

15 Poutūterangi 2024

File Ref: OIA 48091

██████████  
████████████████████  
  
Tēnā koe ██████████

### Official Information Act request

Thank you for your information request dated 18 January 2024. Your request was originally made to the Ministry of Business, Innovation and Employment (MBIE). On 19 January 2024 MBIE partially transferred your request to Te Puni Kōkiri for a response as it related to information that Te Puni Kōkiri holds. You asked for the following information:

*“Please provide advice directly relating to Māori interests in Radio spectrum, and advice on projects that concern the delivery of the 2022 Memorandum of Understanding (MOU).*

*By “all advice” I mean advice MBIE holds or has knowledge of.”*

On 16 February 2024 you were notified of an extension to the timeframe for the response, to enable time for consultations. I am now in a position to respond.

Your request has been considered in accordance with the Official Information Act 1982 (the Act).

Eleven documents have been identified in scope of your request. The documents and my decisions with regard to the release of the information are set out in the table attached as Appendix A.

Some information has been withheld in accordance with the Act on the following grounds:

- Section 9(2)(a), which applies to protect the privacy of natural persons
- Section 9(2)(b)(ii), which applies to protect information where the making available of the information would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information
- Section 9(2)(ba)(i), which applies to protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information would be likely to prejudice the supply of similar information, or information from the same source, and it is in the public interest that such information should continue to be supplied

- Section 9(2)(f)(iv), which applies to maintain the constitutional conventions for the time being which protect the confidentiality of advice tendered by Ministers of the Crown and officials
- Section 9(2)(g)(i), which applies to maintain the effective conduct of public affairs through the free and frank expression of opinions
- Section 9(2)(h), which applies to maintain legal professional privilege.

In making the decision to withhold information, I have considered the public interest considerations in section 9(1) of the Act.

I trust my response satisfies your request.

You have the right to seek an investigation and review by the Ombudsman of this response. Information about how to make a complaint is available at [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz) or freephone 0800 802 602.

Please note that Te Puni Kōkiri publishes some of its OIA responses on its website, after the response is sent to the requester. The responses published are those that are considered to have a high level of public interest. We will not publish your name, address, or contact details.

If you wish to discuss any aspect of your request with us, including this decision, please feel free to contact us at [oia@tpk.govt.nz](mailto:oia@tpk.govt.nz).

Ngā mihi



Paula Rawiri  
Hautū, Te Puni Kaupapa Here | Deputy Secretary, Policy Partnerships

Appendix A – documents OIA request from [REDACTED] dated 18 January 2024

Item	Date	Document description	Decision
1.	21/07/2022	Email: RE: Ministerial Comment on Approval to draft the Māori Interests in Radio Spectrum Bill	Released with some information withheld under sections 9(2)(a) and 9(2)(f)(iv) of the Act
2.	22/11/2022	Briefing 46167: Meeting with Māori Spectrum Working Group on 23 November 2022	Released with some information withheld under sections 9(2)(a) and 9(2)(f)(iv) of the Act
		<b>Attachment 1</b> 46167: Annotated Agenda: Meeting with Māori Spectrum Working Group	Released with some information withheld under section 9(2)(f)(iv) of the Act
3.	22/02/2023	Email: FW: 2223-2345 Response to Māori Spectrum Working Group letter of 22 December 2022: Māori interests in spectrum	Released with some information withheld under sections 9(2)(ba)(i) and 9(2)(g)(i) of the Act
4.	7/03/2023	Aide Memoire 46577: Māori Spectrum Working Group	Released with some information withheld under sections 9(2)(a), 9(2)(ba)(i), 9(2)(b)(ii), 9(2)(h), and 9(2)(f)(iv) of the Act
		<b>Attachment 1</b> 46577: Annotated Agenda: Māori Spectrum Working Group	Released with some information withheld under sections 9(2)(ba)(i), 9(2)(b)(ii), 9(2)(h), 9(2)(f)(iv), and 9(2)(g)(i) of the Act
5.	13/03/2023	Email: RE: Māori Spectrum hui update & Ngā Aho Whakaari hui	Released with some information withheld under section 9(2)(a)
6.	16/06/2023	Briefing 47372: Māori Spectrum Signing Ceremony – transferral of the Ka Hao Fund to the Interim Māori Spectrum Commission	Released with some information withheld under section 9(2)(a) of the Act

		<b>Attachment 1</b> 47372: Agreement re Ka Hao Fund	Released in full
		<b>Attachment 2</b> 47372: Talking points - Māori Spectrum Signing Ceremony Wednesday 21 June 2023	Released in full
7.	7/08/2023	Email: FYI: MBIE briefing on Māori interests in radio spectrum funding draw down	This document is being released to you by MBIE in response to your request for the same information.
		<b>Attachment 1:</b> Briefing 2324-0208: Request to draw down funding for Māori interests in radio spectrum	This document is being released to you by MBIE in response to your request for the same information.
		<b>Attachment 2:</b> Cabinet Minute (GOV-21 MIN-0060): Finalising Work to Address Māori Interests in Radio Spectrum	This document is being released to you by MBIE in response to your request for the same information.
8.	27/09/2023	Briefing 47848: Interim Māori Spectrum Commission business case to draw down funding for Māori interests in spectrum Note: check grounds for redaction	Released with some information withheld under sections 9(2)(a), 9(2)(b)(ii), 9(2)(f)(iv), and 9(2)(g)(i) of the Act
	20/09/2023	<b>Attachment 1.</b> 47848 Business Case (Updated) High-level Business Case Project Whakatipu	Withheld in full under section 9(2)(b)(ii) of the Act
	22/09/2023	<b>Attachment 2.</b> 47848 Business: Project Whakatipu Investment paper	Withheld in full under section 9(2)(b)(ii) of the Act
	02/02/2022	<b>Attachment 3.</b> 47848 Memorandum of Understanding Document Memorandum of Understanding on Radio Spectrum	Publicly available: <a href="https://www.mbie.govt.nz/dmsdocument/18702-memorandum-of-understanding-maori-spectrum-agreement">https://www.mbie.govt.nz/dmsdocument/18702-memorandum-of-understanding-maori-spectrum-agreement</a>

9.	28/09/2023	Email: RE: BP 47848 - Interim Māori Spectrum Commission business case to draw down funding for Māori interests in spectrum	Released with some information withheld under sections 9(2)(a) and 9(2)(b)(ii)
10.	1/12/2023	Briefing 47927: Māori Spectrum Working Group letter: context and proposed response	Released with some information withheld under sections 9(2)(a), 9(2)(b)(ii), and 9(2)(f)(iv)
	28/11/2023	<b>Attachment 1:</b> 47927 Letter: Māori Spectrum Working Group [to Hon Tama Potaka, Minister for Māori Development]	Released with some information withheld under sections 9(2)(a) and 9(2)(b)(ii)
	02/02/2022	<b>Attachment 2:</b> 47927 Memorandum of Understanding Document: Memorandum of Understanding on Radio Spectrum	Refer Document 8, Attachment 3
11.	18/12/2023	Email: FW: Key messages around Tahua Tautoko funding	Released with some information withheld under sections 9(2)(a)
	28/11/2023	<b>Attachment 1:</b> Letter: Māori Spectrum Working Group [to Hon Tama Potaka, Minister for Māori Development]	Released as Document 10, Attachment 1
	01/12/2023	<b>Attachment 2:</b> Briefing]: Māori Spectrum Working Group letter: context and proposed response	Released as Document 10

**From:** [Mark Field-Dodgson](#)  
**To:** [Jasmine.Ka](#) (2)(a)  
**Cc:** [Mailbox - Ministerials](#); [Lois Searle](#); [Robbie Galvin](#); [Jaclyn Williams](#)  
**Subject:** RE: Ministerial Comment on Approval to draft the Māori Interests in Radio Spectrum Bill  
**Date:** Thursday, 21 July 2022 4:37:00 pm

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Kia ora Jasmine,

Please find below some context and comment on the Cabinet paper 'Approval to draft the Māori Interests in Radio Spectrum Bill', which the Minister for the Digital Economy and Communications circulated for Ministerial consultation—

## Background

Radio Spectrum has been a point of tension in the Māori-Crown relationship since the original Te Tiriti o Waitangi claims over broadcasting in the late 1980s. Previous engagement between Māori and the Crown has not resulted in an enduring approach to this issue. However, in 2019 renewed discussions between the Crown and iwi/Māori represented by the Māori Spectrum Working Group (MSWG) began to see progress, with a Memorandum of Understanding (MOU) on Radio Spectrum signed between responsible Ministers (the Minister of Finance, the Minister for Māori Development, and the Minister for the Digital Economy and Communications) and the MSWG on 2 February 2022. The MSWG includes Waitangi Tribunal claimants (the New Zealand Māori Council and Ngā Kaiwhakapūmau i te Reo), Iwi Chairs Forum, Te Huarahi Tika Trust and industry participants.

The MOU signing followed Cabinet decisions made in December 2021, where core elements of the MOU were agreed and Ministers delegated to finalise the more detailed terms of the agreement. The MOU's core elements include:

- an on-going allocation of 20 percent of national commercial spectrum allocations to the Māori spectrum entity, at no cost to Māori
- an on-going allocation of unused spectrum in some other bands
- a role for Māori in spectrum policy making
- establishment of a permanent Māori spectrum entity to give effect to the agreement
- seed funding of up to \$32 million limited to the first five years of operation of the Māori spectrum entity
- kick-start capital funding of up to \$25 million to allow the Māori spectrum entity to invest in a spectrum/digital technology business, subject to a business case detailing how the investment fits with the agreed objectives of the Māori spectrum entity
- the transfer of the remaining \$17.8 million in the Ka Hao: Māori Digital Technology Fund to the Māori spectrum entity.

## Overview of Cabinet paper

The Cabinet paper seeks Cabinet agreement to initial high-level policy decisions required to commence drafting the Māori Interests in Radio Spectrum Bill. As the MOU is not legally binding, it was agreed that legislation would likely be required to establish and give effect to a permanent spectrum entity for the primary purpose of receiving and managing the spectrum allocated in accordance with the agreement. The MSWG sees the legislation as critical, and the most effective way to providing certainty that the MOU with the Crown will be enduring, particularly regarding the enduring spectrum allocation and creation of a permanent Māori spectrum entity.

The Bill is expected to include a preamble or some other formal acknowledgement that reflects how the MSWG and the Crown agreed to approach the engagement, and Te Tiriti context to the MOU, while also acknowledging the Bill does not settle any Treaty claim nor extinguish the right to lodge further claims in the future.

The Interim Māori Spectrum Commission (IMSC) was established as an interim body to hold spectrum on behalf

of Māori until the permanent Māori Spectrum entity is established in legislation. The Cabinet paper notes, as does the MOU, that the IMSC will undertake the responsibilities of the intended permanent Māori spectrum entity until the permanent entity is established. The Bill will likely set out transitional arrangements to ensure a smooth transition from the IMSC to the permanent entity.

