

Hon Tama Potaka

**Minister for Māori Crown Relations: Te Arawhiti and
Minister for Māori Development**

Hon Paul Goldsmith

Minister for Treaty of Waitangi Negotiations

Clarifying agency functions

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The Hon Tama Potaka, Minister for Māori Crown Relations: Te Arawhiti and Minister for Māori Development and Hon Paul Goldsmith, Minister for Treaty of Waitangi Negotiations are releasing the Cabinet paper and Cabinet Minutes.

Explanatory note:

Included in this release are the following documents:

- Cabinet Paper
- Cabinet Minute – CAB-24-MIN-0295
- Cabinet Minute – CAB-24-MIN-0295.02

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Office of the Minister for Māori Development

Office of the Minister for Māori Crown Relations: Te Arawhiti

Office of the Minister for Treaty of Waitangi Negotiations

Cabinet Social Outcomes Committee

Clarifying agency functions

Proposal

- 1 This paper seeks agreement in principle to transfer some functions from Te Arawhiti to Te Puni Kōkiri, following stakeholder engagement.

Relation to government priorities

- 2 Whilst not yielding large savings, the proposed refinement of existing institutional arrangements will reduce duplication and costs arising from confusion of respective responsibilities, and will contribute to the Government's priority of delivering better public services.

Executive Summary

- 3 This paper should be read in combination with the accompanying paper *Enabling good government through a modernised approach to Māori Development*.
- 4 The Māori Development, Whānau Ora, Māori Crown Relations: Te Arawhiti, and Treaty of Waitangi Negotiations portfolios are currently primarily serviced by two agencies – Te Puni Kōkiri and Te Arawhiti: the Office for Māori Crown Relations (Te Arawhiti). Some of the functions of Te Puni Kōkiri and Te Arawhiti overlap and, despite efforts to address this overlap, including through formal agreements, clarity has never been realised.
- 5 We consider the status quo untenable. Duplication of effort and 'scope creep' of activity has developed over time, particularly in the provision of policy advice on matters that have a significant impact for Māori (the role of Te Puni Kōkiri).
- 6 *Enabling good government through a modernised approach to Māori Development* outlines a change in the Government's approach to Māori development. Clarifying the functions of Te Arawhiti and Te Puni Kōkiri will enable strengthening the analytical and cultural capability of Te Puni Kōkiri so there is a single, strong voice in government for Treaty of Waitangi and Māori development issues. It will also ensure that Te Arawhiti is focussed on closing out the Treaty settlement process in a timely manner.
- 7 This means that one department should be charged with driving Māori policy,

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ensuring that the Government effectively delivers on its Treaty responsibilities, and curating opportunities to improve the cultural, social and economic development of Iwi/hapū and Māori. We think this sits best with Te Puni Kōkiri, in accordance with its statutory responsibilities.

- 8 We also consider it important to dedicate targeted resources to finalising historic Treaty settlements and progressing Takutai Moana applications in accordance with Minister Goldsmith's intended programme. We think it desirable for Te Arawhiti to continue to do this.
- 9 To this end, we propose that Te Arawhiti be responsible only for progressing Treaty settlements and Takutai Moana applications. Te Arawhiti will also ensure responsible agencies are well briefed on proposed commitments to enable their preparation and delivery, noting that responsible agencies are involved in negotiations and development of redress they are required to implement, and should have the necessary arrangements in place to ensure they can implement them. Te Arawhiti will remain responsible for implementing the commitments for which it is the responsible agency.
- 10 The remaining substantive functions of Te Arawhiti should be transferred to Te Puni Kōkiri. This would involve a reduction in role, and we invite the Cabinet Social Outcomes Committee to consider whether Te Arawhiti should remain a departmental agency, given the high profile accorded to the settlement of outstanding Treaty grievances, or become a branded business unit of the Ministry of Justice, noting that Te Arawhiti staff are already employed by that Ministry which is the host of Te Arawhiti. As noted in this paper, this latter option may result in greater savings.
- 11 Transferring functions between agencies has direct, recurring and indirect costs. In this instance some roles are expected to move between agencies. The changes proposed in this paper may also affect ongoing work being led by Te Arawhiti. To mitigate some of the risks while beginning this work, we are seeking Cabinet's in-principle agreement to the changes outlined in this paper, subject to the outcomes of a carefully sequenced approach.
- 12 Subject to in-principle Cabinet agreement, we intend to undertake brief targeted stakeholder engagement with senior Iwi Chairs and other Māori leaders. This will give us an opportunity to gauge the level of support for the Minister of Māori Development's vision for Māori development, as well as the proposal in this paper.
- 13 We also recommend Cabinet delegate due diligence and final decisions on the functions of the agencies, timing, and finances to the Ministers for Treaty of Waitangi Negotiations, Māori Development and Māori Crown Relations: Te Arawhiti, Justice, Public Service and Finance. We anticipate that this will involve a fiscally neutral transfer of appropriations currently within Vote Te Arawhiti.
- 14 Following this, the Chief Executives of affected agencies will need to undertake consultation with staff to implement the proposals, consistent with their employment responsibilities. Subject to consultation, and final decisions by joint ministers, we recommend changes take effect by 1 March 2025.

