

WAI 3400 Marine and Coastal Area (Takutai Moana) Urgent Inquiry Stage Two – Chronology

Date	Event	Reference
March 2012	Cabinet agreed to provide financial assistance for applicant groups under the MACA Act. Cabinet delegated decision-making authority to the Minister for Treaty of Waitangi Negotiations (MFTOWN) in consultation with the Minister of Finance (MoF) regarding the development and approval of a permanent funding arrangement for MACA Act applicants.	Wai 2660, #B113(a), (EAM-8), at 119.
2013	The Takutai Moana Financial Assistance Scheme (the FAS) was established.	
2016	The first review of the FAS by the Office of Treaty Settlements occurred.	TA.005.0645
3 April 2017	Deadline for applications under the MACA Act.	
August 2017	The Waitangi Tribunal launched a priority kaupapa inquiry into the MACA Act (Wai 2660).	
6 November 2018	Cabinet (the Cabinet Government Administration and Expenditure Review Committee) agreed to establish the Office for Māori Crown Relations – Te Arawhiti.	GOV-18-MIN-0083 ¹
January 2019	Te Arawhiti was established. Responsibility for the MACA Act's supporting regime was transferred to it from the Office of Treaty Settlements.	
1 August 2019	Te Arawhiti sought agreement from MoF and MfToWN to Te Arawhiti conducting a full review of the FAS.	TA.005.0645
2 September 2019	The MoF and MfToWN agreed to Te Arawhiti conducting a full review of the FAS.	TA.005.0645, at TA.005.0647-48
October 2019	Te Arawhiti engaged Deloitte to assess the administration of the scheme and to identify any improvements.	TA.005.0555, at TA.005.0559

¹ https://www.tearawhiti.govt.nz/assets/Publications/Proactive-release-Establishment-of-the-Office-for-Maori-Crown-Relations-Cabinet-paper_7-May-2020.pdf

Date	Event	Reference
3 December 2019	<p>The Cabinet Māori Crown Relations: Te Arawhiti Committee, amongst other decisions:</p> <ul style="list-style-type: none"> • agreed to provide an additional \$6.372 million to the 42 groups appearing the <i>Edwards</i> High Court hearing; • noted that increased funding was sought in the scheme for every applicant group in the High Court to attend interlocutory hearings because the current level of funding was insufficient, but the increase proposed was small with the view to cover applicants until the comprehensive review of the FAS was completed. 	TA.005.0680
9 December 2019	Cabinet invited the MfToWN to report back following the review of the FAS.	TA.005.0676; TA.005.0105
29 June 2020	<p>The Waitangi Tribunal released its Wai 2660 <i>The Marine and Coastal Area (Takutai Moana) Act 2011 Inquiry Stage 1 Report</i>.</p> <p>It found that (among other things), the Crown was in breach of its Treaty obligations of active protection and partnership by only partially funding applications from Māori seeking legal recognition of their customary rights in te takutai moana.</p> <p>The Tribunal made several recommendations relating to the administration of the scheme including an “overarching recommendation” that the Crown cover all reasonable costs for applicant groups in either pathway.</p>	<p>Wai 2660 Stage 1 Report, at 129</p> <p>Wai 2660 Stage 1 Report, at 100</p>
August 2020	Deloitte produced draft report: <i>Takutai Moana Funding Review – Report on Scheme Administration and Stakeholder Survey</i> .	TA.005.0555
September 2020	<p>The MoF and the MfToWN agreed to the following interim changes to the scheme pending completion of the scheme review:</p> <ul style="list-style-type: none"> - Delegate authority to the Chief Executive of Te Arawhiti to approve discretionary payments of up to \$50,000 per applicant; 	TA.005.0555

