure the Crown meets its Treaty settlement commitments (under the leadership of the Minister for Māori Crown Relations: Te Arawhiti); and
 - 12.4. provide strategic advice to the Minister for Māori Crown Relations: Te Arawhiti on the risks and opportunities in Māori Crown partnerships, and support the other portfolio responsibilities.
13. The 200th anniversary of the signing of the Treaty of Waitangi will be a significant milestone in New Zealand's history. It also provides a definitive point in time where the government should be able to demonstrate:
 - 13.1. the Crown having completed all historical Treaty settlements with less litigation in respect to Crown obligations under the Treaty;
 - 13.2. the Māori Crown relationship shifting towards genuine, mutually beneficial partnerships that contribute towards intergenerational wellbeing outcomes; and
 - 13.3. public sector agencies' capability to engage effectively with Māori.

September report back

14. In April 2019 Cabinet invited:
 - 14.1. the Minister for Treaty of Waitangi Negotiations to report back in September 2019 on progress to date in the Treaty settlements work programme and the Takutai Moana work programme [CAB-19-MIN-0174.42];
 - 14.2. the Minister for Māori Crown Relations: Te Arawhiti to report back in September 2019 with a practical work programme for delivering Te Arawhiti's

responsibilities in relation to the Māori Crown Relations portfolio and an account of progress to date [CAB-19-MIN-0174.22]; and

14.3. the Minister for Māori Crown Relations: Te Arawhiti and the Minister for Māori Development to report back jointly in September 2019 on the relative roles and responsibilities of Te Arawhiti and Te Puni Kōkiri (see paragraph 16) [CAB-19-MIN-0174.22].

15. This paper is structured in two parts, with each setting out overall progress to date and workplans for Te Arawhiti responsibilities, as set out below:

15.1. **Part 1:** Treaty settlements and Takutai Moana

15.2. **Part 2:** Māori Crown Relations portfolio

Te Arawhiti and Te Puni Kōkiri

16. A separate paper, which can be read concurrently with this one, is titled *Respective roles and responsibilities of Te Arawhiti and Te Puni Kōkiri* and sets out how these two organisations can work together more effectively to achieve our desired outcomes.

17. Te Arawhiti and Te Puni Kōkiri have distinct but complementary roles. Te Arawhiti will continue to work across the public sector to support the system-wide lift in capability that is needed. This will include working with Te Puni Kōkiri as they undertake the equally important work of ensuring the capability of Māori to partner with the Crown is similarly strengthened.

Part 1 – Minister for Treaty of Waitangi Negotiations

Settling historical Treaty of Waitangi claims

18. Considerable progress towards settling all historical Treaty of Waitangi claims has been made since 1989. All willing and able groups have either settled, are in active negotiations or seeking mandate to negotiate.
19. At July 2019, approximately 92% of all groups nationally have a recognised deed of mandate, 64% of possible deeds of settlement have been signed and 52% have had settlement legislation enacted¹. Settlements completed to date cover approximately 75% of New Zealand’s land area, including the entire South Island. The map attached as **Appendix One** shows the progress of Treaty settlements to date.

s9(2)(j) 20.

[REDACTED]

Update on Treaty settlement progress since July 2018

21.

s9(2)(g)(i)

[REDACTED]

22. In 2018/19, ten settlement milestones were achieved, including three signed agreements in principle, two initialled deeds of settlement and two signed deeds of settlement. We are now at the tail end of negotiations, where milestones are becoming harder to achieve for several reasons. The most notable challenges in 2018/19 are set out in the below table:

Table One: Factors affecting Treaty settlement progress

Reason	Effect on progress
Litigation	<ul style="list-style-type: none"> In 2018/19 progress was paused due to litigation in the Waitangi Tribunal or High Court for 17 groups. This was the highest volume of litigation for Treaty settlements in one year. [REDACTED] In 2019/20 there is an increase in cases under the Tribunal’s resumption jurisdiction in relation to Crown forest licensed lands and 27B memorialised lands (under the State-Owned Enterprises Act), known as remedies. The Waitangi Tribunal is likely to make decisions on remedies in the first quarter of 2020.
Mandate	<ul style="list-style-type: none"> In 2018/19 there were a number of cases in the Waitangi Tribunal on the Crown’s application of its large natural groupings policy and how mandating is undertaken. [REDACTED]

s9(2)(j)

1 Note these numbers are subject to change – most notably when groups settle collectively or when collective groups are broken into individual negotiations.

2 A group that is willing and able is a group that can be seen to be progressing to settlement by steadily achieving settlement milestones.

Reason	Effect on progress
	<ul style="list-style-type: none"> • [REDACTED]
Overlapping interests	<ul style="list-style-type: none"> • The remaining groups to be settled are heavily overlapped and time is required to resolve overlapping interests. • The Crown prefers an iwi-led approach to resolving overlapping issues. • Sometimes, a decision is required from the Crown, which can result in that decision being challenged in the Waitangi Tribunal or courts.
Iwi aspirations outside existing Crown policy parameters	<ul style="list-style-type: none"> • Aspirations in relation to natural resources (national parks and harbours), social redress or large tracts of other conservation lands challenge the Crown's policy frameworks. • Working through such aspirations can delay progress.

23. I anticipate these matters will continue to challenge the progress of remaining Treaty settlements.

Approach to settle all willing and able groups as quickly and fairly as possible

24. I am focused on completing Treaty settlements as quickly and as fairly as possible. This means providing the opportunity for all willing and able groups to enter negotiations by the end of 2020. Focus over the next four years will shift to finalising deeds of settlement and settlement legislation for all willing and able groups, with the aim of completing³ Treaty settlements by 2024/25.

s9(2)(g)(i)

[REDACTED]

25.

[REDACTED]

s9(2)(j)

26.

[REDACTED]

Treaty settlements work programme for 2019/20

³ Completion means each willing and able group will have achieved an initialled deed of settlement by 2023/24 and settlement legislation introduced by 2024/25.

27. The 2019/20 work programme, and the revised completion date of 2024/25, considers the challenges outlined in Table One above. The aim is to deliver the following milestones in 2019/20:

Table Two - Milestones to be delivered in 2019/20

Group	Mandate	Agreement in Principle	Initialled Deed of Settlement	Deed of Settlement	Legislation introduced	Legislation enacted
Ngāti Rangi						Achieved
s9(2)(j)						
Moriori			Achieved	✓	✓	
s9(2)(j)						
Whanganui Lands		Achieved				
s9(2)(j)						

28. [Redacted]

Ngāpuhi

29. In addition, I am committed to working with Ngāpuhi towards an approach that will be well supported and provide an overall plan for Ngāpuhi Treaty settlement negotiations. I intend to report to Cabinet in more detail in the coming weeks.

Remedies

- 4 [Redacted]

30.

s9(2)(f)(iv)

31.

Need for continued focus and momentum

32. The historical Treaty settlement process provides a crucial relationship reset and economic and cultural platform for settled groups.

s9(2)(j)

Update on Takutai Moana

33. The deadline for applications under the Marine and Coastal Area (Takutai Moana) Act 2011 was 3 April 2017. 585 applications were made, the majority just prior to the deadline. Of the 585 applications, 202 were made to the High Court and 383 were made to the Crown. 180 applications were made to both the High Court and Crown engagement.

34. The majority of applicants in the High Court are expressing a preference for Crown engagement. The High Court is directed by the Takutai Moana Act to prioritise applications made to the Māori Land Court under the Foreshore and Seabed Act 2004 and these cases are currently being scheduled. Where there are many overlapping applications these Court hearings will be lengthy – for example in the western Bay of Plenty *Edwards* (CIV 2011-485-817) is set down for an eight week hearing commencing August 2020. Few other applications are yet ready to proceed to a hearing.