Background

- 15 This paper should be read in combination with the accompanying paper *Enabling good government through a modernised approach to Māori Development*, which sets out the vision of the Minister for Māori Development and Māori Crown Relations: Te Arawhiti for a change in the Government's approach to Māori development. This includes relevant portfolio responsibilities, and the ways in which government (on behalf of the Crown) works with Iwi, hapū and Māori.
- 16 The Māori Development, Whānau Ora, Māori Crown Relations: Te Arawhiti, and Treaty of Waitangi Negotiations portfolios are currently primarily serviced by two agencies – Te Puni Kōkiri and Te Arawhiti: the Office for Māori Crown Relations (Te Arawhiti). These agencies have some overlapping functions and there is some duplication of effort – and consequent confusion in the public service and among Māori.
- 17 Te Puni Kōkiri was established under the Māori Development Act 1991, following publication of the groundbreaking *Ka Awatea* report. Te Puni Kōkiri replaced the Ministry of Māori Affairs (Manatū Māori) and the Iwi Transition Agency. Under the terms of *Ka Awatea*, Te Puni Kōkiri was to focus on policy advice and monitoring roles, supported by a network of regional offices. Its statutory responsibilities include: (a) promoting Māori achievement in education, training and employment, health, and economic development; and (b) monitoring the adequate provision of government services to Māori.
- 18 Te Puni Kōkiri initially enjoyed significant influence as the government's principal advisor on Treaty risk, in the same way Treasury advises on fiscal risk. However, it has subsequently had capacity challenges due to the addition of numerous responsibilities relating to the management of programmes and funds.
- 19 In 2019 Cabinet repositioned Te Puni Kōkiri but didn't change its statutory responsibilities. This was to give it a greater focus on Māori development and wellbeing outcomes and building the capability and readiness of whānau and Māori communities (as opposed to the focus of Te Arawhiti on Crown capability) [MCR-19-MIN-0017 refers].
- 20 Te Arawhiti was established in 2019 as a departmental agency hosted by the Ministry of Justice (MoJ), following a nationwide engagement process that entailed 33 hui attended by over 1,600 people and around 230 submissions. Te Arawhiti consolidated the Crown/Māori Relations Unit, the Office of Treaty Settlements, the Takutai Moana Team and the Settlement Commitments Unit [GOV-18-MIN-0083 refers].
- 21 In addition to advising the Minister for Treaty of Waitangi Negotiations on completing historical Treaty Settlements and administering the Marine and Coastal Area (Takutai Moana) Act 2011 and Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019, the role of Te Arawhiti includes advising the Minister for Māori Crown Relations: Te Arawhiti on:
 - 21.1 ensuring the Crown meets its Treaty settlement commitments;

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- 21.2 developing engagement, co-design and partnering principles that ensure agencies generate optimal solutions across social, environmental, cultural and economic development;
 - 21.3 strengthening public sector capability;
 - 21.4 supporting meaningful engagement of public sector agencies with Māori;
 - 21.5 providing an independent cross-government view on the health of the Crown's partnerships with iwi and hapū;
 - 21.6 providing strategic leadership and advice on contemporary Treaty issues;
 - 21.7 brokering solutions to challenging relationship issues with Māori;
 - 21.8 coordinating significant events with Māori on behalf of the Crown;
 - 21.9 providing strategic advice on the risks and opportunities in the Crown's relationship with iwi and hapū; and
- 22 The establishment of Te Arawhiti signalled a change in the then Government's understanding of its Treaty obligations, with a focus beyond the settlement of claims and an increased expectation on the Crown to be a better Treaty partner to Iwi. This expectation was reinforced legislatively through section 14 of the Public Service Act 2020, which made clear that the role of all Public Service agencies includes supporting the Crown in its relationships with Māori under the Treaty.
- 23 Te Arawhiti staff are employees of the Secretary for Justice, and the Ministry is the host department for Te Arawhiti. The Ministry of Justice is also responsible for maintaining the integrity of the constitution, including the Treaty of Waitangi. Under the CabGuide, MoJ must be consulted on all proposals affecting constitutional arrangements, including the Treaty. I note that the proposals in this paper will not impact the constitutional role of the Ministry of Justice in any way.

There is overlap and duplication across Te Puni Kōkiri and Te Arawhiti

- 24 The functions of Te Arawhiti outlined in paragraph 20 were recognised as overlapping with existing functions of Te Puni Kōkiri, and their respective roles and responsibilities were set out in a relationship agreement [MCR-19- SUB-0031 refers]. The clarity sought in that agreement has not materialised. The functions of the two agencies are outlined in Table 1, below.