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	<ul style="list-style-type: none"> - Lower the threshold for applicant groups to make reimbursement requests from \$5,000 to \$1,000; - Enable applicant groups to transfer any underspends from completed milestones to future milestones; - Make \$50,000 available to Crown engagement applicants in the first two coastlines (Taranaki and Tairāwhiti) when the final Crown engagement strategy is approved by Cabinet. <p>The Ministers also agreed to allocate additional funding for applicant groups participating in the <i>Clarkson</i> and <i>Taylor</i> High Court hearings.</p> <p>The Ministers also noted that the three-part review process agreed by joint Ministers in 2019 had been streamlined due to COVID-19 and cancelled engagement hui. Te Arawhiti’s report to Ministers stated that the review now comprised two parts:</p> <ul style="list-style-type: none"> - Part A: an audit of the administration of the scheme, including an independent Deloitte report (completed); and - Part B: an ongoing review of the policy settings, including engagement with applicant groups. <p>Te Arawhiti’s report also stated that the revised approach combined engagement with applicants and review of policy settings into Part B and did not include a Terms of Reference as a reference group was not established.</p>	
1 September 2020	Deloitte released final report: <i>Takutai Moana Funding Review – Report on Scheme Administration and Stakeholder Survey</i> .	TA.005.0612
September – November 2020	As part of its review, Te Arawhiti spoke with 170 applicants and received 52 formal submissions from applicants and legal counsel.	Frances Dagg Brief of Evidence (Wai 3400, #B1) at [21]

Date	Event	Reference
22 March 2021	<p>Cabinet agreed to the ‘Takutai Moana Engagement Strategy’, which included (as recorded in the minute of Cabinet’s decision) that:</p> <ul style="list-style-type: none"> - the New Zealand coastline be initially divided into 20 coastal areas; - the strategy adopted a coastline approach, whereby Te Arawhiti would work with all applicants within each coastal area to determine the approach and timeframes for progressing applications most appropriate in each coastal area; - the strategy required Te Arawhiti to engage with all applicants, including those in high third-party use areas and in areas covered by High Court proceedings; and - delivery of the strategy would occur in three phases. <p>The MfToWN was invited to report back to the Cabinet Māori Cown Relations – Te Arawhiti Committee (MCR) in 2022 on the implementation of the strategy.</p> <p>Cabinet also agreed to the fiscally neutral transfer of \$2.62 million from the 2020/21 non-departmental other expenses appropriation Financial Assistance Toward Determining Customary Interests in the Marine and Coastal Area to the 2021/22 departmental output expenses appropriation Treaty Negotiations and Marine and Coastal Area Customary Interests.</p>	TA.008.0098; TA.008.0115; and TA.008.0150
8 April 2021	<p>Officials first reported to Ministers on the findings of the review and proposed changes to the scheme. The reported “key findings” were:</p> <ul style="list-style-type: none"> - funding levels were not adequate for those participating in High Court hearings; - current funding did not reflect the overlapping nature of applications and 	TA.005.0525

Date	Event	Reference
	<p>the resources needed to discuss these overlaps amongst applicants;</p> <ul style="list-style-type: none"> - most applicants in Crown engagement could not receive funding; and - the administration of the scheme needed improving, with Te Arawhiti not necessarily being best placed to administer the scheme. <p>The Ministers were informed that the volume of applications and complexity of the process (considering the number of overlapping groups) was not envisaged when the FAS was established in 2012.</p> <p>The review found that the FAS needed ‘fundamental change’ to enable the Crown to respond to the needs of applicants.</p>	
27 April 2021	<p>The MfToWN agreed to Te Arawhiti consulting with applicants to develop the details of the following proposed changes to the FAS:</p> <ul style="list-style-type: none"> - enable financial assistance to be provided prospectively through grants, rather than only through reimbursement requests; - introduce fixed hourly rates for professional services; - introduce a schedule of eligible expense categories, rather than allocate funding limits to specific tasks; - assess the level of funding provided for High Court hearings (including any appeals) as individual events and provide participating groups with appropriate support; - departure from the position that the scheme only provides a ‘contribution rate’ of 85% of expected costs; - enable Crown engagement applicants to access funding once sought. <p>MfToWN agreed to report back to Cabinet on the findings of the review of the FAS and proposed changes.</p>	TA.005.0525