9(2)(f)(iv)

Following agreement from Cabinet to draft the Māori Interests in Radio Spectrum Bill, MBIE is expecting that the Bill will be considered by Cabinet Legislation Committee (LEG) for approval for introduction in November-December 2022.

#### Te Puni Kōkiri comment

Minister Jackson, as Minister for Māori Development, was one of the Crown signatories to the MOU with the MSWG. He has been regularly updated on the MBIE-led work since the MOU signing. A response from Minister Mahuta may wish to note that, in terms of the Māori Development portfolio, this work sits primarily within the responsibilities of the Minister for Māori Development.

Te Puni Kōkiri worked closely with MBIE and Te Arawhiti and the MSWG during the development of the MOU. As indicated in the Cabinet paper, MBIE has engaged with Te Puni Kōkiri on the proposals in the paper. Te Puni Kōkiri is comfortable with the Cabinet paper and the RIS and we have no significant feedback to provide to MBIE. The paper and the RIS reflect discussions that Te Puni Kōkiri has had with MBIE.

MBIE has also been working closely with the MSWG in the drafting of both the Cabinet paper and the RIS. And the MSWG has led several weeks of comprehensive engagement with iwi/Māori on the proposals to establish a Māori spectrum entity, and in particular, the proposed governance arrangements. This has involved both direct engagement with iwi and a series of online hui, which established broad support for the proposals included in the paper.

Hopefully that's helpful. Please let us know if you require any further comment on this.

Nāku noa, nā Mark

Mark Field-Dodgson ([he/him/ia](#))

Aporei Mātai | Principal Analyst

Te Puni Kaupapa Here | Policy Partnerships Puni

Te Puni Kōkiri, National Office

Please note: I work Mon-Thu

Waea Pūkoro M : 9(2)(a)

Waea Whakaahua F : 0800 875 329 | Paetukutuku W : [www.tpk.govt.nz](http://www.tpk.govt.nz)

Te Puni Kōkiri, Te Puni Kōkiri House, 143 Lambton Quay, Wellington 6011  
PO Box 3943, Wellington 6140, New Zealand

## HEI WHAKATAU | BRIEFING

### Meeting with Māori Spectrum Working Group on 23 November 2022

<b>Date:</b>	22 November 2022	<b>Priority</b>	Medium
<b>Classification</b>	In Confidence	<b>Tracking Number</b>	46167

Action sought	Date action required by
<p>It is recommended that you:</p> <ol style="list-style-type: none"> <li><b>note</b> that Cabinet has agreed to the transfer of the remaining \$17.8 million in the Ka Hao: Māori Digital Technology Fund to the Māori spectrum entity</li> <li><b>note</b> officials are working with the Interim Māori Spectrum Commission on agreeing timing for the transfer of the remaining \$17.8 million in the Ka Hao: Māori Digital Technology Fund</li> <li><b>note</b> the attached annotated agenda.</li> </ol>	21 November 2022

Name	Position	Mobile	1 <sup>st</sup> contact
Tamati Olsen	Director, Wellbeing, Policy Partnerships	s9(2)(a)	√
Robbie Galvin	Senior Analyst, Culture	s9(2)(a)	

Other Agencies Consulted					
<input type="checkbox"/> MBIE	<input type="checkbox"/> MoJ	<input type="checkbox"/> NZTE	<input type="checkbox"/> MSD	<input type="checkbox"/> TEC	<input type="checkbox"/> MoE
<input type="checkbox"/> MFAT	<input type="checkbox"/> MPI	<input type="checkbox"/> MfE	<input type="checkbox"/> DIA	<input type="checkbox"/> Treasury	<input type="checkbox"/> MoH
<input type="checkbox"/> MHUD	<input type="checkbox"/> Other				

Attachments
1. Annotated Agenda

Minister's office to complete:

- |   |  |
|---|--|
| <input type="checkbox"/> Approved             | <input type="checkbox"/> Declined            |
| <input type="checkbox"/> Noted                | <input type="checkbox"/> Needs change        |
| <input type="checkbox"/> Seen                 | <input type="checkbox"/> Overtaken by Events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn           |

Comments:





22 November 2022

Te Minita Whanaketanga Māori

## Meeting with Māori Spectrum Working Group on 23 November 2022

### Purpose

1. This paper updates you on two topics that may be discussed during your meeting with the Māori Spectrum Working Group (MSWG) on Wednesday, 23 November 2022:
  - a. the transfer of the remaining \$17.8 million in the Ka Hao: Māori Digital Technology Fund

s9(2)(f)(iv)

### Background

2. You are meeting the MSWG at 12pm on 23 November 2022, alongside the Minister for the Digital Economy and Communications, and the Minister for Māori-Crown Relations: Te Arawhiti. This is the first formal meeting between joint Ministers and the MSWG since the signing of the Memorandum of Understanding on Radio Spectrum (the MOU) in February 2022.
3. The purpose of the meeting is for the MSWG and Ministers to discuss progress on the commitments of the MOU, particularly the development of legislation.
4. MBIE provided an event briefing to the Minister for the Digital Economy and Communications on 16 November 2022 and recommended the briefing be forwarded to you and the Minister for Māori-Crown Relations. This briefing provides you with additional information to MBIE's briefing.

### Timing of Ka Hao: Māori Digital Technology Fund transfer

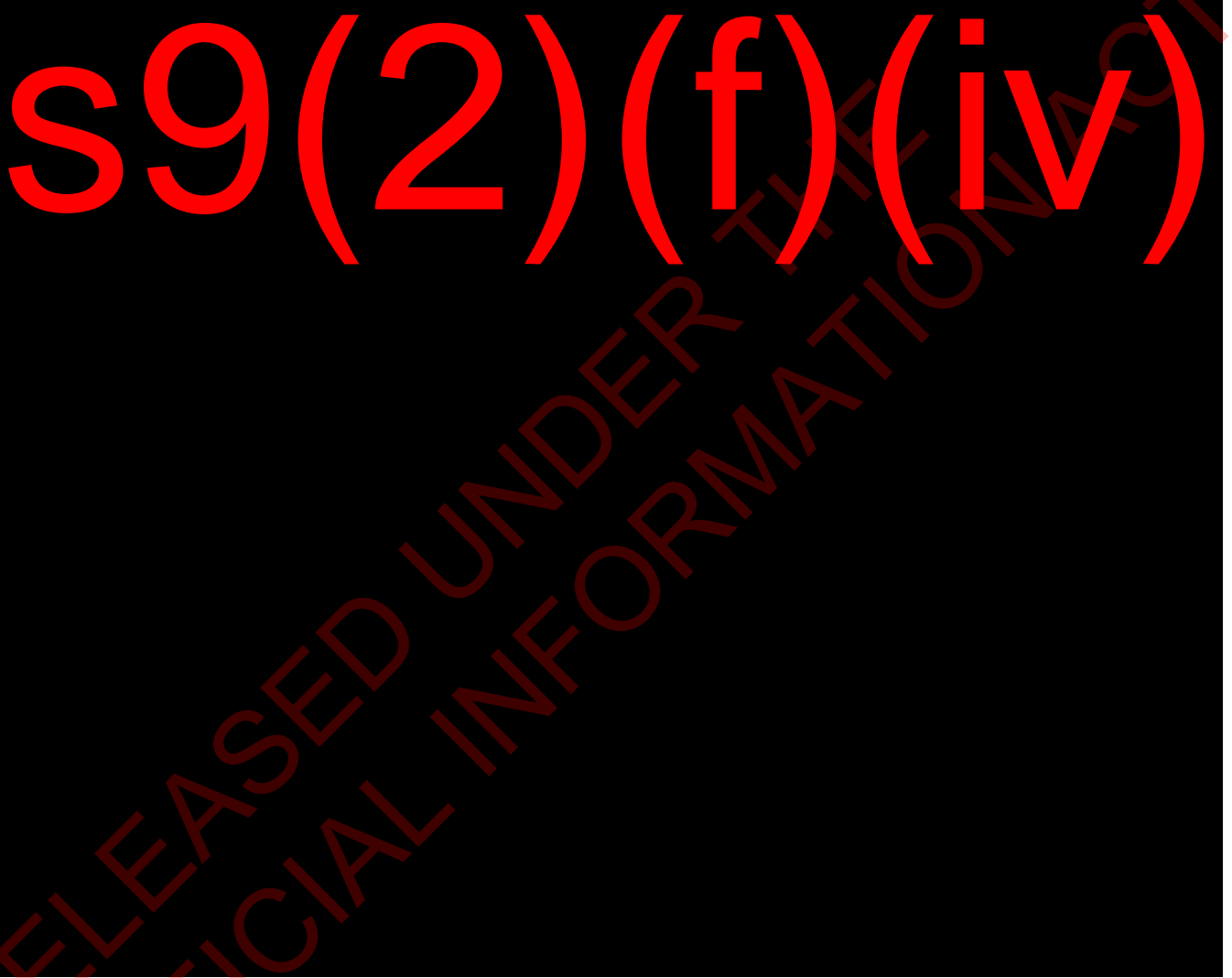
5. On 16 December 2021, the Cabinet Administration and Expenditure Review Committee (GOV) agreed to several core elements of a package to address Māori interests in spectrum, including the transfer of the remaining \$17.8 million in the Ka Hao: Māori Digital Technology Fund to the Māori spectrum entity [DEV-22-MIN-0176 refers].
6. Page 9, Clause 12 of the MOU signed between responsible Ministers and the MSWG on 2 February 2022 states that:

*"The parties to this MOU agree that the transfer by TPK of the remaining balance of the Ka Hao Fund (\$17.8 million) will commence either upon the introduction of the legislation to the House or before the end of the 2022 calendar year, whichever comes first. The details of the transfer and future administration of the fund are to be agreed between MSWG and TPK."*

7. As noted in MBIE's briefing, timeframes for the legislation have been delayed and it will not be introduced to the House before the end of the 2022 year. Te Puni Kōkiri officials will be meeting with Anthony Royal, co-convenor of the MSWG and Chief Executive of the Interim

Māori Spectrum Commission, to discuss the timing and process for the transfer and administration of the Ka Hao Fund.

8. Officials understand the MSWG may have an expectation that transfer of the Ka Hao Fund is completed by the end of the 2022 year.
9. Should the MSWG raise the timing of the transfer of the Ka Hao Fund at your meeting, officials recommend you advise them that the details of the transfer are for the MSWG and Te Puni Kōkiri to agree, in line with the MOU.