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Table 1 – Current Function Overlaps

Te Puni Kōkiri	Te Puni Kōkiri & Te Arawhiti	Te Arawhiti
<p>Statutory Responsibilities:</p> <ul style="list-style-type: none"> • Promote increases in levels of Māori achievement in education, training, health, economic resource development. • Monitor and liaise with departments that provide services to or for Māori to ensure adequacy. <p>Functions:</p> <ul style="list-style-type: none"> • Administer legislation. • Provide policy advice on Māori wellbeing and development. • Manage programmes and funds. 	<p>Functions:</p> <ul style="list-style-type: none"> • Build the Crown’s capability to engage with Māori and become a better Treaty partner. • Be a strategic advisor to Cabinet, Ministers and the Public Service to enable good policy decisions that uphold Māori rights and interests. • Manage post-settlement relationships. • Interface with whānau, hapū, Iwi, and Māori to support them to meet their needs and facilitate better, more effective, Crown-Māori relationships and engagement. 	<p>Functions:</p> <ul style="list-style-type: none"> • Complete settlement of all historical Treaty claims. • Manage requirements on the Crown to meet Treaty settlement commitments. • Enable the recognition of legislated customary rights in Takutai Moana. • Convene major Māori-Crown events.

We think there is value in clarifying functions that are currently duplicated

- 25 We recognise the shared functions outlined in Table 1 overlap to different degrees, and, in practice, there are differences of emphasis in the ways they are delivered. For example, Te Puni Kōkiri has been characterised as an agency with an outward-looking focus on Māori development. Te Arawhiti has been characterised as an agency with an inward-looking focus on making the Crown a better Treaty partner.
- 26 By preserving the status quo, we think ambiguity of function remains. As a result, duplication of effort and ‘scope creep’ of activity has developed over time, particularly in the provision of policy advice on matters that have a significant impact for Māori (the role of Te Puni Kōkiri). This is untenable.

We considered three options (including the status quo)

- 27 The companion paper to this paper outlines the vision of the Minister for Māori Development and Māori Crown Relations: Te Arawhiti for a change in the Government’s approach to Māori development. Clarifying the focus of Te Arawhiti and Te Puni Kōkiri, and reducing duplication of efforts, is a first step towards the Minister’s intent to strengthen the analytical and cultural capability of Te Puni Kōkiri and ensure there is a single, strong voice in government for Treaty of Waitangi and Māori development issues.
- 28 We considered the option of transferring the overlapping functions to Te Arawhiti. However, that would not fit well with the intent of the companion paper. An analysis of the options, including the status quo, is in Appendix 1.

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Distribution of functions between Te Puni Kōkiri and Te Arawhiti

- 29 We do not consider the distinction between an ‘inward-looking’ and an ‘outward-looking’ agency to be useful. Instead, we propose the distinction should be between an agency dedicated to settling past grievances, and an agency tasked with looking to the future, ensuring Iwi, hapū and whānau Māori thrive.
- 30 Regarding past grievances, we consider it important to dedicate targeted resources to finalising historic Tiriti o Waitangi - Treaty of Waitangi (**Treaty of Waitangi**) settlements and progressing Takutai Moana applications in accordance with Minister Goldsmith’s intended programme. We note that Te Arawhiti, as successor to the Office of Treaty Settlements, has extensive experience and expertise in performing these functions. We think it desirable for Te Arawhiti to continue to do so.
- 31 Looking to the future, we consider that advising the government on the rights and interests of Māori aligns strongly with the role of Te Puni Kōkiri in providing policy advice on matters that have a significant impact for Māori. Responsibility for this being held by a sole agency would significantly reduce duplication of effort and scope creep.
- 32 We also see that the responsibility for interfacing with Iwi and hapū would be enabled well through the regional network of relationships that Te Puni Kōkiri has built over the years. With these strong relationships in communities, Te Puni Kōkiri is also well placed to lead post-settlement relationships with Post-Settlement Governance Entities (PSGEs), including settlement relationship commitments such as Accords, and coordinating major events.
- 33 We also consider that the statutory responsibility of Te Puni Kōkiri to monitor and liaise with departments that provide services to or for Māori to ensure adequacy could suitably include the extent to which departments have the required capability to engage with Māori. This would replace the distinct responsibility to build the Crown’s capability to engage with Māori and become a better Treaty partner, currently shared between Te Arawhiti and Te Puni Kōkiri.
- 34 We expect all agencies to be able to implement their settlement commitments. To this end, we consider it important that Te Arawhiti ensure responsible agencies are well briefed on proposed commitments to enable their preparation and delivery. Responsible agencies are involved in negotiations and development of redress they are required to implement, and should have the necessary arrangements in place to ensure they can implement them. Te Arawhiti will remain responsible for implementing the commitments for which it is the responsible agency.
- 35 We consider that the role of monitoring and reporting on the Crown’s implementation of Treaty settlements would align well with the statutory monitoring and liaison role of Te Puni Kōkiri, as well as with the responsibilities Te Puni Kōkiri holds for the majority of Treaty settlement Accords and their implementation. This would support Te Puni Kōkiri in advising on the Minister for Māori Development’s statutory responsibility to report annually to the House of Representatives on the progress being made in the implementation of

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recommendations made to the Crown by the Waitangi Tribunal (Section 8I of the Treaty of Waitangi Act 1975).