Date	Event	Reference
20 May 2021	<p>The MoF and the MfToWN agreed to allocate further funding of \$5.20M for costs incurred or likely to be incurred by applications groups in three priority High Court hearings (<i>Whakatōhea</i>, <i>Ngāti Pāhauwera</i> and <i>Ngā Pōtiki</i>).</p> <p>They also agreed to provide a discretionary payment of \$8,540.48 to the Ngāi Tai Steering Group for costs associated with their participation in the <i>Whakatōhea</i> hearing as an overlapping customary interest group.</p>	TA.005.0514
15 September 2021	Te Arawhiti conducted quantitative modelling of the potential fiscal implications of proposed changes to the FAS for both the High Court and Crown engagement pathways.	TA.005.0001 and Harry Kent Brief of Evidence (Wai 3400, #B2) at [30]- [35]
4 November 2021	<p>Te Arawhiti officials reported to the MoF and the MfToWN on the final findings of review of the FAS. The Ministers agreed to seek Cabinet approval to proposed changes to the scheme. These proposed changes were to:</p> <ul style="list-style-type: none"> - improve the structure of the FAS through activity-based workstreams that fund common activities, court proceedings and collaborative work; - increase funding for court proceedings by assessing each hearing as an individual event; - enable the provision of prospective (grant-based) funding alongside reimbursements; and - remove the requirement to set upper funding limits at 85% of assumed costs, with the remainder falling to applicants to self-fund. <p>The Ministers also approved seeking funding through 'Budget 22' to manage the fiscal impact of the changes to the scheme.</p>	TA.005.0653; TA.008.0115

Date	Event	Reference
15 February 2022	<p>Cabinet agreed in principle, subject to funding being agreed through Budget 2022 to the following policy changes:²</p> <ul style="list-style-type: none"> - to organise the FAS into activity focussed workstreams; - to allocate funding for applicants involved in court proceedings for each court hearing as an individual event; - to enable grant-based funding for applicants to progress their applications; and - to remove the requirement that the Crown would only make an 85% contribution to assumed costs of applicants. <p>Cabinet noted the proposed changes to the FAS would increase the maximum financial assistance applicants could receive (other than for court proceedings) from \$442,878 to \$458,000.</p>	TA.005.0105; TA.005.0119; TA.005.0554
11 April 2022	Cabinet agreed to the Budget 2022 package. The bid for further funding that was agreed on by the Ministers on 4 November 2021 was granted.	CAB-22-MIN- 0129 ³
25 July 2022	<p>Te Arawhiti agreed to implement the changes agreed to by Cabinet in February 2022 to:</p> <ul style="list-style-type: none"> - consolidate pre-engagement and terms of engagement milestones in the Crown engagement matrix under a single engagement milestone which aligns with engagement strategy processes; - Update the Crown engagement and High Court matrices to increase 	TA.005.0006; TA.005.0016

² These changes changed the maximum financial assistance for all court proceedings from \$1.302 million to \$5.500 million per annum. An increase in funding of \$6.573 million in 2024/25 and \$7.786 million in 2025/26 and outyears needed to implement the proposed policy changes and address the funding deficit, requiring a total of \$14.359 million additional operating funding within the forecast period, was to be sought through Budget 2022.

³ <https://www.treasury.govt.nz/sites/default/files/2022-09/b22-cab-22-min-0129-4652161.pdf>. The 'Summary of Initiatives in Budget 2022', released by the Treasury summarising the outcomes of the Budget '22 is accessible here: <https://www.treasury.govt.nz/sites/default/files/2022-06/b22-wellbeing-budget-soi.pdf>

Date	Event	Reference
	<p>activity-based funding for all applicants to \$458,000; and</p> <ul style="list-style-type: none"> - fund applicant groups in the Tokomaru Bay, <i>Re Taylor</i> (Ngāti Pāhauwera), <i>Ngā Pōtiki</i> and <i>Re Edwards</i> (Te Whakatōhea) hearings under the new FAS settings, on the basis of actual and reasonable costs. <p>These changes were described in a later Te Arawhiti memorandum (TA.005.0016) as interim changes which were necessary to address the immediate needs of application groups ahead of full implementation.</p>	
August 2022	<p>Te Arawhiti sent a pānui to applicant groups advising of the following changes to the FAS:</p> <ul style="list-style-type: none"> - Funding under a Crown engagement or High Court upper limit funding increased to \$458,000; - From October 2022, actual and reasonable costs would be paid for court hearings; and - The consolidation of pre-engagement and terms of engagement milestones to a broader engagement milestone within the Crown engagement matrix. 	
November 2022	<p>Te Arawhiti sent a pānui to applicant groups advising of changes to the FAS, including:</p> <ul style="list-style-type: none"> - Increasing overall funding allocation up to \$458,000 for activity-focussed workstreams regardless of whether in Crown engagement or High Court pathway; and - Applicant groups could be reimbursed for actual and reasonable costs incurred in hearings (including interlocutory, case management and appeal hearings). 	
19 December 2022	<p>Te Arawhiti sought agreement internally to changes to operational policies and processes of the FAS, and the implementation of those changes that Cabinet had agreed following the review. The changes were:</p>	TA.005.0016