**Next Steps**

18. Te Puni Kōkiri officials will discuss the MSWG meeting with you at your officials' meeting on Tuesday 22 November.

**Recommended Action**

It is recommended that you:

1. **note** that Cabinet has agreed to the transfer of the remaining \$17.8 million in the Ka Hao: Māori Digital Technology Fund to the Māori Spectrum entity
2. **note** officials are working with the interim Māori Spectrum on agreeing timing for the transfer of the remaining \$17.8 million in the Ka Hao: Māori Digital Technology Fund
3. **note** the attached annotated agenda.



Tāmami Olsen  
Kaihautū, Te Puna Oranga, Te Puni Kaupapa Here | Director, Wellbeing, Policy Partnerships

Hon Willie Jackson  
Te Minita Whanaketanga Māori

Date: \_\_\_\_ / \_\_\_\_ / 2022

## IN CONFIDENCE

Annotated Agenda – Meeting with Māori Spectrum Working Group	
<b>Date</b>	23 November 2022
<b>Time</b>	12pm – 12.30pm
<b>Venue</b>	Matangireia, Parliament Buildings
<b>Attendees</b>	<b>Ministers:</b> Hon Kelvin Davis, Hon Dr David Clark, Hon Willie Jackson  Officials will be in attendance.
<b>Hui Description</b>	In February 2022, the Minister for the Digital Economy and Communications, the Minister of Finance, and the Minister for Māori Development signed a Memorandum of Understanding (MOU) on Radio Spectrum with the Māori Spectrum Working Group (MSWG).  The purpose of this meeting is for the MSWG and joint Ministers to discuss progress on the commitments of the MOU, particularly the development of legislation.

Item / Actions	Talking points
<b>1. Welcome and introductions</b>  <i>Lead by Hon Dr David Clark</i>	<ul style="list-style-type: none"> <li>It's good to meet you all again, and in person.</li> <li>I acknowledge the hard work of the MSWG and officials, and I look forward to hearing about the progress you've made since our last meeting.</li> </ul>
<b>2. Tahua Tautoko Fund</b>  <b>Note</b> the MSWG's proposal	<ul style="list-style-type: none"> <li>Did your business case research identify potential alternative options beyond the expiration deadline of the tagged contingency of June 2023?</li> </ul>
<b>3. Legislative Work Programme</b>  <b>Discuss</b> points of interest to you in the legislative work	<i>Māori spectrum entity form, structure, and tax status</i> <ul style="list-style-type: none"> <li>It sounds like you're making good progress on the structure of the Māori spectrum entity.</li> <li>I look forward to receiving further updates on this from Minister Clark, where relevant.</li> </ul> <div style="background-color: black; color: red; text-align: center; padding: 10px; font-size: 2em; font-weight: bold;">s9(2)(f)(iv)</div>

Item / Actions	Talking points
	<p style="text-align: center; font-size: 2em; color: red;">s9(2)(f)(iv)</p> <p><i>Select Committee options</i></p> <ul style="list-style-type: none"> <li>• I support going to whichever Select Committee will work best for progressing this work as quickly as we can.</li> </ul>
<p><b>Other items that may be raised</b></p> <p><b>Discuss</b> as relevant</p>	<p><i>Ka Hao Fund</i></p> <ul style="list-style-type: none"> <li>• As it says in the MOU, the details of the transfer of the Ka Hao Fund are for the MSWG and Te Puni Kōkiri to agree.</li> <li>• I understand MSWG representatives recently met with TPK officials to discuss the transfer.</li> </ul>

**From:** [Robbie Galvin](#)  
**To:** [Nadia Ward \(Parliament\)](#)  
**Cc:** [Mark Field-Dodgson](#); [Jaclyn Williams](#); [Tamati Olsen](#)  
**Subject:** FW: 2223-2345 Response to Māori Spectrum Working Group letter of 22 December 2022: Māori interests in spectrum  
**Date:** Wednesday, 22 February 2023 7:47:14 am

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Kia ora Nadia

- TPK has no concerns with the briefing, and has provided advice that has been incorporated in the final draft.
- This advice included agreeing to MBIE's responses to **s9(2)(ba)(i)**  
**s9(2)(ba)(i) & 9(2)(g)(i)**  
**s9(2)(ba)(i) & 9(2)(g)(i)**  
**s9(2)(ba)(i) & 9(2)(g)(i)** Similarly, although we endorse any proposal to invest in any ICT entity including Kordia, changes to the SOE Act would be required. Ministers are also unlikely to agree to this.
- In terms of the Ka Hao Fund, we advised MBIE that we are currently working on progressing the transfer of the \$17.8 million remaining in Ka Hao to the IMSC, and it is expected that this transfer will be actioned by 30 June 2023. We also advised that the MSWG have previously indicated that they will be utilising the Ka Hao Fund for similar purposes for which it was originally intended, that is, to encourage Māori capacity building in the ICT sector.

In the next couple of weeks we will provide an Aide Memoire updating the Minister on the MOU and background on the transfer of the remaining \$17.8 million in Ka Hao to the IMSC.

Ngā mihi

Robbie

RELEASED UNDER THE OFFICIAL INFORMATION ACT

7 March 2023

Te Minita Whanaketanga Māori

# HE PĀRONGO | AIDE MEMOIRE

## Māori Spectrum Working Group

### For meeting on: 16 March 2023 3pm - 4pm

Te Puni Kōkiri contact: Tāmati Olsen, Director, Wellbeing

Phone: s9(2)(a)

TPK tracking no: 46577

### Purpose

1. This Aide Memoire provides you with information and proposed talking points for your meeting with the Māori Spectrum Working Group (MSWG) on 16 March 2023, from 3pm – 4pm.
2. The meeting is being chaired by the Minister for the Digital Economy and Communications and the Minister for Māori-Crown Relations: Te Arawhiti will also be attending.

### Context

3. Following the signing of the Memorandum of Understanding (MOU) on 2 February 2022, Ministry of Business, Innovation and Employment (MBIE) officials have been working with the MSWG to implement the intent and commitments of the MOU in legislation through the Māori Interests in Radio Spectrum Bill (the Bill). The Bill will establish a permanent Māori spectrum entity and create an ongoing spectrum allocation to the entity.
4. On December 2022, the MSWG wrote to Ministers regarding the legislative work programme for the Bill and the Crown commitments contained in the MOU. s9(2)(ba)(i)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

*Legislative work programme*

5. s9(2)(ba)(i) [Redacted]
6. The 2023 Legislative Bid for this Bill has a category 2 priority (must be passed during the 53<sup>rd</sup> Parliament). The Bid outlined an expected date for LEG Committee and Cabinet approval for introduction by the end of March 2023. However, confirmation of the general election date has realised a real risk that the Bill will not pass before the House rises on 31 August 2023.
7. MBIE officials have provided three possible LEG committee dates in the paper. It is likely they will work towards a LEG committee date in July 2023 for the Bill to be introduced and referred to Select Committee before the House rises. This would enable a thorough drafting process with PCO, including MSWG review and input into draft versions of the Bill, with an intended Bill ready for agency and Ministerial consultation.

*Tahua Tautoko Fund*

8. s9(2)(ba)(i) [Redacted]
9. s9(2)(ba)(i) & s 9(2)(b)(ii) [Redacted]
- s9(2)(ba)(i) [Redacted]
11. s9(2)(f)(iv) [Redacted]
12. s9(2)(h) [Redacted]
13. s9(2)(f)(iv) [Redacted]

*Ka Hao Fund*

14. Te Puni Kōkiri officials are currently working on progressing the transfer of the \$17.8 million remaining in the Ka Hao fund to the IMSC. The transfer will be formalised by an MOU and



signed off by the Chief Executive of Te Puni Kōkiri and authorised signatories from the IMSC. It is expected that this transfer will be actioned by 30 June 2023.

### Comment

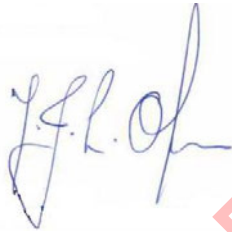
15. On 16 February 2023, MBIE provided the Minister for the Digital Economy and Communications with a briefing paper with advice on the requests raised by the MSWG, and a proposed response (BP 2223-2345 refers). You were also provided with a copy of the brief.
16. On 22 February 2023, Te Puni Kōkiri officials advised your office that there were no concerns with the briefing and the proposed letter of response to the MSWG.
17. Te Puni Kōkiri officials advised of their agreement with MBIE's responses to the MSWG's proposals for a Crown-MSWG/IMSC Deed and applying their \$25 million Tahua Tautoko (accelerated industry investment initiative) to invest in Kordia.

18. s9(2)(f)(iv)

Similarly, although officials endorse any proposal to invest in any ICT entity including Kordia, changes to the SOE Act would be required and Ministers are also unlikely to agree to this.

### Attachments

1. Proposed talking points.



Tāmami Olsen  
Director, Wellbeing

**NOTED**

Hon Willie Jackson  
Te Minita Whanaketanga Māori

Date: \_\_\_\_ / \_\_\_\_ / 2023

**Māori Spectrum Working Group  
16 March 2022, 3pm-4pm, EW 2.1**

**ANNOTATED AGENDA ITEMS**

**MEETING OBJECTIVES**

1. The primary purpose of the meeting is for MSWG and joint Ministers to continue the discussion on the progress of the Memorandum of Understanding (MOU) implementation.
2. To discuss progress on the legislative Bill, Ministers commitment to the MOU and engagement on the Tahua Tautoko Fund.

**ATTENDANCE**

The members of the MSWG who are expected to attend this meeting are:

- Piripi Walker (Co-convenor of the MSWG) – Nga Kaiwhakapūmau i te Reo (the Wellington Māori Language Board)
- Antony Royal (Co-convenor of the MSWG) – Technical expert & Chief Executive of the Interim Māori Spectrum Commission (IMSC)
- Paora Maxwell – New Zealand Māori Council
- Peter Fraser – New Zealand Māori Council
- Haami Piripi – Iwi Chairs Forum
- Robyn Kamira – Technical expert
- Leo Watson – Legal advisor

## AGENDA ITEM 1: WELCOME AND INTRODUCTION

### BACKGROUND INFORMATION

#### Kaupapa kōrero

1. Following the signing of the Memorandum of Understanding (MOU) on 2 February 2022, MBIE officials have been working with the MSWG to implement the intent and commitments of the MOU in legislation through the Māori Interests in Radio Spectrum Bill (the Bill). The Bill will establish a permanent Māori spectrum entity and create an ongoing spectrum allocation to the entity.
2. On December 2022, the MSWG wrote to Ministers 9(2)(ba)(i)

9(2)(ba)(i)

6. Minister Andersen met with MSWG via zoom on 6 March 2023 for an introductory meeting on some of the above kaupapa including broader Māori interests in radio spectrum work.

### TALKING POINTS

- *Minister Davis to open & close the meeting.*
- *An opportunity will be provided to you and Minister Jackson to make any opening remarks.*
- I would personally like to express my appreciation and pleasure to the Māori Spectrum Working Group for the collaborative approach they have been taking with officials.
- I look forward to hearing about progress made on the various kaupapa.