- 36 Due to the complex nature of Treaty settlements and post-settlement work, we will need to work through the details of this with agencies. At a minimum, it will be important for both agencies to work closely together to achieve overall objectives around strengthening Crown relationships with iwi and Māori leaders.
- 37 Our proposed distribution of functions is outlined in Table 2 below, with changes indicated in bold. We have redescribed some of the functions to better reflect what we intend for them to cover. There will be value in a clear separation between functions focused on reparations for past injustices, and functions that are future focused. Synergies can also be achieved by bringing together the delivery of certain related functions. Further, bringing key functions together will help to consolidate funding which will better enable macro-policy level investments.

Table 2 – Distinct Agency Responsibilities

Te Puni Kōkiri	Te Arawhiti
<p>Statutory Responsibilities:</p> <ul style="list-style-type: none"> • Promote increases in levels of Māori achievement in education, training, health, economic resource development; and • Monitor and liaise with departments that provide services to or for Māori to ensure adequacy (note that we consider that this includes the extent to which they have the required capability to engage with Māori). <p>Functions:</p> <ul style="list-style-type: none"> • Advise the Government on the distinct rights, interests and responsibilities of Iwi/Hapū and of Māori. • Monitor and report on the Crown’s implementation of Treaty settlement commitments. • Lead post-settlement relationships with Post-Settlement Governance Entities (PSGEs), including settlement relationship commitments such as Accords, and organise major events. • Responsibly administer legislation and funds. 	<p>Functions:</p> <ul style="list-style-type: none"> • Complete settlement of all historical Treaty claims. • Enable the recognition of legislated customary rights in Takutai Moana.

We also considered the appropriate form for Te Arawhiti

- 38 When Cabinet considered establishing Te Arawhiti, they considered a branded business unit form, on the grounds that it would have a separate identity, visible chief executive (i.e. the Secretary of Justice) and organisational branding. They decided to adopt a departmental agency because it ‘hard-wired’ its separate identity [CAB-18-MIN-0456 refers].
- 39 As a departmental agency, Te Arawhiti incurs additional back-office costs for the Government. The Ministry of Justice incurs costs through support of a separate agency and the negotiation and support of the Host Agreement. Te Arawhiti

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incurs costs through an additional corporate function of its own of approximately 35 people out of approximately 200 FTE, in addition to 4.5 FTE resource dedicated from MoJ.

- 40 If the functions proposed to remain in Te Arawhiti were to continue as an independent business unit of MoJ, rather than a departmental agency, there may be efficiencies available to the new business unit and MoJ's corporate functions.
- 41 Given that the residual functions of Te Arawhiti considered in this paper are more narrowly circumscribed, they could be sufficiently delivered by a branded business unit. This was effectively the situation before the establishment of Te Arawhiti, likely at a lower cost. Orders in Council would be needed to give effect to this change.
- 42 Alternatively, it would still be appropriate for Te Arawhiti to continue as a departmental agency given heightened public interest in Treaty settlement work, for example resolving major Treaty claims such as those with Ngāpuhi. This option would minimise disruption caused by significant organisational change.

Revising Treaty guidance

- 43 There is ongoing evolution in law and policy with regards to the Treaty of Waitangi and a new coalition government formed with distinct commitments around the Treaty of Waitangi by way of coalition agreements:
- 43.1 National – ACT coalition agreement:
- *Introduce a Treaty Principles Bill based on existing ACT policy and support it to a Select Committee as soon as practicable.*
- 43.2 National – NZ First coalition agreement:
- *Conduct a comprehensive review of all legislation (except when it is related to, or substantive to, existing full and final Treaty settlements) that includes “The Principles of the Treaty of Waitangi” and replace all such references with specific words relating to the relevance and application of the Treaty, or repeal the references.*
 - *Amend the Waitangi Tribunal legislation to refocus the scope, purpose, and nature of its inquiries back to the original intent of that legislation*

- 44 We consider this an opportune time to take a coherent and coordinated approach to reconsider Treaty of Waitangi guidance throughout the Executive. 9(2)(1)(iv) confidentiality o

[REDACTED]

[REDACTED] We will work to ensure that this work coheres with, and supports, other related work programmes, such as the work being led by the Minister of Justice on references to the principles of the Treaty of Waitangi in legislation.

- 45 Given this extensive body of work, we plan to work together to identify relevant Ministerial colleagues to ensure the development of coherent and considered

policy, as it affects Māori. We expect this to take the form of a Ministerial group.
9(2)(f)(iv) confidentiality of advice