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	<ul style="list-style-type: none"> - Activities to be organised into six workstreams; - Actual and reasonable costs incurred in preparing for and participating in court hearings to be covered by the scheme with each court hearing (including case management and judicial conferences as well as interlocutory, substantive, and appeal hearings) treated as an individual event; - Applicants to prepare budgets for planned work as they request funding; - Guidance prepared for applicant groups on reasonable costs for travel and hui related expenditure (air and road travel, accommodation, meals, venue hire and catering), and on hourly rates for the various professional services that an applicant might use to progress an application; and - Update and upgrade to funding 'Tracker' which allows the funding rōpū to maintain an overview of each payment in the system. The changes automate much of the data entry, removing the risk of operator error. 	
March 2023	Te Arawhiti sent a pānui to applicant groups notifying that the revised FAS was in place.	
1 March 2023	Implementation of revised FAS settings was completed.	
July – September 2023	Monthly reporting for the FAS identified that the court workstream costs for applicants were higher than Te Arawhiti had estimated	Harry Kent Brief of Evidence at [55]
September 2023	Te Arawhiti undertook an emergency forecast of expenditure for the 2023/24 financial year.	Harry Kent Brief of Evidence at [56]
September 2023 to January 2024	Te Arawhiti considered it could manage heightened costs through fiscally neutral adjustments (transfers of funding) between appropriations.	Harry Kent Brief of Evidence at [56]

Date	Event	Reference
October 2023	Te Arawhiti updated the emergency forecast of expenditure for the 2023/24 financial year.	Harry Kent Brief of Evidence at [56]
October 2023	Te Arawhiti started manually tracking the pre-hearing and hearing costs for individual applicant groups involved in specific High Court hearings.	Harry Kent Brief of Evidence at [57]
October 2023	Monthly report identified Year End Outturn variance of -20% .	TA.009.0017
November 2023	Te Arawhiti updated the emergency forecast of expenditure for the 2023/24 financial year.	Harry Kent Brief of Evidence at [56]
20 December 2023	Counsel in Whangārei Harbour hearing jointly wrote to Te Arawhiti raising concerns of delays in processing payment requests.	Wai 2603, #B1(a)
February 2024	Te Arawhiti forecasted a \$19 million funding shortfall for the 2024/25 financial year.	Harry Kent Brief of Evidence at [73]
13 February 2024	<p>Correspondence from Te Arawhiti in response to counsel in Whangārei Harbour hearing stated that delays in processing invoices was due to a ‘perfect storm’ of factors that have led to an increase in activity and volumes including:</p> <ul style="list-style-type: none"> - Moving to the new scheme; - Higher than expected volumes from High Court cases; - Temporary staffing issues; - Large volume of end-of-year invoices “wrapping up the year”. 	Wai 2603, #B1(a)
28 February 2024	Te Arawhiti was advised by Crown Law Office that funding issues had been raised by counsel with Judge Harvey in the Whangārei Harbour hearing.	TA.002.0004
29 February 2024	Te Arawhiti advised the Treasury that its Takutai Moana Financial Assistance Scheme (FAS) appropriation is on track to be overspent by the end of March and is forecast to be overspent by \$18.777 million by the end of the 2023/24 financial year.	TSY.002.0020; TSY.002.0033; TSY.002.0049