35. Under the Ngā Rohe Moana o ngā hapū o Ngāti Porou Act 2019, the hapū of Ngāti Porou have until 31 May 2021 to apply for recognition of customary rights in the common marine and coastal area in their rohe moana. Ngā hapū o Ngāti Porou and Te Arawhiti have begun discussions to plan for those applications and wider implementation of the Ngā Rohe Moana o ngā hapū o Ngāti Porou Act 2019.

36. In 2018/19, the Takutai Moana work programme has focussed on:

36.1. Ngā Rohe Moana o ngā hapū o Ngāti Porou Act 2019 – the third reading of the bill and signing of the Whakamana Accord and Relationship Instruments took place on 23 May;

36.2. Historical research – needed to make decisions regarding the tests under the Takutai Moana Act. Te Arawhiti has completed initial research for some areas.

s9(2)(f)(iv)

- 
- 36.3. Financial assistance – in 2018/19 Te Arawhiti reimbursed applicants a total of \$1.9 million in financial assistance to progress their applications through either the High Court or Crown Engagement;
 - 36.4. Engagements – applicants who have signed formal terms of engagement with the Crown include Ngāti Koata, Ngāti Porou ki Hauraki, Te Uri o Hau, Taumata B, and Te Korowai o Ngāruahine. Most of these groups are in the research stage of the process. Discussions have also taken place with a further 30 applicants who have indicated they would like to engage with the Crown, but who are not yet ready to sign terms of engagement; and
 - 36.5. Waitangi Tribunal Kaupapa Inquiry into the Takutai Moana Act – Te Arawhiti participated in the inquiry, which began in March 2019 and is ongoing.

Challenges for Takutai Moana work programme

- 37. Progressing a work programme for Takutai Moana is made challenging by the complexities of overlapping interests and application areas in both the High Court and Crown engagement. The current policy and processes for Crown Engagement and applicant funding for both Crown Engagement and the High Court require review and discussion with applicants.
- 38. A strategy for Crown Engagement is in development and a review of the applicant funding regime has been agreed by myself and the Minister of Finance.
- 39. Both the Takutai Moana Act and Ngā Rohe Moana o ngā hapū o Ngāti Porou Act 2019 require the testing of evidence of customary interests. The collection of evidence on the use and occupation of the common marine and coastal area by applicants and others is an intensive process that can take several years for any stretch of the coastline.

Approach for delivering on Takutai Moana

40. In 2019/20, the focus will be on:

s9(2)(g)(i)

- 40.1. [REDACTED]
- 40.2. implementing Ngā Rohe Moana o ngā hapū o Ngāti Porou Act 2019;
- 40.3. reviewing and administering funding to assist Takutai Moana applicants in High Court or Crown engagement processes;
- 40.4. continuing the historical research programme to support the responsible Minister, and the High Court to make decisions;

s9(2)(f)(iv)

- 40.5. [REDACTED]
- 40.6. administering Crown Engagement applications for customary interests.

41.

s9(2)(f)(iv)

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

42. Finalising the strategy will determine the work programme for the next four years and enable clear messages to applicants about expected timeframes.

Takutai Moana work programme for 2019/20

43. Table Three below provides a high-level overview of the Takutai Moana work programme for 2019/20.

Table Three - Takutai Moana workstreams for 2019/20

Workstreams	Initiatives
<p>Workstream 1: Legal and Funding Processes</p> <p>Objectives:</p> <ul style="list-style-type: none"> To ensure the Crown is adequately represented in the High Court and Waitangi Tribunal. To implement the Takutai Moana and Ngāti Porou Acts and financial assistance. 	<ul style="list-style-type: none"> Takutai Moana litigation: <ul style="list-style-type: none"> Instruct Crown Law as required for participation in High Court Takutai Moana applications Participate in and instruct Crown Law in relation to the Waitangi Tribunal Kaupapa Inquiry WAI 2660 Takutai Moana applicant funding: <ul style="list-style-type: none"> Administers financial assistance for applicants to the High Court and Crown Engagement Review the financial assistance scheme Implementation:

Workstreams	Initiatives
	<ul style="list-style-type: none"> - Implement the Ngāti Porou Act - Develop registry of Takutai Moana applications for efficient delivery of the work programme
<p>Workstream 2: Historical Research</p> <p>Objective: Undertake research to support the responsible Minister and the High Court to make decisions.</p>	<ul style="list-style-type: none"> • Takutai Moana historical research: <ul style="list-style-type: none"> - Continue historical research programme. - [REDACTED]
<p>Workstream 3: Crown Engagement</p> <p>Objective: Administer Crown Engagement applications for customary interests</p>	<ul style="list-style-type: none"> • [REDACTED] • [REDACTED] • [REDACTED] • [REDACTED] • [REDACTED]

s9(2)(f)(iv)

s9(2)(f)(iv)

Part 2 – Minister for Māori Crown Relations: Te Arawhiti

Māori Crown Relations portfolio responsibilities

44. The Prime Minister approved the responsibilities of the Māori Crown Relations: Te Arawhiti portfolio in September 2018. These responsibilities echoed the kōrero I heard during my engagement on the scope of the portfolio. The desire to partner with the Crown was identified, however the ability of the Crown to reciprocate was questioned.
45. The responsibilities of the Māori Crown Relations portfolio are to:
 - 45.1. ensure the Crown meets its Treaty settlement commitments;
 - 45.2. develop engagement, co-design and partnering principles that ensure agencies generate optimal solutions across social, environmental, cultural and economic development;
 - 45.3. ensure public sector capability is strengthened;
 - 45.4. ensure the engagement of public sector agencies is meaningful;
 - 45.5. provide an independent cross-government view on the health of the Māori Crown relationship;
 - 45.6. provide strategic leadership and advice on contemporary issues;
 - 45.7. broker solutions to challenging relationship issues with Māori;
 - 45.8. coordinate significant Māori Crown events on behalf of the Crown; and
 - 45.9. provide strategic advice to the Prime Minister and Cabinet on the risks and opportunities in Māori Crown partnerships.
46. The responsibilities of this portfolio look to the future of our relationship with Māori, and recognise that a different approach is required to achieve a system wide change to support intergenerational wellbeing outcomes by:
 - 46.1. delivering on the commitments and protecting the relationships developed through the historical Treaty settlement process;
 - 46.2. working across the government to support the capability of the Crown to engage effectively with Māori;
 - 46.3. supporting a strategic approach across government to cement partnerships between Māori and the Crown, with a focus on supporting government priorities; and
 - 46.4. developing an approach to resolving contemporary Treaty issues that supports our broader goals of building closer partnerships with Māori.

Progress to date

47. The Māori Crown Relations portfolio remains a relatively new portfolio. However, since September 2018, significant progress has been made in establishing and implementing priorities including how they will progress and interact over the next four years.
48. The key achievements to date are set out in the below table:

Table Four: Key achievements in Māori Crown Relations responsibilities

Responsibility	Key achievements
Ensure the Crown meets its Treaty settlement commitments	<ul style="list-style-type: none"> • Launched Te Haeata – the settlement portal – an online database of settlement commitments for use by agencies and iwi post-settlement governance entities • Worked with agencies and iwi post-settlement governance entities to address several post-settlement issues • Worked to ensure new Crown policies maintained the integrity of settlements, including Kainga Ora – Homes and Communities legislation
Develop engagement, co-design and partnering principles that ensure agencies generate optimal solutions across social, environmental, cultural and economic development	<ul style="list-style-type: none"> • Engagement Framework and Guidelines for agencies engaging with Māori approved September 2018 • Partnership principles approved March 2019 • Supporting implementation of guidance tools across government
Ensure public sector capability is strengthened	<ul style="list-style-type: none"> • Needs analysis across the public sector completed • Capability framework (both individual and organisational) developed and tested
Ensure the engagement of public sector agencies is meaningful	<ul style="list-style-type: none"> • Advice provided to agencies on over 100 engagement processes • 26 engagement workshops held across 16 agencies
Provide an independent cross-government view on the health of the Māori Crown relationship	<ul style="list-style-type: none"> • Prototype indicators dashboard considered by MCR Committee in December 2018 • Further work undertaken to refine dashboard and data
Provide strategic leadership and advice on contemporary issues	<ul style="list-style-type: none"> • Publication of Cabinet Office circular (19) 3 – <i>Better coordination of contemporary Treaty issues</i> • Provision of strategic support to agencies leading involvement in kaupapa inquiries

Responsibility	Key achievements
Broker solutions to challenging relationship issues with Māori	<ul style="list-style-type: none"> • Ongoing work with other Ministers to resolve relationship issues such as: <ul style="list-style-type: none"> ○ Kōhanga Reo claim ○ Te Wānanga o Raukawa ○ 5Gspectrum ○ Freshwater
Coordinate significant Māori Crown events on behalf of the Crown	<ul style="list-style-type: none"> • Delivered successful Waitangi 2019 commemorations • Secured annual funding of \$1 million to support initiatives strengthening a shared national identity
Provide strategic advice to the Prime Minister and Cabinet on the risks and opportunities in Māori Crown partnerships	<ul style="list-style-type: none"> • Development of partnerships heatmap to track progress of partnerships across country • Facilitation and advice to agencies and Māori on partnerships

Workplan forward

49. These responsibilities do not exist in isolation – rather they work together to support government priorities through partnerships and lifting the government’s capability to effectively engage with Māori.
50. Some key areas of work which I intend to focus on over 2019/20 are set out in the below table. A practical diagram showing progress in the responsibility workstreams is attached at **Appendix Two**.

Table Five: Upcoming focus in Māori Crown Relations portfolio

Responsibility	Focus for 2019/20
Ensure the Crown meets its Treaty settlement commitments	<p>Strengthen Crown capability to maintain the integrity of Treaty settlements and build upon the opportunities that arise post-settlement</p> <p>Continue to support agencies and iwi to resolve post-settlement issues, and complete upload of settlement commitments to Te Haeata – the settlement portal</p>
Develop engagement, co-design and partnering principles that ensure agencies generate optimal solutions across social, environmental, cultural and economic development	Complete co-design guidance which will complete a suite of guidance tools alongside the <i>Engagement Framework and Guidelines</i> and <i>Partnership principles</i>

Responsibility	Focus for 2019/20
Provide an independent cross-government view on the health of the Māori Crown relationship	Finalise indicators dashboard which will provide regular reporting to MCR Committee on the health of the Māori Crown relationship
Provide strategic leadership and advice on contemporary issues	Explore how the institutional settings of the Waitangi Tribunal can be adjusted to support our approach to addressing contemporary Treaty issues Continue to support Ministers and agencies in navigating a coordinated approach to contemporary issues
Broker solutions to challenging relationship issues with Māori	Continue to support Ministers and agencies in navigating challenging relationship issues with Māori that will result in stronger delivery of government priorities
Coordinate significant Māori Crown events on behalf of the Crown	Coordinate and support the delivery of Waitangi 2020 commemorations
Provide strategic advice to the Prime Minister and Cabinet on the risks and opportunities in Māori Crown partnerships	Use the indicators dashboard and partnerships heatmap to implement a strategic approach to the development and support of partnerships between Māori and the Crown across government

51. It is my intention that the focus for this work over 2019/20 will result in the following report backs to Cabinet:
- 51.1. proposals to resolve issues raised in the Kōhanga Reo claim Wai 2336 (with the Minister of Education) in November 2019;
 - 51.2. an update on development of co-design principles and guidance, and initial partnerships heatmap in December 2019; and
 - 51.3. indicators on the health of the Māori Crown relationship in March 2020.