Risks and mitigation

- 46 I consider the reputational risks of my proposed approach to be low. I have engaged extensively over the last 6 months and direct anecdotal feedback from Iwi leaders confirms that clarifying the roles of Te Puni Kōkiri and Te Arawhiti respectively will be supported. I expect the public service will also welcome the reduced duplication and avoidance of confusion.
- 47 Transferring functions between agencies has direct, recurring and indirect costs. In this instance some roles are expected to move from Te Arawhiti to Te Puni Kōkiri to help the latter deliver its expanded work programme. Potential direct costs include:
- 47.1 changes to property requirements, because of changes in agency size;
 - 47.2 IT integration; and
 - 47.3 differential pay and, potentially, redundancy.
- 48 Indirect costs include productivity losses with disruptions to employees and work at a time when agencies are already being asked to make savings. There is also a risk of institutional memory loss and stakeholder relationship losses as responsibility for building and maintaining relationships between the Crown and Iwi/hapū shifts between Public Service agencies, and, potentially, as staff leave. This may affect ongoing relationships with Iwi, as they move from settlement to post-settlement, as they lose consistency of relationship with agency staff.
- 49 Te Arawhiti is currently consulting on an Organisational Review Proposal. Consultation with Te Arawhiti kaimahi on this proposal commenced on 4 July and is due to end on 2 August. This increases risk of staff leaving due to ongoing uncertainty. Te Puni Kōkiri is also in the final stages of a change process
- 50 The changes proposed in this paper may affect ongoing work being led by Te Arawhiti such as proposed amendments to the Takutai Moana Act and negotiations with Ngāpuhi albeit I consider this risk to be minor. Te Arawhiti currently also has responsibility for addressing significant settlement issues, covering 100 deeds of settlement, around 80 pieces of settlement legislation, and over 14,000 legal commitments.

Implementation and timeframes

- 51 To mitigate some of the risks while beginning this work, we are seeking Cabinet's in-principle agreement to the changes outlined in this paper, subject to the outcomes of a carefully sequenced approach (outlined in Table 3 below).
- 52 Subject to an in-principle Cabinet agreement, we intend to undertake targeted stakeholder engagement with senior Iwi Chairs and other Māori leaders. This will give us an opportunity to gauge the level of support for my vision for Māori

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development, as well as the proposal to transfer non-Treaty negotiation and Takutai Moana work from Te Arawhiti to Te Puni Kōkiri, and retain Te Arawhiti as a departmental agency.

- 53 We also recommend Cabinet delegate due diligence and final decisions on the functions of the agencies, timing, and finances to the Ministers for Treaty of Waitangi Negotiations, Māori Development, Māori Crown Relations: Te Arawhiti, Justice, Public Service and Finance.
- 54 It is noted that the proposal transfers the entirety of the Māori Crown Relations portfolio functions to Te Puni Kōkiri. This will mean that one agency, Te Puni Kōkiri, will service three portfolios held by Minister Potaka - Māori Crown Relations: Te Arawhiti, Māori Development and Whānau Ora. 9(2)(f)(iv) confidentiality of advice
- 55 The Chief Executives of affected agencies will need to undertake consultation with staff to implement the proposals, consistent with their employment responsibilities. The Public Service Act 2020 contains relevant provisions which govern the transfer of employees between Public Service agencies. Subject to consultation, and final decisions by joint ministers, we recommend changes take effect by 1 March 2025.

Table 3: A Sequenced Approach to Change

Milestone/ Activity	Timeframe
Cabinet agrees in principle to transfer some of functions of Te Arawhiti to Te Puni Kōkiri (this paper)	26 Aug 2024
Stakeholder engagement	30 Aug – 13 Sep 2024
Final policy proposal developed, subject to stakeholder engagement	16 – 20 Sep 2024
Joint Ministerial decision on functions, timing, and finances	23 Sep – 4 Oct Sep 2024
Relevant agencies undertake change process	7 Oct onwards
Changes take effect	By 1 March 2025

Cost-of-living Implications

- 56 There are no impacts on the cost of living from the proposals in this paper.


Financial Implications

- 57 No immediate financial implications arise as a result of this paper. It is expected that reduction in overlapping functions will result in minor financial savings over time.
- 58 We anticipate transaction costs from the transfer of functions outlined in this paper, including the costs associated with moving staff from Te Arawhiti to Te Puni Kōkiri. However, we expect the changes in this paper to result in baseline savings through efficiencies and streamlining of delivery which would be feasible

in out-years as a result of potential changes to the number of senior leaders needed across Te Arawhiti and Te Puni Kōkiri. However, it is difficult to assess the scale, or timing, of any savings or efficiencies prior to both agencies undergoing a further change process.

59 The proposals outlined in this paper will need to be funded within baselines agreed as part of Budget process. We will work with officials from Te Arawhiti, Te Puni Kōkiri, the Ministry of Justice and the Public Service Commission to identify cost-effective ways of making the changes outlined in this paper.

60 9(2)(f)(iv) confidentiality of advice



Legislative Implications

61 There are no legislative implications from the proposals in this paper.

Impact Analysis

Regulatory Impact Statement

62 No regulatory impact statement is required as the proposals in this paper do not involve the potential introduction of new legislation or changes to or repeal of existing legislation.

Climate Implications of Policy Assessment

63 No assessment of climate implications is required for this paper.

Te Tiriti o Waitangi – Treaty of Waitangi Implications

64 The proposals in this paper relate to the exercise of Kāwanatanga. This includes the right of the Crown to determine the way in which it organises itself to deliver services and functions. The proposals do not seek to eliminate any functions currently performed by the Crown. Instead, they seek decisions about how the Crown can best direct its resources and which agencies of the Crown ought to deliver those functions, reducing overlaps and duplication of effort in so doing.