Date	Event	Reference
	Treasury advised Cabinet paper required for approval of any proposed front-load spending.	
-April 2024	Te Arawhiti report on the Takutai Moana Financial Assistance Scheme.	TA.004.0001
1 March 2024	Joint memorandum filed by counsel in Whangārei Harbour hearing regarding significant delays in payment of reimbursement requests from Te Arawhiti.	
6 March 2024	<p>Case Management Conference for Whangārei Harbour applicant groups regarding funding delays from Te Arawhiti.</p> <p>Counsel for Attorney-General volunteered to follow up with Te Arawhiti.</p>	
6 March 2024	<p>Te Arawhiti memorandum to Lil Anderson updating that the FAS appropriation for the '23/'24 financial year was expected to become fully expended by 22 March 2024 and to be breached by 30 April 2024.</p> <p>Te Arawhiti sought agreement from Lil Anderson that:</p> <ul style="list-style-type: none"> - Funding team process current reimbursements related to the Wairarapa Stage 1 (a) and (b) and Whangārei Harbour hearings; - Funding be suspended by 15 March if MoF and the MfToWN do not approve a transfer of \$1.5 million from the Treaty negotiations claimant funding to the FAS. 	TA.008.0116
6 March 2024	<p>Email from Treasury to Parliament. Treasury advised of Te Arawhiti's proposed plan to address the cost pressure with baseline funding:</p> <ul style="list-style-type: none"> - Step One: Joint Ministerial Briefing for Briefing for MoF and MfTOWN; - Step Two: Cabinet Paper, intended for SOU Committee on 20 March, Cab 25 March. Will seek Cabinet approval to an FNA/front-loading of spending of \$17.300 million from future years of 	TSY.002.0033

Date	Event	Reference
	<p>the same appropriation. Te Arawhiti intend to change policy settings to decrease cost pressures across the forecast period to make this transfer viable.</p> <ul style="list-style-type: none"> - Step 3: Cabinet Paper before EOFY 23/24, to adjust policy settings of scheme and reduce expenditure 	
7 March 2024	Minute from Harvey J in Whangārei Harbour hearing directed counsel for the Attorney General to provide an explanation as to the delays in funding, along with confirmation from Te Arawhiti as to when applicant groups would be paid.	Wai 2603, #B1(a)
11 March 2024	<p>A Joint Briefing was provided by Te Arawhiti to the MoF and MfToWN seeking agreement to:</p> <ul style="list-style-type: none"> - A fiscally neutral adjustment of \$1.5m from Vote Te Arawhiti; - Take a paper to Cabinet seeking approval to: <ul style="list-style-type: none"> o transfer appropriation from forward years to this financial year (2023/2024) and next (2024/2025) o change the Scheme settings. <p>The MoF and MfToWN agreed to seek Cabinet approval:</p> <ul style="list-style-type: none"> - A Between-Budget Contingency for \$36.300 million split across the 2023/24 and 2024/25 financial years; - To change the settings of the scheme to reduce and cap future contributions to applicants' costs. 	TA.002.0010
12 March 2024	Memorandum of Counsel for the Attorney-General filed in the Whangārei Harbour hearing stated that Te Arawhiti instructed them that Te Arawhiti are committed to processing and paying all invoices that relate to the Whangārei Harbour hearing and the Wairarapa stage 1(a) and Stage 1(b) hearings by 20 March 2024 at the latest.	

Date	Event	Reference
20 March 2024	<p>Email from Treasury to Parliament. Provided Treasury advice on paper “Vote Te Arawhiti addressing cost pressures to the Takutai Moana Financial Assistance Scheme - for MOF's consideration”. Treasury recommended the proposed fiscally neutral adjustment of \$1.5 million from the Claimant Funding appropriation.</p> <p>Treasury outlined three options for how the remaining \$17.300 million expenditure in 2023/24 and \$19 million forecast overspend in 2024/25 can be managed:</p> <ul style="list-style-type: none"> - to fund immediate cost pressures of \$17.3m from the Between-Budget Contingency only [Treasury recommends]. - Agree to seek Cabinet approval to front load expenditure in the Takutai Moana FAS appropriation for 2023/24 and 2024/25 (\$36.3 million) and direct Te Arawhiti to report back on changes to policy settings to reduce costs in future years. - Agree to seek Cabinet approval to fund higher expenditure for 2023/24 and 2024/25 (\$36.3 million) from the Between-Budget Contingency and direct Te Arawhiti to report back on changes to policy settings to reduce costs in future years [MFTOWN preferred option]. 	TSY.002.0020
11 April 2024	Counsel for various applicants and Historian jointly filed in the High Court seeking an urgent hearing on an application for summary judgment for payment of outstanding invoices and disbursements from Te Arawhiti.	
12 April 2024	Deputy Chief Executive Treaty Reconciliation and Takutaimoana, Tui Marsh’s affidavit filed in High Court setting out issues affecting the Financial Assistance Scheme, including pressure on the appropriation scheme.	Wai 2603, #B1(a)
15 April 2024	<p>Cabinet:</p> <ul style="list-style-type: none"> - Agreed to address the funding shortfall in the FAS through an allocation of \$17.3 million from the Between- 	TA.002.0025; TA.001.0001