Further engagement process proposed

52. It is important to keep in mind that the focus and priorities for this portfolio were not created in Government offices solely, but involved people across the motu: Māori, Pākeha, iwi organisations, professionals, communities, private individuals and public servants all had a say in what this portfolio needed to do and where its focus needed to lie. With that in mind I consider it will be necessary to report back to:
- 52.1. ask whether the portfolio is achieving what they wanted it to achieve; and
 - 52.2. test whether our priorities and focus are in the right place.

53. I will keep Cabinet updated on my plans for this process and report back once it is completed.

Consultation

54. The following agencies have been consulted in the development of the Māori Crown Relations portfolio section of this paper: The Treasury, the Department of the Prime Minister and Cabinet, the State Services Commission, Te Puni Kōkiri, the Department of Corrections, the Ministry of Justice, the New Zealand Defence Force, Statistics New Zealand, the Ministry of Education, the Ministry for the Environment and the Ministry of Housing and Urban Development.
55. The Treasury has been consulted on the Treaty negotiations and Takutai Moana section of the paper.

Financial Implications

56. This paper has no direct financial implications.

Human Rights

57. This paper has no human rights implications.

Proactive Release

58. We intend to proactively release this paper subject to any necessary redactions under the Official Information Act 1986.

Recommendations

59. The Minister for Māori Crown Relations: Te Arawhiti and the Minister for Treaty of Waitangi Negotiations recommend that the Committee:
1. note that in April 2019 Cabinet invited:
 - 1.1. the Minister for Māori Crown Relations: Te Arawhiti to report back in September 2019 with a practical workplan for delivering the portfolio responsibilities and an account of progress to date; and
 - 1.2. the Minister for Treaty of Waitangi Negotiations to report back on progress to date in the Treaty settlements and Takutai Moana work programmes;
 2. note that the four work programmes contained within Te Arawhiti (Treaty settlements, Takutai Moana, Settlement Commitments and Māori Crown Relations) contribute to a system-wide change in approach to the Māori Crown relationship which is needed to achieve improved intergenerational wellbeing outcomes;

Part 1: Treaty settlements and Takutai Moana

Treaty settlements

3. note in 2018/19, ten settlement milestones were achieved, including three signed agreements in principle, two initialled deeds of settlement and two signed deeds of settlement;

4. [Redacted]

s9(2)(j)

4.1. [Redacted]

4.2. [Redacted]

4.3. [Redacted]

4.4. [Redacted]

5. note the objective remains to complete Treaty settlements as quickly and as fairly as possible – this means:

5.1. providing the opportunity for all willing and able groups to enter negotiations by the end of 2020; and

5.2. focusing efforts over the next four years to finalise deeds of settlement and settlement legislation, with the aim of completed Treaty settlements by 2024/25;

s9(2)(g)(i)

6. [Redacted]

s9(2)(j)

7. [Redacted]

7.1. [Redacted]

7.2. [Redacted]

7.3. [Redacted]

s9(2)(f)(iv)

8. [Redacted]

s9(2)(f)(iv)

- 8.1. [REDACTED]
- 8.2. [REDACTED]
- 8.3. [REDACTED]
- 8.4. [REDACTED]
- 8.5. [REDACTED]
- 8.6. [REDACTED]

s9(2)(f)(iv)

- 9. [REDACTED]