## AGENDA ITEM 2: PROGRESS ON THE LEGISLATIVE WORK PROGRAMME

### BACKGROUND INFORMATION

#### Kaupapa Kōrero

7. The MSWG letter of 22 December 2022 outlined MSWG's expectations that the Bill would be reported back from a Select Committee before the 2023 general election. MBIE officials have since met with the Parliamentary Counsel Office (PCO) drafters to discuss the Bill, drafting progress and timeframes.
8. The 2023 Legislative Bid for this Bill has a category 2 priority (must be passed during the 53rd Parliament). The Bid outlined an expected date for LEG Committee and Cabinet approval for introduction by the end of March 2023. However, confirmation of the general election date has realised a real risk that the Bill will not pass before the House rises on 31 August 2023.
9. MBIE officials have provided three possible LEG committee dates in the paper. Although Minister Andersen has indicated that she will refer the Bill to the Māori Affairs Select Committee at the appropriate time, it is likely they will work towards a LEG committee date in July 2023 for the Bill to be introduced and referred to Select Committee before the House rises. This would enable a thorough drafting process with PCO, including MSWG review and input into draft versions of the Bill, with an intended Bill ready for agency and Ministerial consultation

### TALKING POINTS

- **Minister Andersen to lead.**
- *Opportunity for joint Ministers to discuss progress on the development and implementation of the Bill with MSWG.*
- I understand the concern that the Māori Spectrum Working Group has that the Bill won't be introduced before the House rises in August.
- I would also like to reassure the Māori Spectrum Working Group that Ministers are committed to ensuring that the Bill is introduced before the House rises.
- What Māori and non-Māori organisations are likely to have a strong interest or views about the Bill through the select committee process?

BACKGROUND INFORMATION

Kaupapa kōrero

9(2)(f)(iv)

9(2)(h)

9(2)(g)(i)

TALKING POINTS

- **Minister Andersen to lead**
- *Opportunity for joint Ministers to respond to this proposal in person.*
- As noted earlier, the Government is committed to an enduring Crown-Māori spectrum relationship, and to implementing the MOU and progression of the Bill.

AGENDA ITEM 4:

TAHUA TAUTOKO FUND

BACKGROUND INFORMATION

Kaupapa kōrero

9(2)(ba)(i), 9(2)(b)(ii)

2. Officials note that the State-Owned Enterprise Act 1986 requires that the ordinary shares in SOE's are 100 per cent owned by the Crown. MSWG's proposal, with a shareholding in Kordia by MSWG and a shareholding by the Crown, would require passing legislation to remove Kordia from the SOE Act.

TALKING POINTS

- *Minister Andersen to lead.*
- *Joint Ministers will be given an opportunity to invite MSWG to discuss the process they undertook in their business case scoping work.*

9(2)(ba)(i), 9(2)(b)(ii)

- What other options are there to leverage Kordia?
- On a related matter, do you see a role for the Māori Spectrum Commission in building resilience across Māori communities?

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**OTHER MATTERS**

**KA HAO FUND**

(if raised)

**BACKGROUND INFORMATION**

**TALKING POINTS**

**Kaupapa kōrero**

7. Te Puni Kōkiri officials are currently working on progressing the transfer of the \$17.8 million remaining in the Ka Hao fund to the IMSC. The transfer will be formalised by an MOU and signed off by the Chief Executive of Te Puni Kōkiri and authorised signatories from the IMSC. It is expected that this transfer will be actioned by 30 June 2023.

- My officials in Te Puni Kōkiri are working to progress the transfer of the Ka Hao fund to the Interim Māori Spectrum Commission by the end of this financial year (30 June 2023).
- Does the Māori Spectrum Working Group have any immediate plans to utilise part of the \$17.8 million remaining in Ka Hao once it is transferred to the Interim Māori Spectrum Commission?

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**From:** [Robbie Galvin](#)  
**To:** [Nadia Ward](#) s9(2)(a)  
**Cc:** [Mark Field-Dodgson](#); [Jaclyn Williams](#); [Tamati Olsen](#); [Robbie Galvin](#)  
**Subject:** RE: Māori Spectrum hui update & Ngā Aho Whakaari hui  
**Date:** Monday, 13 March 2023 3:23:26 pm  
**Importance:** High

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Kia ora Nadia

We have no concerns with MBIE'S draft event briefing for the MSWG-Ministers meeting on 16 March 2023, and note that it reflects the earlier information provided to the Minister of Communications and Digital Economy, and copied to Ministers Davis and Jackson. Our comments on this earlier briefing (BP2223-2345 of 16 February 2023) were recently provided by Aide Memoire TPK 46577 to Minister Jackson on 7 March 2023. No significant additional information has been provided through the draft event briefing, and as such our original advice is unchanged.

In terms of this later briefing, we note the following:

### **Purpose of Meeting**

The purpose of the meeting is for MSWG and joint Ministers to continue the discussion on the progress of the Memorandum of Understanding (MOU) implementation. It also provides an opportunity for Ministers to respond in person to the proposals raised by the MSWG in their letter of 22 December 2022. We understand that the MSWG would like to use the meeting to discuss progress on the legislative Bill, Ministers commitment to the MOU, engagement on the Tahua Tautoko Fund, and continue their relationship with Ministers.

### **MBIE's proposed agenda is:**

Agenda Item One: Welcome and introductions

Agenda Item Two: Progress on the Legislative Work Programme

Agenda Item Three: Tahua Tautoko Fund

### **Management Rights**

MBIE is currently undertaking work to provide Management Rights in the 2100 MHz and 2300 MHz bands to the Interim Māori Spectrum Commission (IMSC). These offers to the IMSC are currently going through IMSC internal consideration processes.

Work is also currently underway to provide the IMSC with Management Rights in the 3.5 GHz (5G) band. This will occur following the finalisation of contracts with other parties involved in the allocation of that band.

In respect of funding commitments, MBIE has a funding agreement with the IMSC for the \$5.8 million funding appropriated as part of Budget 2021. There is a further \$32 million in seed funding tied to the establishment of the enduring spectrum entity which has been re-profiled from 2022/23 to 2023/24.

MBIE is still awaiting confirmation from their Ministers office that the proposed response letter from Minister Anderson to the MSWG has been released.

Ngā mihi



Robbie

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## HEI WHAKATAU | BRIEFING

### Māori Spectrum Signing Ceremony – transferral of the Ka Hao Fund to the Interim Māori Spectrum Commission

<b>Date:</b>	16 June 2023	<b>Priority</b>	High
<b>Classification</b>	In Confidence	<b>Tracking Number</b>	47372

Action sought	Date action required by
<p>It is recommended that you:</p> <p><b>Agree</b> to attend and speak at the Māori Spectrum Signing Ceremony on Wednesday, 21 June 2023 at Te Puni Kōkiri National Office</p> <p><b>Agree</b> to issuing a joint media release with the Minister for the Digital Economy and Communications about the transfer of both the Ka Hao Fund and the 3.5 GHz spectrum management rights to the Interim Māori Spectrum Commission</p> <p><b>Agree</b> to forward this briefing to the Minister for the Digital Economy and Communications.</p>	19 June 2023

Contact for telephone discussion (if required)			
Name	Position	Mobile	1 <sup>st</sup> contact
Jaclyn Williams	Manager, Culture	9(2)(a)	√
Lydia Whiting	Analyst, Culture	9(2)(a)	

Other Agencies Consulted					
<input type="checkbox"/> MBIE	<input type="checkbox"/> MoJ	<input type="checkbox"/> NZTE	<input type="checkbox"/> MSD	<input type="checkbox"/> TEC	<input type="checkbox"/> MoE
<input type="checkbox"/> MFAT	<input type="checkbox"/> MPI	<input type="checkbox"/> MfE	<input type="checkbox"/> DIA	<input type="checkbox"/> Treasury	<input type="checkbox"/> MoH
<input type="checkbox"/> MHUD	<input type="checkbox"/> Other				

Attachments
Agreement re Ka Hao Fund (between Te Puni Kōkiri and the Interim Māori Spectrum Commission)

Minister's office to complete:

- |   |  |
|---|--|
| <input type="checkbox"/> Approved             | <input type="checkbox"/> Declined            |
| <input type="checkbox"/> Noted                | <input type="checkbox"/> Needs change        |
| <input type="checkbox"/> Seen                 | <input type="checkbox"/> Overtaken by Events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn           |

Comments:



16 June 2023

Te Minita Whanaketanga Māori

## **Māori Spectrum Signing Ceremony - transferral of the Ka Hao Fund to the Interim Māori Spectrum Commission**

### **Purpose**

1. This paper:
  - a. seeks your agreement to attend and speak at the Māori Spectrum Signing Ceremony (the ceremony) on Wednesday 21 June 2023 at Te Puni Kōkiri National Office to mark the transfer of the Ka Hao Fund and the long-term management rights of 3.5 GHz spectrum to the Interim Māori Spectrum Commission (IMSC)
  - b. seeks your agreement to the release of a joint Ministerial media release about the transfer, to be released by you and Hon Ginny Andersen, Minister for the Digital Economy and Communications.

### **Background**

2. In 2019, Cabinet agreed that the Minister for the Digital Economy and Communications would lead discussions with Māori on how to address Māori interests in radio spectrum. Radio spectrum has been a point of tension in the Māori-Crown relationship since the original Treaty of Waitangi claims over broadcasting in the late 1980s. Previous engagement has not resulted in an enduring approach to this issue.
3. On 2 February 2022, Ministers representing the Crown and members of the Māori Spectrum Working Group (MSWG) signed the Memorandum of Understanding on Radio Spectrum (the MOU), marking the start of an enduring agreement to address Māori interests in spectrum. This followed Cabinet decisions made in December 2021, where core elements of the MOU, including the transfer of the remainder of the Ka Hao Fund (\$17,784,650) to a permanent Māori spectrum entity, were agreed [GOV-21-MIN-0060 refers].
4. As the MOU is not legally binding, it was also agreed by Cabinet that legislation would be required to establish and give effect to a permanent Māori spectrum entity to receive and manage the spectrum allocated in accordance with the MOU. This legislation would be named the Māori Interests in Radio Spectrum Bill (the Bill). Cabinet agreed that the Bill's legislative priority be changed to Category 4 and referred to a select committee in 2022, and invited the Minister for the Digital Economy and Communications to report back to Cabinet with a draft Bill for introduction to the House of Representatives before December 2022 [DEV-22-MIN-0176 refers].
5. Te Puni Kōkiri agreed to wording in the MOU to transfer the remaining balance of the Ka Hao Fund "either upon the introduction of the legislation to the House or before the end of the 2022 calendar year, whichever comes first", with the details of the transfer and future administration of the Fund to be agreed between the Māori Spectrum Working Group and Te Puni Kōkiri". This timeframe was agreed on the basis that, at the time, the Ministry of Business, Innovation and Employment (MBIE) was confident that the Bill would be considered by the Cabinet Legislation Committee (LEG) for approval and introduction in November-December 2022.