Date	Event	Reference
	<p>Budget Contingency across the 2023/24 financial year;</p> <ul style="list-style-type: none"> - Declined additional funding for the 2024/25 financial year and years after that;⁴ - Authorised the MoF and the MfToWN to finalise and implement settings for the FAS following consultation⁵ as per Cabinet agreement or return to Cabinet if there were any material changes; and - Noted that changing settings to the FAS [would] have some effect in 2024/25, but that further changes [were needed] (and [would] form part of the review) to manage costs to appropriation levels. 	
22 April 2024	The Crown filed a memorandum in the High Court providing information on Cabinet's 15 April 2024 decisions and which requested the Court convene a national case management conference (CMC) to discuss fixtures for the 2024/25 financial year.	
23 April 2024	The Solicitor-General wrote to the Heads of Bench advising of Cabinet's 15 April 2024 decisions and provides a copy of the 22 April 2024 memorandum filed in the High Court by the Attorney-General.	
7 May 2024	<p>The Crown filed a memorandum in the High Court stating that Cabinet has not and will not approve additional funding for next financial year and following years and Te Arawhiti has been instructed to review the scheme and manage within the existing appropriation.</p> <p>The memorandum further noted that Cabinet has directed Te Arawhiti to undertake an urgent review of the scheme with a view to identifying cost-savings. Te Arawhiti intends to</p>	Wai 1092, #B1(a)

⁴ This meant that Scheme funding for the period from 1 July 2024 to 30 June 2025 and each year after that is therefore capped at \$12.023 million for FY 24/25 and at \$13.236 million for FY 25/26 and beyond.

⁵ Wai 1092, Wai 1758, Wai 1787, Wai 2603, Wai 2658, Wai 3375 and Wai 3398 wish to record that they contest that any consultation occurred and object to the use of this term.

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	engage with applicant groups on any changes to the scheme in June/July 2024.	
8 May 2024	<p>Te Arawhiti officials advised Lil Anderson via internal memorandum of the financial implications of Cabinet’s 15 April 2024 funding decisions.</p> <p>The memorandum stated that key risks to remaining within the appropriation for FY 2023/24 arise once applicants and counsel become aware of the fiscal pressures that the scheme is under, and that funding is limited for FY 2024/25. The memorandum also stated it is expected that:</p> <ul style="list-style-type: none"> - Applicants with historic court funding and activity funding requests will submit en masse in an effort to ensure they are paid; - Legal counsel will seek costs for pre-hearing preparation for FY 2024/25 that are beyond what was initially forecast to accommodate. <p>The memorandum stated the combinations of these risks could be considered analogous to a run on the bank and place significant pressure on the appropriations for the ‘23/’24 and ‘24/’25 financial years.</p> <p>Te Arawhiti expects that based on the High Court hearings scheduled for FY ‘24/’25, plus the expected activity funding costs and the run on the bank, the appropriation is expected to be fully expended in September 2024 and up to \$22.8 m over appropriation by 30 June 2025.</p>	TA.008.0085
9 May 2024	Te Arawhiti officials advised the MfToWN that Te Arawhiti had undertaken an analysis of the financial implications of Cabinet’s decisions on FAS funding for ‘23/’24 and ‘24/’25 FY.	TA.004.0451