65 The purpose of the proposals outlined in this paper is to build the capability of Te Puni Kōkiri as an agency focused on building the capability of Māori to realise their aspirations, unlock the potential of their economic assets, and activate change for themselves.

66 The renewed and refreshed Te Puni Kōkiri is intended to remove barriers to the potential of the Māori economy. The outcomes sought by undertaking more proactive roles in improving the achievement of Māori and effectively monitoring

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the delivery of public services to, with and for Māori, will support greater equality of opportunity for Māori. This includes ensuring the public service has the capability to engage effectively with Māori and to understand Māori perspectives.

Population Implications

- 67 The proposals in this paper may affect Māori. However, the proposals outlined do not substantively change the functions currently being performed by the Government, rather the way in which, and by whom, the Government delivers those functions. We consider that the proposals outlined in this paper will reduce overlap and duplication of efforts and will improve the delivery of good government and public services for Māori.
- 68 The changes outlined in this paper are also part of a longer, positive vision for the way Government works with and for Māori, outlined in the companion paper.

Consultation

- 69 This paper was developed with the Public Service Commission. The following agencies were consulted on aspects of this paper: Te Puni Kōkiri, Te Arawhiti, the Ministry of Justice, the Treasury and Crown Law. The Department of Prime Minister and Cabinet were informed.
- 70 We plan to engage with senior Iwi Chairs and other Māori leaders following decisions being taken. The Chief Executives of Te Arawhiti and Te Puni Kōkiri will need to undertake consultation with relevant staff to implement the proposals, consistent with their employment responsibilities.

Communications

- 71 Pending the decision, the Chief Executives of Te Arawhiti and Te Puni Kōkiri will notify staff that possible changes to their organisations are being considered.

Proactive Release

- 72 We propose that this paper is proactively released as soon as practicable following notification of Te Arawhiti and Te Puni Kōkiri staff.

Recommendations

The Ministers for Māori Development, Māori Crown Relations: Te Arawhiti and Treaty of Waitangi Negotiations recommend that the Committee:

- 1 **note** that this paper sits as a companion paper to Enabling good government through a modernised approach to Māori Development, also before the Committee;
- 2 **note** that the paper referred to in Recommendation 1 presents a broad vision for change in the Māori Development and Māori Crown Relations: Te Arawhiti portfolios, and that renewed institutional arrangements will support this;
- 3 **note** that Te Arawhiti was established as a departmental agency in 2019 with

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recognised areas of common interest with Te Puni Kōkiri and that despite efforts to clarify respective roles and functions, it has become clear that it would be appropriate to consolidate some functions within Te Puni Kōkiri;

- 4 **note** that we considered options for the distribution of functions to reduce duplication of effort between Te Arawhiti and Te Puni Kōkiri and best realise the aspirations of the Minister for Māori Crown Relations: Te Arawhiti and Minister for Māori Development for his portfolios;
- 5 **agree**, in principle, subject to stakeholder engagement and any outstanding due diligence, that Te Arawhiti will no longer be responsible for the following functions:
 - 5.1 build the Crown's capacity to engage with Iwi, hapū, whānau and Māori and become a better Treaty partner;
 - 5.2 be a strategic advisor to Cabinet, Minister and the Public Service to enable good policy decisions that uphold Māori rights and interests except as they relate to Treaty settlement and Takutai Moana matters;
 - 5.3 coordinating significant Crown/Māori events on behalf of the Crown; and
 - 5.4 reporting on the Crown's implementation of Treaty settlement commitments;
- 6 **agree**, in principle, subject to stakeholder engagement and any outstanding due diligence, that Te Puni Kōkiri will perform the following functions:
 - 6.1 promote increases in levels of Māori achievement in education, training, health, economic resource development;
 - 6.2 monitor and liaise with departments that provide services to or for Māori to ensure adequacy (including the extent to which they have the required capability to engage with Māori);
 - 6.3 advise the Government and public service on the distinct rights, interests and responsibilities of Iwi/Hapū and of Māori;
 - 6.4 monitor and report on the Crown's implementation of Treaty settlement commitments;
 - 6.5 lead post-settlement relationships with Post-Settlement Governance Entities (PSGEs), including settlement relationship commitments such as Accords, and coordinating major events; and
 - 6.6 responsibly administer legislation and funds;
- 7 **note** that the functions listed in recommendation 6 are intended to substantively include the functions listed in recommendation 5;
- 8 **agree**, in principle, subject to stakeholder engagement and any outstanding due diligence, that Te Arawhiti will be responsible for advising responsible Ministers

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on the following functions:

- 8.1 completing historical Treaty Settlements;
- 8.2 administering the Marine and Coastal Area (Takutai Moana) Act 2011 and Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019; and
- 8.3 in the context of Treaty settlement and Takutai Moana matters: providing strategic leadership and advice on contemporary Treaty issues and any other matter for which the Ministers have a portfolio interest;