Takutai Moana

- 10. note that in 2018/19, the work programme has focussed on:
 - 10.1. progressing Ngā Rohe Moana o ngā hapū o Ngāti Porou Bill through the legislative process;
 - 10.2. historical research to inform and enable decisions under the Marine and Coastal Area (Takutai Moana) Act 2011;
 - 10.3. providing \$1.9 million in financial assistance to applicants;
 - 10.4. engaging with applicants who have signed formal terms of engagement with the Crown, as well as progressing discussions with approximately 30 applicants who have indicated a desire to engage with the Crown; and
 - 10.5. participating in the Waitangi Tribunal kaupapa inquiry into the Marine and Coastal Area (Takutai Moana) Act 2011;

s9(2)(g)(i)

- 11. note that the 2019/20 work programme focuses on:
 - 11.1. [REDACTED]
 - 11.2. implementing Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019;
 - 11.3. administering funding to assist Takutai Moana applicants in High Court or Crown engagement processes;
 - 11.4. continuing the historical research programme to support the responsible Minister under the Marine and Coastal Area (Takutai Moana) Act 2011 and the High Court to make decisions;

s9(2)(f)(iv)

- 11.5. [REDACTED]

- 11.6. administering Crown Engagement applications;

Part 2: Māori Crown Relations: Te Arawhiti portfolio

12. note the final responsibilities of the Māori Crown Relations: Te Arawhiti portfolio, considered by Cabinet in September 2018 [CAB-18-Min-0456] and subsequently approved by the Prime Minister, are to:
 - 12.1. ensure the Crown meets its Treaty settlement commitments;
 - 12.2. develop engagement, co-design and partnering principles that ensure agencies generate optimal solutions across social, environmental, cultural and economic development;
 - 12.3. ensure public sector capability is strengthened;
 - 12.4. ensure the engagement of public sector agencies with Māori is meaningful;
 - 12.5. provide an independent cross Government view on the health of the Crown/Māori relationship;
 - 12.6. provide strategic leadership and advice on contemporary Treaty issues;
 - 12.7. broker solutions to challenging relationship issues with Māori;
 - 12.8. coordinate significant Crown/Māori events on behalf of the Crown; and
 - 12.9. provide strategic advice to the Prime Minister and the Cabinet on the risks and opportunities in Crown/Māori partnerships;
13. note the following progress was made with respect to the Māori Crown Relations portfolio in 2018/19:
 - 13.1. launch of Te Haeata – the settlement portal;
 - 13.2. supported the resolution of several post-settlement issues;
 - 13.3. advice provided on new Crown policy to ensure integrity of settlements maintained;
 - 13.4. *Engagement Framework and Guidelines*, and *Partnership Principles* approved by Cabinet in September 2018 and March 2019 respectively;
 - 13.5. public sector capability framework in development;
 - 13.6. advice provided to government agencies on over 100 engagement processes;
 - 13.7. publication of Cabinet Office circular (19) 3 – *Better coordination of contemporary Treaty issues*;

- 13.8. ongoing work with Ministers and agencies to broker solutions to challenging relationship issues with Māori;
 - 13.9. the delivery of successful Waitangi 2019 commemorations; and
 - 13.10. facilitation and advice to agencies and Māori on partnerships.
14. note that the Minister for Māori Crown Relations: Te Arawhiti intends to make the following report backs to Cabinet in 2019/20:
- 14.1. update on development of co-design principles and guidance and initial partnerships heatmap in December 2019;
 - 14.2. indicators of the health of the Māori Crown relationship in March 2020;
 - 14.3. proposals to resolve issues raised in the Kōhanga Reo claim Wai 2336 (with the Minister of Education) in November 2019; and
15. note the Minister for Māori Crown Relations: Te Arawhiti will keep Cabinet updated on plans to undertake further engagement on the delivery of the portfolio responsibilities.

Authorised for lodgement

Hon Kelvin Davis
Minister for Māori Crown Relations:
Te Arawhiti

Hon Andrew Little
Minister for Treaty of Waitangi Negotiations

Delivery of Māori Crown Relations: Te Arawhiti Portfolio Responsibilities

Approved September 2018

September 2019

Priority outcomes