Date	Event	Reference
9 May 2024	The Crown filed a memorandum in the High Court appending Te Arawhiti's document setting out the forecast costs for each hearing scheduled for the 2024/2025 financial year and the Solicitor Generals' letter to the Heads of Bench.	Wai 1092, #B1(a)
10 May 2024	High Court national CMC to consider the shortfall in funding available to applicants under the FAS.	
15 May 2024	Churchman J issued minute saying that any applications to adjourn any of the currently scheduled hearings due to funding issues would be dealt with on an individual basis.	TA.002.0130
15 May 2024	The Crown filed a memorandum in the High Court following the national CMC responding to the question about the portion of funding for applicants in the Crown engagement pathway.	Wai 1092, #B1(a)
17 May 2024	<p>Te Arawhiti officials advise the MfToWN of the financial implications of Cabinet's decisions on FAS funding for the '23/'24 and '24/'25 FY. In particular, officials advise that:</p> <ul style="list-style-type: none"> - The additional \$17.3 million approved by Cabinet for the scheme in 2023/2024 would be sufficient to cover all remaining forecast costs for that financial year with a forecast underspend of \$0.832 million; - Based on the hearings scheduled for '24/'25, the appropriation for '24/'25 was expected to be fully expended by September 2024 and up to \$22.800 million over appropriation by June 2025; - Te Arawhiti was developing options for urgent changes to the FAS settings; - At the national CMC, the Crown advised that it could not give an assurance that funding would be available for any High Court hearings in '24/'25 FY. 	TA.002.0157

Date	Event	Reference
20 May 2024	Te Arawhiti sent a pānui to all applicants regarding the guidelines for reimbursing travel costs and the assessment and processing of funding requests.	TA.004.0467
20 May 2024	Te Arawhiti officials met with the MfToWN to discuss options to manage funding within the 2024/2025 FY appropriation. The Minister indicated that his preferred option was to fund all scheduled hearings but cap funding at an affordable level.	TA.004.0474
23 May 2024	Te Arawhiti officials advise the MfToWN that proposals for permanent changes to FAS settings were being developed for sharing with applicant groups.	TA.004.0467
24 May 2024	<p>Te Arawhiti sent a pānui to applicants which stated that:</p> <ul style="list-style-type: none"> - Te Arawhiti was undertaking work on how to manage the scheme within the appropriation for the 2024/25 financial year and expected to advise applicants of changes to the FAS in June 2024; - Te Arawhiti could not commit to funding any of hearings scheduled for the upcoming financial year. 	Te Arawhiti, 24 May 2024 Pānui to applicants; TA.001.0001 at [21].
30 May 2024	<p>Te Arawhiti officials presented the MfToWN with proposed changes to the FAS for the '24/'25 Financial Year. The Minister agreed, among other things, that:</p> <ul style="list-style-type: none"> - Applicants would need to complete work plans and have budgets approved by Te Arawhiti prior to any funding being provided and funding would only be provided as agreed in those work plans; - The reimbursement rates for legal counsel for pre-hearing and on-hearing costs would be aligned with legal aid rates; - The Crown contribution to court costs would be capped for all hearings in the 2024/2025 FY at \$140,000 per applicant for substantive hearings, \$25,000 per applicant for follow up 	TA.002.0123

Date	Event	Reference
	hearings and \$30,000 per applicant for appeals.	
5 June 2024	<p>The Minister of Waitangi Negotiations sought approval from the Minister of Finance for an in-principle expense transfer (IPET) from the 2023/24 financial year to the 2024/25 financial year of up to \$5.100 million. The IPET was required for:</p> <ul style="list-style-type: none"> - costs incurred by applicants for High Court hearings completed in 2023/2024 that were not submitted to Te Arawhiti until 2024/2025; - pre-hearing Court costs incurred by applicants in 2023/2024 for hearings scheduled to commence in July 2024/2025; and - costs previously incurred by applicants and counsel but for which reimbursement had not yet been sought. 	TA.009.0001
26 June 2024	<p>The MfToWN sought Cabinet’s approval for urgent interim changes to the FAS to enable its management within the appropriation for the ‘24/’25 FY. The Minister proposes to the Cabinet Economic Policy Committee agreement to the following:</p> <ul style="list-style-type: none"> - A requirement for all applicants to provide a budgeted workplan agreed by Te Arawhiti before funding was provided; - Adjusting the current funding levels for pre-hearing and hearing costs to align with legal aid rates; - Crown contribution to court costs to be capped for all hearings in the 2024/25 financial year at \$140,000 per applicant for substantive hearings, \$25,000 per applicant for follow up hearings and \$30,000 per applicant for appeals. 	TA.001.0001