9 **agree** to:

EITHER *(supported by the Ministry of Justice and Public Service Commission)*

- 9.1 disestablish Te Arawhiti as a departmental agency and return residual functions to the Ministry of Justice in the form of a branded business unit

OR *(supported by Te Arawhiti)*


- 9.2 Te Arawhiti to remain a departmental agency;

- 10 **note** that we intend to task officials from Te Puni Kōkiri, Te Arawhiti, Ministry of Justice and the Public Service Commission with developing a plan for the implementation process that mitigates risks, minimises costs and provides clarity on functional responsibilities;
- 11 **agree** that the Minister for Māori Crown Relations: Te Arawhiti and Māori Development undertake targeted consultation with senior Iwi Chairs and other Māori leaders on the proposals outlined in this paper;
- 12 **authorise** the Minister for Māori Development and Te Arawhiti: Māori Crown Relations, Minister for Treaty of Waitangi Negotiations, Minister of Justice, Minister of Finance and Minister for the Public Service, jointly to approve final decisions about functions, timing and the necessary funding transfers required to give effect to the proposals outlined in this paper;
- 13 **note** that, subject to undertaking consultation with impacted staff, and final decisions outlined in recommendation 12, the Chief Executives of Te Arawhiti and Te Puni Kōkiri will be responsible for agreeing to the transfer of employees required to undertake the clarified functions of each agency, under the Public Service Act 2020;
- 14 **invite**, subject to Cabinet decision on recommendation 9 above as well as stakeholder consultation and final decisions, the Minister for the Public Service to issue drafting instructions to the Parliamentary Counsel Office for Orders in Council to disestablish Te Arawhiti by removing it from Part 2 of Schedule 2 of the Public Service Act 2020 and Schedule 1 of the Ombudsmen Act 1975;

STAFF IN-CONFIDENCE

15

9(2)(f)(iv) confidentiality of advice



Authorised for lodgement.

Hon Tama Potaka

Minister for Māori Crown Relations: Te Arawhiti
Minister for Māori Development

Hon Paul Goldsmith

Minister for Treaty of Waitangi
Negotiations

STAFF IN – CONFIDENCE

Appendix 1: Assessment of options

Criteria	Status quo (plus further clarification of agency roles)	Transfer functions from Te Arawhiti to Te Puni Kōkiri	Transfer functions from Te Puni Kōkiri to Te Arawhiti
Fit with the vision	Inconsistent with the vision as functions would remain dispersed.	Consistent with the vision as it would reduce duplication of efforts. Te Puni Kōkiri is well placed to focus on its core strategic functions and leverage its regional presence.	Inconsistent with the vision for Te Puni Kōkiri.
Clear and appropriate lines of accountability and delineation of functions	Duplication of effort would remain, although further clarifying the functions of the agencies could partly address this.	Clarifying agency functions will help clarify accountability for delivery against those functions.	Clarifying agency functions will help clarify accountability for delivery against those functions.
Effective and timely delivery of Treaty settlements and Takutai Moana determinations	Te Arawhiti is responsible for delivering these, together with current functions.	Te Arawhiti could focus its efforts on this work, promoting effective and timely delivery.	Responsibility would sit with Te Arawhiti which would have more functions potentially diluting focus.
Maintenance of respectful and productive relationships with Iwi/hapū, and Māori	Current relationships would remain.	Te Arawhiti would maintain relationships with negotiating Iwi, and applicants under Takutai Moana. There is a risk that other, existing relationships would be disrupted.	Te Arawhiti would maintain its current functions as well as taking on functions from Te Puni Kōkiri. There is a risk that the regional relationships of Te Puni Kōkiri would be negatively affected.
Māori rights and interests, including Treaty rights, of Iwi, hapū, whānau and Māori are upheld appropriately	The Crown will continue to uphold Treaty rights as it has done. There would be no perception of 'loss' for Māori, as nothing would noticeably change.	The Crown will continue to uphold existing rights as core functions remain the same but redistributed. The proposals outlined in this paper, and the companion paper, are intended to empower Māori and retain decision-making in relation to them.	The Crown will continue to uphold extant rights under alternative institutional arrangements. The core functions remain the same, the entities delivering those functions would change.
Value for money	While this would avoid transaction costs there are opportunity costs that arise from not refocusing Te Puni Kōkiri to deliver on the core vision.	Will have some direct and indirect transaction costs as functions resources are transferred from one agency. These are manageable through the proposed staged change process in this paper.	Will have some direct and indirect transaction costs as functions resources are transferred from one agency. These are manageable through the proposed staged change process in this paper.



Cabinet

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.