6. However, it subsequently became evident that the Bill would not be passed before the end of the year, and because of perceived risks to the Crown, work to commence the transfer of the remaining balance of the Ka Hao Fund did not proceed by the end of 2022.
7. As a statement of good faith, Te Puni Kōkiri and MBIE officials agreed to the transfer of the remainder of the Ka Hao Fund and the long-term management rights of 3.5 GHz spectrum to the Interim Māori Spectrum Commission (IMSC), with these transfers taking place at a signing ceremony to be held at Te Puni Kōkiri on Wednesday, 21 June 2023.

### **Comment on the Ka Hao Fund transfer**

8. The transfer of the remainder of the Ka Hao Fund to the IMSC signals the final core element that Te Puni Kōkiri has had to complete in accordance with the MOU signed on 2 February 2022.
9. Te Puni Kōkiri officials will still continue to work with our counterparts in MBIE and Te Arawhiti to progress the Māori Interests in Radio Spectrum Bill to establish and give effect to a permanent Māori Spectrum entity and will keep you informed of developments.
10. Attached for your information is a copy of the agreement to be signed by the IMSC and Te Puni Kōkiri to transfer the remainder of the Ka Hao Fund.

### **Details of the Māori Spectrum Signing Ceremony**

11. The ceremony will be held from 1pm to 3pm on Wednesday 21 June 2023 in the Nau Mai room at Te Puni Kōkiri National Office. Both agreements will be signed by IMSC trustee and MSWG member, Piripi Walker. The Ka Hao Fund transfer agreement will be signed by Te Puni Kōkiri Chief Executive Dave Samuels and the Spectrum Management Rights transfer agreement will be signed by MBIE Chief Executive, Carolyn Tremain.
12. Other attendees will include representatives of the MSWG, IMSC, and Pou Tahua of the National Iwi Chairs Forum. Invitations have also been extended to officials who have contributed to these agreements, from Te Puni Kōkiri, MBIE, Te Arawhiti and the Ministry for Culture and Heritage.
13. Māori media will be invited and Te Puni Kōkiri intends to send an embargoed media release and background information to media organisations on the day before the ceremony.
14. The preliminary order of events for the ceremony is as follows:
  - 1–1:15pm – Mihi whakatau for Carolyn Tremain and MBIE officials
  - 1:15–1:30pm – Pōwhiri for IMSC trustees, MSWG members and other invited guests
  - 1:30–2pm – Speeches and supporting waiata
  - 2–2:20pm – Signing of the Ka Hao transfer and Spectrum Management Rights transfer agreements
  - 2:20–3pm – Refreshments provided.

## **Te Puni Kōkiri recommends Ministers attend the signing ceremony**

15. We recommend you attend the ceremony and speak to the significance of the agreement reached. The ceremony marks the work by both partners to bring about the transfers and indicate the ongoing support for enacting the enduring Māori-Crown agreement on Māori interests in spectrum. This is part of the long history of Māori-Crown engagement on Māori interests in spectrum.
16. Subject to your agreement, Te Puni Kōkiri will provide your office with talking points on Monday 19 June 2023.
17. Te Puni Kōkiri officials are liaising with our MBIE counterparts regarding the attendance of Hon Ginny Andersen in her capacity as Minister of the Digital Economy and Communications. This is yet to be confirmed. If Minister Andersen does attend, time will be allocated for her to speak following your speech.
18. While the ceremony is a chance to celebrate and showcase the work by both partners to reach this agreement, Ministers may receive questions from media or guests about the outstanding elements of the MOU, particularly the delayed introduction of legislation to establish a permanent Māori spectrum entity. Officials are preparing communications material for your office to address such issues and we do not expect them to feature prominently in any engagements.

## **Te Puni Kōkiri recommends Ministers release a joint media release**

19. Officials from Te Puni Kōkiri and MBIE are preparing a joint Ministerial media release about the transfer, for release by you, as Minister for Māori Development, and Hon Ginny Andersen, as Minister for the Digital Economy and Communications.
20. The draft media release will be provided your office on Monday 19 June 2023. We seek your agreement to issue this release, subject to your and Hon Ginny Andersen's approval.

## **Next Steps**

21. Subject to your agreement to the recommended actions, officials will prepare talking points and other communications material in support of your attendance and speech at the ceremony, along with the draft media release.
22. We recommend your office forwards this paper to the office of Hon Ginny Andersen to inform her of your position on attending the ceremony and of issuing a joint media release.

## **Recommended Action**

23. It is recommended that you:

1. **agree** to attend and speak at the Māori Spectrum Signing Ceremony on **Yes / No**  
Wednesday, 21 June 2023 at Te Puni Kōkiri National Office
2. **agree** to issuing a joint media release with the Minister for the Digital Economy and **Yes / No**  
Communications about the transfer of both the Ka Hao Fund and the 3.5 GHz  
spectrum management rights to the Interim Māori Spectrum Commission

3. **agree** to forward this briefing to the Minister for the Digital Economy and **Yes / No** Communications.



Jaclyn Williams  
Manager, Culture, Policy Partnerships

Hon Willie Jackson Te Minita Whanaketanga Māori
--

Date: ____ / ____ / 2023
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## Agreement re Ka Hao Fund

**BETWEEN:** Te Puni Kōkiri (TPK) on behalf of the Crown

**AND:** Interim Māori Spectrum Commission, a trust established by way of a deed of trust in 2020 (IMSC)

(together referred to herein as “**the Parties**”)

Dated this        day of                    2023

### Background

- A. A memorandum of understanding was entered into between Māori spectrum representatives (by way of the **Māori Spectrum Working Group**) and the Crown on 2 February 2022 (the “**Spectrum MoU**”) to, among other things establish a permanent **Māori Spectrum Entity**.<sup>1</sup> The Spectrum MoU also provided for a range of initiatives to reach an enduring agreement on Māori interests in radio spectrum with the following shared objectives:
- To contribute to an increase in Māori participation and opportunity in spectrum-related industries and the digital economy; and
  - To enable Māori to contribute their talent and skills to spectrum-related industries.
- B. The Spectrum MoU also includes a commitment in relation to the **Ka Hao Fund**, where at paragraph 12 it states that:
- “The Parties to this MoU agree that the transfer by TPK of the remaining balance of the Ka Hao Fund (\$17.8 million) will commence either upon the introduction of the legislation to the House or before the end of the 2022 calendar year, whichever comes first. The details of the transfer and future administration of the fund are to be agreed between MSWG and TPK.”
- C. The Ka Hao Fund is being held by Te Puni Kōkiri as a Vote non-departmental output expense, titled “Tahua Whanaketanga Hangarau Māori | Māori Digital Technology Development Fund (M46) (A24).
- D. The Spectrum MoU provides for transitional arrangements, whereby until the permanent Māori Spectrum Entity is established, the **Interim Māori Spectrum Commission (IMSC)** will undertake the responsibilities of the intended permanent Māori Spectrum Entity. The IMSC trustees authorised the execution of this agreement (**agreement**) by way of resolution at their Annual General Meeting on 24 May, with delegated authority for chairperson Piripi Walker to sign on behalf of the IMSC.
- E. As at the date of this agreement, the permanent Māori Spectrum Entity has not yet been established; and the Ka Hao Fund has not been transferred and remains under the control of TPK.
- F. The purpose of this agreement is to provide for the transfer of the Ka Hao Fund to the Interim Māori Spectrum Commission consistent with the Spectrum MOU, on terms and conditions agreed to by the Parties.

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<sup>1</sup> See paragraphs 5 and 6 of the Spectrum MOU

**The Parties agree to the following:**

**Transfer of Ka Hao Fund**

1. The “Ka Hao fund” and “the fund” means the Ka Hao fund held by TPK at the Handover Date, and includes all interest earned on the Ka Hao Fund since 1 January 2023, plus GST if any.
2. The Ka Hao Fund will be transferred to the IMSC on or before 30 June 2023 (**Handover Date**) in the following way:
  - (a) Three business days prior to the Handover Date, TPK will provide IMSC with written notice as to the amount held in the Ka Hao Fund, including a breakdown of the capital of the fund, and the interest earned since 1 January 2023 plus GST (if any) “the **total sum.**”
  - (b) On the Handover Date, TPK will transfer the total sum of the Ka Hao Fund, as referred to in 2(a) to the nominated bank account of the IMSC.
  - (c) The IMSC will accept the transfer, and will assume all rights, title and interest in the Ka Hao Fund. For the avoidance of doubt, upon transfer of the Ka Hao Fund, the fund will become the trust property of the IMSC, and the Fund shall not be held by IMSC in any other trustee capacity, for and on behalf of TPK.
  - (d) As soon as practicable after the Handover Date, TPK will provide to IMSC a handover report which details the following (the “Handover Report.”):
    - (i) a copy of any foundational or strategic Ka Hao documents that set out the fund’s objectives;
    - (ii) a summary of what allocation from the Ka Hao Fund has occurred since the fund’s establishment, with sufficient details to enable IMSC to appropriately take over the administration of the Ka Hao Fund in accordance with this agreement;
    - (iii) details, if any, of what applications have been made to TPK to access the Ka Hao Fund since the last funding round, and the current status of TPK decisions on those applications.

**Warranties and Indemnities**

3. TPK warrants that:
  - (a) the Ka Hao Fund is free from any encumbrances or security interests in favour of third parties; and
  - (b) any arrangements that TPK has entered into with third parties (including Recipient Entities) in relation to the Ka Hao Fund prior to the Handover Date does not create any obligation on IMSC in terms of its future administration of the Fund.



4. TPK indemnifies IMSC against all claims, existing or arising later, concerning or arising from TPK's administration of the Ka Hao Fund up to the Handover Date.
5. The IMSC warrants that:
  - (a) it has received all of the necessary approvals to receive, hold and administer the Ka Hao Fund, including the approval of the Māori Spectrum Working Group; and
  - (b) it will receive and hold the Ka Hao Fund in a separate bank account and will apply the Ka Hao Fund (or however it might be renamed under the IMSC's administration) in a manner that is broadly consistent with the objectives of the Ka Hao Fund, at the discretion of the trustees of the IMSC, acting reasonably.
6. The IMSC indemnifies TPK against all claims, existing or arising later, concerning or arising from the IMSC's administration of the Ka Hao Fund after the Handover Date.
7. For the avoidance of doubt, the transfer of the Ka Hao fund does not preclude ongoing or future opportunities for the IMSC or the permanent Māori Spectrum Entity to access or benefit from Crown funding and/or support for Māori participation in spectrum related industries and the digital economy.