Date	Event	Reference
26 June 2024	<p>Cabinet agreed that as of 1 July 2024, for the duration of the '24/'25 FY:</p> <ul style="list-style-type: none"> - All applicants would be required to have a budgeted workplan agreed by Te Arawhiti before funding is provided; - Funding levels for pre-hearing and hearing costs would be aligned with legal aid rates; - The Crown contribution to court costs would be capped for all hearings in the 2024/2025 FY at \$140,000 per applicant for substantive hearings, \$25,000 per applicant for follow up hearings, and \$30,000 per applicant per appeals. 	TA.004.0406
1 July 2024	Changes to Funding Assistance Scheme settings for '24/'25 FY became effective.	
4 July 2024	TA internal memorandum to Lil Anderson about the urgent need to inform applicants of the new FAS settings as soon as possible. Suggested pānui to applicants. Attached FAQs and media lines.	TA.004.0177 and TA.004.0182 and TA.004.0186
5 July 2024	<p>Te Arawhiti sent a pānui to applicants which advised of:</p> <ul style="list-style-type: none"> - The interim changes to the scheme settings approved by Cabinet that were effective from 1 July 2024; - The applicant groups that Te Arawhiti would prioritise working with in the development of agreed budgeted workplans; - The capped rates for the 2024/2025 FY for applicants participating in certain scheduled court hearings; and - The key changes to legal counsel rates for pre-hearing and hearing costs. 	TA.004.0179
20 September 2024	The Supreme Court released its judgment in <i>Whakatōhea Kotahitanga Waka (Edwards) v Ngāti Ira O Waiōweka</i> [2024] NZSC 119. The Court granted an application made by Te Kāhui Takutai Moana o Ngā Whānau me Ngā Hapū o Te Whakatōhea for a prospective costs order.	<i>Whakatōhea Kotahitanga Waka (Edwards) v Ngāti Ira O Waiōweka</i> [2024] NZSC 119 at [51].

Date	Event	Reference
	The Court found that in the circumstances, the payment to each of the Te Kāhui applicants of a sum not exceeding \$30,000 “[would] not remotely meet the likely level of legal costs reasonably incurred.”	
14 October 2024	LF MFTOWN to MoF. In principle expense transfer: funding of \$2.122 million is available to transfer from 2023/24 to 2024/25.	TA.012.0002
November 2024	IPET application was approved and the \$2.1 million of transferred funds was used to meet applicants’ reimbursement requests for costs incurred prior to 30 June 2024.	TA.012.0002; TA.012.0084 and Harry Kent Brief of Evidence at [77].
13 December 2024	<p>Te Arawhiti sent a pānui to applicants about proposed permanent changes to the FAS. The following changes were proposed to take permanent effect from 1 July 2025:</p> <ul style="list-style-type: none"> - Budgeted Work Plans: Continue the requirement for all groups to have an agreed budgeted work plan with Te Arawhiti before funding would be provided to applicants; - Alignment with Legal Aid Rates: Continue alignment of legal service costs for hearing with legal aid rates for consistency and equity; - Milestone-Based Funding: Introduce pre-approved funding releases tied to milestones as per agreed work plans; and - Prioritisation Process: Introduce criteria to allocate funding annually for activity and court costs, including potential funding caps. <p>Applicants could attend any or all of four, 1-hour online hui from 15 January to 19 February 2025 to discuss these changes with and provide feedback to Te Arawhiti.</p>	
31 December 2024	Te Arawhiti’s forecasting indicated that costs were being managed within the appropriation	Harry Kent Brief of Evidence at [82]

Date	Event	Reference
	for the 2024/25 financial year, with an underspend of 12 per cent currently forecast.	
24 March 2025	Ruapuke Island MACA hearing set down	
5 May 2025	Tauranga MACA hearing set down	
20 July 2026	Whāingaroa MACA hearing	
12 October 2026	Mōkau ki Runga North MACA hearing	
12 April 2027	Ngāti Tara MACA hearing	Minute of Churchman J dated 4 February 2025 – Ngāti Tara & Te Whānau-o-Rātāroa Hearing dates at [3a]. ⁶
1 May 2028	Whangaroa (Te Whānau-o-Rātāroa) MACA hearing	Minute of Churchman J dated 4 February 2025 – Ngāti Tara & Te Whānau-o-Rātāroa Hearing dates at [3b].