Report of the Cabinet Social Outcomes Committee: Period Ended 9 August 2024

On 12 August 2024, Cabinet made the following decisions on the work of the Cabinet Social Outcomes Committee for the period ended 9 August 2024:

out of scope

SOU-24-MIN-0093

Clarifying Agency Functions

Portfolios: Treaty of Waitangi Negotiations /
Māori Crown Relations: Te Arawhiti / Māori
Development

Separate minute:

CAB-24-MIN-0295.02

out of scope

Rachel Hayward
Secretary of the Cabinet



Cabinet

Minute of Decision

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Clarifying Agency Functions

Portfolios **Treaty of Waitangi Negotiations / Māori Crown Relations: Te Arawhiti / Māori Development**


On 12 August 2024, following reference from the Cabinet Social Outcomes Committee, Cabinet:

- 1 **noted** that the paper under CAB-24-SUB-0295.02 is a companion paper to *Enabling good Government through a Modernised Approach to Māori Development* [SOU-24-SUB-0094];
- 2 **noted** that the paper referred to in paragraph 1 presents a broad vision for change in the Māori Development and Māori Crown Relations: Te Arawhiti portfolios, and that renewed institutional arrangements will support this;
- 3 **noted** that the Office for Māori Crown Relations: Te Arawhiti (Te Arawhiti) was established as a departmental agency in 2019 with recognised areas of common interest with Te Puni Kōkiri, and that despite efforts to clarify respective roles and functions, it has become clear that it would be appropriate to consolidate some functions within Te Puni Kōkiri;
- 4 **noted** that the responsible Ministers considered options for the distribution of functions to reduce duplication of effort between Te Arawhiti and Te Puni Kōkiri and best realise the aspirations of the Minister for Māori Crown Relations: Te Arawhiti and Minister for Māori Development for his portfolios;
- 5 **agreed in principle**, subject to stakeholder engagement and any outstanding due diligence, that Te Puni Kōkiri will perform the following functions:
 - 5.1 promoting increases in levels of Māori achievement in education, training, health, and economic resource development;
 - 5.2 monitoring and liaising with departments that provide services to or for Māori to ensure adequacy (including the extent to which they have the required capability to engage with Māori), and identifying where better public services can be delivered through reducing duplication);
 - 5.3 advising the Government and public service on the distinct rights, interests, and responsibilities of Iwi/hapū and of Māori;
 - 5.4 monitoring and reporting on the Crown's implementation of Treaty of Waitangi (Treaty) settlement commitments;

- 5.5 leading post-settlement relationships with Post-Settlement Governance Entities, including settlement relationship commitments such as Accords, and coordinating major events; and
- 5.6 responsibly administering related legislation and funds;
- 6 **agreed in principle**, subject to stakeholder engagement and any outstanding due diligence, that Te Arawhiti will be responsible for advising responsible Ministers on the following functions:
- 6.1 completing historical Treaty Settlements;
- 6.2 administering the Marine and Coastal Area (Takutai Moana) Act 2011 and Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019; and
- 6.3 in the context of Treaty settlement and Takutai Moana matters, providing strategic leadership and advice on contemporary Treaty issues and any other matter for which the responsible Ministers have a portfolio interest;
- 7 **agreed in principle**, subject to stakeholder engagement and any outstanding due diligence, that Te Arawhiti will no longer be responsible for the following functions:
- 7.1 building the Crown's capacity to engage with Iwi, hapū, whānau, and Māori, and to become a better Treaty partner;
- 7.2 being a strategic advisor to Cabinet, Ministers, and the Public Service to enable good policy decisions that uphold Māori rights and interests, except as they relate to Treaty settlement and Takutai Moana matters;
- 7.3 coordinating significant Crown/Māori events on behalf of the Crown; and
- 7.4 reporting on the Crown's implementation of Treaty settlement commitments;
- 8 **noted** that the functions listed in paragraph 5 are intended to substantively include the functions listed in paragraph 7;
- 9 **agreed** to retain Te Arawhiti as a departmental agency;
- 10 **noted** that the responsible Ministers intend to task officials from Te Puni Kōkiri, Te Arawhiti, Ministry of Justice, and the Public Service Commission with developing a plan for the implementation process for the decisions on function adjustments, which mitigates risks, minimises costs, and provides clarity on functional responsibilities;
- 11 **agreed** that the Minister for Māori Crown Relations: Te Arawhiti and Māori Development undertake targeted consultation with Iwi Chairs and other Māori leaders on the decisions outlined in the paper under CAB-24-SUB-0295.02;
- 12 **authorised** the Minister for Māori Crown Relations: Te Arawhiti, Minister for Māori Development, Minister for Treaty of Waitangi Negotiations, Minister of Justice, Minister of Finance, and the Minister for the Public Service to jointly approve final decisions about functions, timing, and the necessary funding transfers required to give effect to the decisions under CAB-24-MIN-0295.02;

13 **noted** that, subject to undertaking consultation with impacted staff, and the decisions taken as a result of the authorisation referred to in paragraph 12, the Chief Executives of Te Arawhiti and Te Puni Kōkiri will be responsible for agreeing to the transfer of employees required to undertake the clarified functions of each agency, under the Public Service Act 2020;

14 9(2)(f)(iv) confidentiality of advice



Rachel Hayward
Secretary of the Cabinet

Secretary's Note: This minute replaces SOU-24-MIN-0093. Cabinet made technical adjustments to the content of the minute.