#### **Limitation of Liability**

8. The Parties acknowledge that the trustees of the IMSC have entered into this agreement in their capacity as trustees and not personally and any liability of the trustees is not an unlimited personal liability, but is limited to the assets of the IMSC from time to time.

#### **Information and Communications**

9. The IMSC agree to receive and hold information in the Handover Report in a way that ensures the confidential and private nature of any information received in the Handover Report is properly protected. The Parties acknowledge that the IMSC is not subject to the Official Information Act, and any requests for information under that Act which relate to the TPK administration of the Fund before the Handover Date shall be referred to TPK and the IMSC shall have no responsibility to respond.
10. The Parties will draft an agreed statement concerning this transfer of the Ka Hao Fund, which will capture the key messages, and be used to respond to media requests, or respond to queries from applicants to the Fund. The Parties agree to a no surprises media policy, and to not make comments to the media without first consulting with the other party.

#### **Permanent Māori Spectrum Entity**

11. The IMSC acknowledge it will hold the Ka Hao Fund in an interim capacity and will transfer the Ka Hao Fund to the permanent Māori Spectrum Entity once it is established.

#### **General**

12. Further assurances: Each party will take all applications, execute all documents and do all acts and things necessary to implement and to carry out and give effect to the terms and intentions of this agreement, whether before or after the Handover Date.

13. Waiver: Any delay or failure by a party to exercise (in whole or in part) any right under this agreement shall not operate as a waiver of such right. The waiver of any breach of any provision of this agreement shall not be effective unless that waiver is in writing and is signed by the party against whom that waiver is claimed.
14. Severability: In the event of any part of this agreement being or becoming void or unenforceable then that part shall be severed from this agreement, to the intent that all parts that shall not be or become void or unenforceable shall remain in full force and effect and be unaffected by any severance.
15. Amendments and variation: No amendment or variation of this agreement will be effective unless it is in writing and signed the Parties.
16. Counterparts: This agreement may be executed in two or more counterpart copies each of which will be deemed an original and all of which together will constitute one and the same instrument. A party may enter into this agreement by signing a counterpart copy and sending it to the other party (including by facsimile or electronic communication). Each of the Parties shall promptly sign the original copies of this agreement (such copies to be signed by all the Parties) after the execution of counterparts.

Signed for and behalf of **Te Puni Kōkiri**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name and Designation

Signed for and on behalf of the  
**Interim Māori Spectrum Commission**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name and Designation

## **TALKING POINTS for Minister Jackson Māori Radio Spectrum Signing Ceremony Wednesday 21 June 2023**

- He mihi tēnei ki ngā mema o te rōpū whakahaere nei me ngā minita me ngā kaimahi katoa o tēnei kaupapa.
- Tēnā koutou katoa.
- Thank you all for coming together today to acknowledge this important kaupapa.
- Today's agreement is the Government delivering on a promise that will ensure we continue to see the strengthening of the significant interests and aspirations of Māori in the radio spectrum.
- The transfer will include the remaining balance of the Ka Hao Fund, \$17.8 million, along with the long-term management rights of 100 MHz of the 3.5.GHz spectrum to the Interim Māori Spectrum Commission.
- The Interim Māori Spectrum Commission will manage this spectrum, on behalf of iwi and work with Māori to decide what to do with it.

- This mahi will build on the success so far to ensure Māori are not just users but owners and providers of telecommunication services.

### **Success achieved so far**

- Since its inception, the Ka Hao fund has invested \$8.5 million into 45 proposals growing Māori tech businesses.
- It supports Māori interests across digital enterprise and employment, in the rural economy and connectivity, in education and healthcare, and in broadcasting and te reo Māori revitalisation.
- Examples include Healthcare Applications Limited's Emergency Q App which was the winner of the Most Innovative Technology Solution for the Public Good and Takiwā, a visualisation firm.
  - The app enables people to compare live waiting and treatment times between the emergency departments of some nearby hospitals and accident and emergency clinics.
  - People can also learn about what kind of symptoms they should go to a hospital ED for instead of an A&E clinic.

- Ka Hao also supported the extension of EnspiralDev Academy's Te Ura Rangi Scholarships.
- The scholarships support young Māori to become web developers by teaching students the fundamentals of software development needed to be employed as junior developers.

### **Looking ahead**

- The transfer agreement achieved today marks the significant progress of Māori participation and ownership in the future of Aotearoa's radio spectrum.
- The long-term management rights of 100 MHz of the 3.5.GHz spectrum to the Interim Māori Spectrum Commission will help iwi unlock the potential of the country's 5G network.
- Releases of new cellular mobile technology have occurred approximately every decade since the 1980's. The next fifth generation (5G) is expected to be a significant step up from 4G networks in terms of speed, capacity and operational flexibility.
- The agreement is also important in the context of Government work in the Māori media sector.

- A permanent Māori Spectrum Entity supporting Māori aspirations in spectrum-related industries has the potential to support the Government's objectives for Māori media.
- We want to harness the significant potential in Māori media so that the sector can tell a wider range of stories that reflect Māori language, culture, and perspectives.
- These stories also need to be available on the wide range of platforms we now use to consume media content.
- It's integral the Māori media sector is strong so it can collaborate effectively and be resilient to any changes in the mainstream public media space.

### **Thanks and on-going support**

- I want to acknowledge the great work already done to create the Interim Māori Spectrum Commission.
- Your mahi holds great potential for our people now and will open the door for the next generation to harness the opportunities you are helping to create.
- Thank you all for your commitment to that shared success.

- Tēnā koutou, tēnā koutou, tēnā koutou katoa.

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## HEI WHAKATAU | BRIEFING

### Interim Māori Spectrum Commission business case to draw down funding for Māori interests in spectrum

<b>Date:</b>	27 September 2023	<b>Priority</b>	High
<b>Classification</b>	In Confidence	<b>Tracking Number</b>	47848

Action sought	Date action required by
<p>It is recommended that you:</p> <ol style="list-style-type: none"> <li><b>agree</b> with the recommendation in an upcoming Ministry of Business, Innovation and Employment briefing to responsible Ministers to draw down \$14.25 million of a tagged contingency to enable the Interim Māori Spectrum Commission's (IMSC's) acquisition of The Broadtech Group Limited, as set out in the IMSC's business case</li> <li><b>note</b> that, in recognition of the Crown's enduring commitment through the Memorandum of Understanding on Radio Spectrum, you and the other Ministers may wish to consider the draw down of the full tagged contingency of \$25 million to support all the components of the IMSC's business case, subject to the IMSC meeting requirements.</li> </ol>	29 September 2023

Name	Position	Mobile	1 <sup>st</sup> contact
Tāmami Olsen	Director, Wellbeing, Policy Partnerships	9(2)(a)	√
Jaclyn Williams	Manager, Culture, Policy Partnerships	9(2)(a)	

Other Agencies Consulted					
<input type="checkbox"/> MBIE	<input type="checkbox"/> MoJ	<input type="checkbox"/> NZTE	<input type="checkbox"/> MSD	<input type="checkbox"/> TEC	<input type="checkbox"/> MoE
<input type="checkbox"/> MFAT	<input type="checkbox"/> MPI	<input type="checkbox"/> MfE	<input type="checkbox"/> DIA	<input type="checkbox"/> Treasury	<input type="checkbox"/> MoH
<input type="checkbox"/> MHUD	<input type="checkbox"/> Other				

Attachments
<ol style="list-style-type: none"> <li>High-level Business Case: Project Whakatipu</li> <li>Investment Paper: Project Whakatipu</li> <li>Memorandum of Understanding on Radio Spectrum</li> </ol>

Minister's office to complete:

- |   |  |
|---|--|
| <input type="checkbox"/> Approved             | <input type="checkbox"/> Declined            |
| <input type="checkbox"/> Noted                | <input type="checkbox"/> Needs change        |
| <input type="checkbox"/> Seen                 | <input type="checkbox"/> Overtaken by Events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn           |

Comments:





27 September 2023

Te Minita Whanaketanga Māori

## **Interim Māori Spectrum Commission business case to draw down funding for Māori interests in spectrum**

### **Purpose**

1. This briefing provides comment on:
  - a. a briefing the Ministry of Business, Innovation and Employment (MBIE) is drafting for the Minister of Finance, the Minister for Māori Development, and the Minister for the Digital Economy and Communications (joint Ministers), about a business case provided by the Interim Māori Spectrum Commission (IMSC), which should be forwarded to your office on 28 or 29 September 2023
  - b. the IMSC's business case, which seeks agreement from joint Ministers to draw down \$25 million tagged contingency funding to support Māori interests in radio spectrum, in line with the Māori-Crown Memorandum of Understanding on Radio Spectrum (the MOU).
2. In agreement with MBIE's advice, this briefing recommends that you agree to draw down funding of \$14.25 million to support the key component of the IMSC's business case: acquiring The Broadtech Group Limited.
3. In addition to MBIE's advice, this briefing notes that you may wish to consider advocating that joint Ministers draw down the full \$25 million available to support all other components of the IMSC's business case.

### **Background and overview of the IMSC's Tahua Tautoko Fund business case**

4. On 16 December 2021, Cabinet agreed to establish a tagged operating contingency (within Vote Business Science and Innovation: Communications) of up to \$32 million to provide for "seed" funding and \$25 million for "kick-start" funding (the Tahua Tautoko Fund) to address Māori interests in radio spectrum [GOV-21-MIN-0060]. This tagged contingency has a current expiry date of 30 June 2025.
5. Cabinet also authorised joint Ministers to draw down from this tagged contingency, subject to their satisfaction with further work to establish the Māori Spectrum Entity and a Tahua Tautoko Fund business case [GOV-21-MIN-0060].
6. In August 2023, joint Ministers agreed to draw down the \$32 million in "seed" funding, leaving the \$25 million Tahua Tautoko Fund as a tagged contingency, subject to further work on a business case [MBIE BP2324-0208].
7. On 14 September 2023, the IMSC submitted a Tahua Tautoko Fund business case that includes:
  - a. \$14.25 million to acquire The Broadtech Group Limited, a group of companies with a span of interest across a range of digital and radiocommunications

**9(2)(b)(ii), 9(2)(f)(iv)**

9(2)(b)(ii), 9(2)(f)(iv)

8. Attachments 1 and 2 to this briefing comprise the IMSC's business case.
9. MBIE is finalising a briefing to joint Ministers that recommends Ministers agree to:
  - a. draw down \$14.25 million for the Broadtech acquisition, because MBIE considers this component of the business case meets the criteria of the Tahua Tautoko Fund

9(2)(g)(i)

10. An urgent decision is needed on the business case due to the pace of the IMSC's commercial negotiations over acquiring Broadtech. The IMSC is in the midst of developing and finalising an acquisition deal, with final due diligence expected to be completed by 31 October, and the Sale and Purchase Agreement to be finalised by the end of November.

### **Comment on MBIE's briefing and the Tahua Tautoko Fund business case**

*Te Puni Kōkiri recommends you agree to draw down funding for the Broadtech acquisition*

11. We agree with MBIE's recommendation that joint Ministers draw down \$14.25 million of the Tahua Tautoko Fund for the acquisition of Broadtech.
12. Due to the urgency of the IMSC's commercial negotiations with Broadtech, Ministers should promptly provide their agreement to the acquisition.
13. MBIE's analysis of the business case concludes that the IMSC's acquisition of Broadtech delivers strongly against the purpose of the Tahua Tautoko Fund and the criteria for evaluating a business case, as set out in the MOU. The MOU is attached as Attachment 3.

*You may wish to consider advocating that joint Ministers draw down the full \$25 million of the Tahua Tautoko Fund, subject to further requirements*

9(2)(b)(ii), 9(2)(f)(iv), 9(2)(g)(i)

<sup>1</sup> While the Tahua Tautoko Fund is \$25 million, the IMSC's business case totals \$27.75 million. The IMSC will contribute \$2.75 million to cover the shortfall between the Tahua Tautoko Fund and the business case proposal.

16. Given those points, and in light of the MOU as an enduring agreement developed in good faith between the parties, Ministers may wish to consider expressing at a minimum conditional support for the full IMSC business case. This could extend to drawing down the full \$25 million of the Tahua Tautoko Fund in one go, subject to additional requirements for 9(2)(b)(ii), 9(2)(f)(iv) [REDACTED].

17. If Ministers agree to draw down the full \$25 million 9(2)(b)(ii), 9(2)(f)(iv) [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

### Next steps

18. MBIE is expecting to provide its briefing to the Minister for the Digital Economy and Communications on 27 or 28 September 2023. The paper should be forwarded to your office and the office of the Minister of Finance on 28 or 29 September.

19. MBIE officials will communicate Ministers' decisions to the IMSC. MBIE officials will also advise Ministers of any potential changes to the agreed parameters of the Broadtech acquisition or to other components of the IMSC's business case.

20. Te Puni Kōkiri officials are available to discuss the contents of this briefing, MBIE's briefing, or the IMSC's business case with you or with officials from your office.

### Recommended Action

8. It is recommended that you:

1. **note** that the Ministry of Business, Innovation and Employment (MBIE) will shortly provide the Minister of Finance, the Minister for Māori Development, and the Minister for the Digital Economy and Communications with a briefing in response to a business case provided by the Interim Māori Spectrum Commission (IMSC)

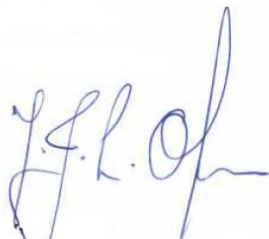
2. **agree** with the recommendation in MBIE's briefing to draw down \$14.25 million of a tagged contingency for Māori interests in radio spectrum, to enable the IMSC's acquisition of The Broadtech Group Limited, as set out in the IMSC's business case

Yes / No

9(2)(f)(iv), 9(2)(g)(i) [REDACTED]

4. **note** that, in recognition of the Crown's enduring commitment through the Memorandum of Understanding on Radio Spectrum, you and the other Ministers may wish to consider the draw down of the full \$25 million to support all the components of the IMSC's business case, subject to the IMSC meeting requirements before the full funding is provided

5. **note** that due to the urgency of the IMSC's commercial negotiations with The Broadtech Group Limited, ensuring joint Ministerial agreement to draw down the \$14.25 million to enable the IMSC's acquisition of Broadtech should be prioritised over efforts to secure joint Ministerial agreement to draw down the full \$25 million.



Tāmami Olsen  
Kaihautū, Te Puna Oranga, Te Puni Kaupapa Here | Director, Wellbeing, Policy Partnerships

Hon Willie Jackson Te Minita Whanaketanga Māori
--

Date: ____ / ____ / 2023
--------------------------

RELEASED UNDER THE OFFICIAL INFORMATION ACT

**From:** [Mark Field-Dodgson](#)  
**To:** [Nadia Ward](#) **s9(2)(a)**  
**Cc:** [Mailbox - Ministerials](#); [Tamati Olsen](#); [Jaclyn Williams](#); [Robbie Galvin](#)  
**Subject:** RE: BP 47848 - Interim Māori Spectrum Commission business case to draw down funding for Māori interests in spectrum  
**Date:** Thursday, 28 September 2023 11:01:00 am  
**Attachments:** [image001.png](#)

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Kia ora Nadia,

Following our discussion this morning—

1) MBIE intends their briefing to go to their Minister by midday today and expects it will be forwarded to other Ministers before the end of today (their private secretary is waiting for the briefing). Also MBIE's briefing will now have a revised deadline for response from Ministers of 6 October, so it'll be fine for our Minister to consider over the weekend.

2) Here are some additional contextual points about how the IMSC's business case aligns with and will potentially deliver benefit in the area of Māori broadcasting and media:

- The Broadtech companies include JDA (Johnson, Dick and Associates), which runs a national network of broadcast transmission towers. Whakaata Māori and iwi radio are long-standing customers of JDA/Broadtech and some JDA infrastructure is located on Māori land **s9(2)(b)(ii)**

**9(2)(b)(ii)**

Ngā mihi, nā Mark

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**Mark Field-Dodgson** ([he/him/ia](#))

*Aporei Mātai | Principal Analyst*

*Te Puni Kaupapa Here | Policy Partnerships Puni*

**Te Tari Matua | National Office**



*Waea Pūkoro* **M**: **s9(2)(a)**

*Waea Whakaahua* **F**: 0800 875 329

*Paetukutuku* **W**: [www.tpk.govt.nz](http://www.tpk.govt.nz)

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**Te Puni Kōkiri**, Te Puni Kōkiri House, 143 Lambton Quay, Wellington 6011

PO Box 3943, Wellington 6140, New Zealand

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## HEI WHAKATAU | BRIEFING

### Māori Spectrum Working Group letter: context and proposed approach for response

<b>Date:</b>	1 December 2023	<b>Priority</b>	Medium
<b>Classification</b>	In Confidence	<b>Tracking Number</b>	47927

Action sought	Date action required by
<p>It is recommended that you:</p> <ol style="list-style-type: none"> <li><b>note</b> that the Minister for Media and Communications, Hon Melissa Lee, has lead responsibility for all Government work on radio spectrum</li> <li><b>defer</b> any meeting with the Māori Spectrum Working Group until you have agreed with Minister Lee your role in any work on Māori interests in radio spectrum</li> <li><b>agree</b> that there should be a single response from Ministers to the Māori Spectrum Working Group.</li> </ol>	6 December 2023

Contact for telephone discussion (if required)			
Name	Position	Mobile	1 <sup>st</sup> contact
Paula Rawiri	Deputy Secretary, Policy Partnerships	s9(2)(a)	
Jaclyn Williams	Acting Director, Wellbeing, Policy Partnerships	s9(2)(a)	√

Other Agencies Consulted					
<input checked="" type="checkbox"/> MBIE	<input type="checkbox"/> MoJ	<input type="checkbox"/> NZTE	<input type="checkbox"/> MSD	<input type="checkbox"/> TEC	<input type="checkbox"/> MoE
<input type="checkbox"/> MFAT	<input type="checkbox"/> MPI	<input type="checkbox"/> MfE	<input type="checkbox"/> DIA	<input type="checkbox"/> Treasury	<input type="checkbox"/> MoH
<input type="checkbox"/> MHUD	<input checked="" type="checkbox"/> Other	Te Arawhiti			

Attachments
<ol style="list-style-type: none"> <li>Letter from Antony Royal and Piripi Walker, co-convenors, Māori Spectrum Working Group</li> <li>Māori-Crown Memorandum of Understanding on Radio Spectrum</li> </ol>

Minister's office to complete:

- |   |  |
|---|--|
| <input type="checkbox"/> Approved             | <input type="checkbox"/> Declined            |
| <input type="checkbox"/> Noted                | <input type="checkbox"/> Needs change        |
| <input type="checkbox"/> Seen                 | <input type="checkbox"/> Overtaken by Events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn           |

Comments:



1 December 2023

Te Minita Whanaketanga Māori

## **Māori Spectrum Working Group letter: context and next steps**

### **Purpose**

1. This briefing provides information and proposed approach for responding to a letter you received on 28 November 2023 from Antony Royal and Piripi Walker, co-convenors of the Māori Spectrum Working Group (MSWG), seeking a meeting to discuss work on Māori interests in radio spectrum.

### **Key points**

2. The MSWG signed a Memorandum of Understanding on Radio Spectrum (the MOU) with the previous Government to serve as an enduring Māori-Crown agreement over Māori interests in radio spectrum.
3. Work to implement the MOU was led by the previous Minister for the Digital Economy and Communications, with support from the previous Ministers of/for Finance, Māori Crown Relations, and Māori Development.
4. The key responsibilities of the Minister for Māori Development and Te Puni Kōkiri under the MOU have been completed.
5. While this is important work for Māori interests, lead responsibility for all radio spectrum work, including Māori interests in radio spectrum, sits with the Minister for Media and Communications, Hon Melissa Lee.
6. Before considering any meeting with or response to the MSWG we recommend you work with Hon Lee to ensure alignment on the issues and to determine what role you might have in ongoing work on Māori interests in radio spectrum.

### **Background to Māori-Crown work on radio spectrum**

7. Spectrum access and ownership has been an ongoing point of tension in the Māori-Crown relationship, with four Treaty of Waitangi claims lodged since 1984. The Wai 776 claim resulted in the Waitangi Tribunal finding in 1999 that spectrum is a taonga and subject to Article Two rights for Māori. The Crown has not accepted this finding but recognises Māori have a range of other Treaty-based interests in radio spectrum.
8. Previous governments implemented several one-off initiatives, notably:
  - a. In 2000, 25 percent of spectrum for 3G mobile services was reserved for purchase by Māori at a five percent discount from the commercial price. Seed funding of \$5 million was provided to the newly formed Te Huarahi Tika Trust to develop this spectrum, with a commercial partner, on behalf of Māori.<sup>1</sup>

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<sup>1</sup> Te Huarahi Tika Trust purchased the spectrum in 2009, which is now licenced by 2degrees to provide cellular mobile services.

- b. In 2014, the \$30 million Ka Hao Māori Digital Technology Development Fund (Ka Hao Fund) was established ahead of the 4G spectrum allocation. Te Puni Kōkiri managed the contestable fund, which encouraged Māori capability building in the ICT sector.
9. In 2019, preparations for 5G spectrum allocations saw the Government shift its focus to engaging with Māori over shared objectives. The MSWG was established to work jointly with Ministers and officials on behalf of Māori to come up with an enduring agreement that could be brought to Cabinet. The MSWG includes Waitangi Tribunal claimants (the New Zealand Māori Council and Ngā Kaiwhakapūmau i Te Reo), National Iwi Chairs Forum, Te Huarahi Tika Trust and industry participants.
  10. In December 2021, Cabinet agreed to core elements of a package of commitments and funding to address Māori interests in spectrum [GOV-21-MIN-0060]. These were formalised in the MOU signed by the MSWG and the previous Government in February 2022. Core elements of the MOU included:
    - a. an ongoing allocation of 20 per cent of national commercial spectrum to Māori
    - b. an ongoing allocation of unused spectrum in some other bands
    - c. a role for Māori in spectrum policy making
    - d. the establishment of a permanent Māori spectrum entity to give effect to the agreement (with both parties agreeing that legislation would likely be required)
    - e. seed funding of up to \$32 million to support the permanent Māori spectrum entity
    - f. kick start funding of up to \$25 million (also referred to as the Tahua Tautoko Fund) for investment in a spectrum/digital technology business, subject to a business case, to help the permanent Māori spectrum entity to be self-sustaining
    - g. the transfer of the remaining \$17.8 million in the Ka Hao Fund to the Māori spectrum entity.
  11. Following the signing of the MOU, the MSWG and officials worked together to implement its commitments. Legislation to establish a permanent Māori spectrum entity and several other key elements of the MOU (execution of funding agreements for the seed and kick start funding) were not completed before the 2023 General Election. They were deferred to the incoming Government.

***Role of the Minister for Māori Development and Te Puni Kōkiri to date***

12. The previous Government's work on Māori interests in spectrum was led by its Minister for the Digital Economy and Communications. The Ministers of/for Finance, Māori Crown Relations, and Māori Development provided support. In December 2021, Cabinet authorised the Ministers of/for Finance, Māori Development, and the Digital Economy and Communications jointly to make necessary decisions about the seed and kick start funding and about the transfer of the remaining balance of the Ka Hao Fund [GOV-21-MIN-0060].
13. The transfer of the balance of the Ka Hao Fund was the primary responsibility and focus for Te Puni Kōkiri and the previous Minister for Māori Development. This transfer occurred in June 2023, with the balance of the Ka Hao Fund transferring from Te Puni Kōkiri to Tū Ātea: Māori Spectrum and Telecommunications Service (formerly named the Interim Māori Spectrum Commission – the MSWG's operational arm, established to serve as the interim Māori spectrum body until a permanent entity is established).



14. Ministers also made decisions about the seed and kick start funding before the 2023 General Election. The specific commitments of the Minister for Māori Development, and by extension Te Puni Kōkiri, in the MOU have therefore been completed. Nevertheless, Te Puni Kōkiri supports the continuation of work to enact the commitments and objectives of the MOU.

### **Comment on the MSWG letter**

15. The MSWG has requested to meet you to discuss three key issues that relate to the MOU. All three issues are the primary responsibility of Hon Melissa Lee, Minister for Media and Communications, to whom the MSWG also sent a similar letter. This section provides brief comment on the issues, informed by advice from Ministry of Business, Innovation and Employment (MBIE) officials.

#### ***The planned acquisition by Tū Ātea of Broadtech Group Ltd.***

16. This is the most time-critical issue and has potential to deliver immediate benefits for Māori interests in this area. The previous Government approved and appropriated funding for the acquisition in October 2023, drawing on the kick start funding agreed in the MOU. A funding agreement between MBIE and Tū Ātea has been drawn up but has not yet been executed.

17. MBIE provided urgent advice to Hon Lee on 30 November 2023, seeking agreement to progress the funding agreement to allow the acquisition, and recommending the advice is forwarded to you for your information. Te Puni Kōkiri supports MBIE's position.

18. A key deadline for the acquisition is 20 December 2023 for the Sale and Purchase Agreement to be executed with all conditions met under the current Heads of Agreement. If this purchase falls through, it is not clear when another candidate for acquisition would emerge. s9(2)(b)(ii)

s9(2)(b)(ii)

s9(2)(b)(ii)

19. The business case considered and approved by the previous Government was for a total package of \$14.25 million, comprising:

s9(2)(b)(ii)

20. We note that the details of the planned acquisition are commercial in confidence until the transaction is completed.

#### ***Operational funding for Tū Ātea of \$32 million for the next four years***

21. This is the seed funding of the MOU. The previous Government approved and appropriated the funding, but a funding agreement between MBIE and Tū Ātea has not yet been finalised and executed. The MSWG has advised MBIE that finalising this funding is less urgent than finalising the kick start funding for the acquisition of Broadtech, but it still important for the successful establishment of Tū Ātea.

22. MBIE will provide advice to Hon Lee on this issue and the other matters raised in the letter on 6 December 2023 (and will recommend that the advice be forwarded to you).

***The impact of 'interim' status currently held by Tū Ātea on its ability to undertake commercial arrangements such as spectrum swaps***

23. In June 2023, MBIE transferred the long-term spectrum management rights of 3.5 GHz spectrum to Tū Ātea, in line with the MOU.<sup>2</sup> Tū Ātea is currently constrained in its ability to undertake commercial arrangements related to these and any other spectrum holdings: the MOU restricts Tū Ātea from transferring management rights to any party other than the permanent Māori spectrum entity.
24. The MSWG links the constraint to the lack of legislation for a permanent Māori spectrum entity. Tū Ātea wrote to the previous Minister for the Digital Economy and Communications in September 2023 seeking to declare itself to be the permanent Māori spectrum entity for the purposes of enabling spectrum transactions. The Minister advised that she would defer decisions on the permanence of Tū Ātea to the incoming Government.
25. MBIE officials advise that the constraint can be easily removed without legislation by the Government formally accepting Tū Ātea as the permanent Māori spectrum entity for the purposes of the MOU. s9(2)(f)(iv)
- Any associated risks are relatively low. A decision on the permanence of Tū Ātea is ultimately a decision for the Minister for Media and Communications. MBIE will provide advice to Hon Lee on this issue and the other matters raised in the letter on 6 December 2023 (and will recommend that the advice be forwarded to you).

**Next Steps**

26. Because the issues raised by the MSWG are the responsibility of the Minister for Media and Communications, we recommend you defer any meeting with the MSWG until you have first discussed the issues with your Ministerial colleague. We recommend you work with Hon Lee to determine your role in ongoing work on Māori interests in radio spectrum. Hon Lee may be open to a similar arrangement as occurred under the previous Government, where the Minister of Māori-Crown Relations and the Minister for Māori Development provided support.
27. We also recommend a single response is provided from Ministers to the MSWG to ensure and express a consistent Government approach to the issues. Te Puni Kōkiri officials will work with our counterparts in MBIE and Te Arawhiti to support this. MBIE is providing Hon Lee with advice on a response to the MSWG on 6 December 2023 and will recommend that its advice be forwarded to you.
28. Officials are available to discuss these matters with you on Monday 4 December.

**Consultation**

29. MBIE and Te Arawhiti officials were consulted on this briefing.

**Recommended Action**

30. It is recommended that you:

1. **note** that the Minister for Media and Communications, Hon Melissa Lee, has lead responsibility for all Government work on radio spectrum

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<sup>2</sup> This happened at the same time as the transfer by Te Puni Kōkiri of the balance of the Ka Hao Fund to Tū Ātea.

2. **defer** any meeting with the Māori Spectrum Working Group until you have agreed with Minister Lee your role in any work on Māori interests in radio spectrum **Yes / No**
3. **agree** that there should be a single response from Ministers to the Māori Spectrum Working Group. **Yes / No**



Paula Rawiri  
Hautū, Te Puni Kaupapa Here | Deputy Secretary, Policy Partnerships

Hon Tama Potaka  
Te Minita Whanaketanga Māori

Date: \_\_\_\_ / \_\_\_\_ / 2023

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## MĀORI SPECTRUM WORKING GROUP

Tama Pōtaka  
Minister of Māori Development  
Parliament Buildings Wellington

Box 37-276  
Stokes Valley  
Wellington

28 November 2023

Tēnā rā koe e Tama

Te uri o ō mātua tūpuna kua ngaro ki te Pō. Ka nui te mihi ki a koe kua eke mai nei koe ki tēnā tūranga o te Whare Pāremata, hei kaiārahi mō ā tātou mahi i te taha Māori, me te taha tiaki taiao. Kei te mihi ki tō whānau, ki tō hapū, ki tō iwi nui tonu mō tēnei āhuatanga.

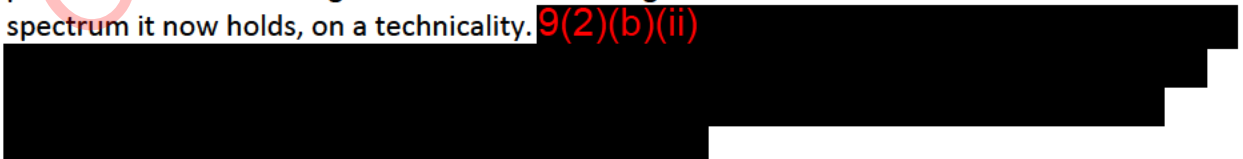
Our sincere congratulations to you Tama on your new roles as Minister of Māori Development, Minister for Crown Māori Relations and for Conservation. We are particularly pleased to hear of your appointment to these portfolios.

You will recall our meeting with you in June in Melissa Lee's offices to discuss the progress of Māori negotiations over the radio spectrum. At that time there were advanced proposals to create a new Māori spectrum entity, and the management rights to a portion of the 5G bands were handed over to Māori. The final signing over of the rights occurred in June 2023.

A commercial acquisition by the interim Māori spectrum body, Tū Ātea, was also being discussed and is currently at a critical stage. It has been agreed that Government will fund this purchase [the company concerned is Broadtech Ltd and its subsidiaries]. Sign-off by the Minister occurred in the last days of the previous Government. The Heads of Agreement on the sale have all been signed and we are about to execute on the agreement to buy.

Our four year operating funding agreement had also been signed off by the Minister, for \$32m over the period.

We also wish to discuss a problem created by the lack of finalisation of legislation, which has prevented Māori entering new commercial arrangements in relation to a section of the spectrum it now holds, on a technicality. 9(2)(b)(ii)



We wish to meet with you urgently to discuss these matters.

We would be available to meet with you at short notice at your earliest convenience.

Nāku noa



(pp) Antony Royal

Co-convenor

Māori Spectrum Working Group

9(2)(a)



Piripi Walker

Co-convenor

Māori Spectrum Working Group

9(2)(a)

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**From:** [Mark Field-Dodgson](#)  
**To:** [erin.keenan@s9\(2\)\(a\)](#); [Nadia Ward@s9\(2\)\(a\)](#); [Jayd Hepi-August@s9\(2\)\(a\)](#)  
**Cc:** [Tamati Olsen](#); [Jaclyn Williams](#); [Robbie Galvin](#); [Mailbox - Ministerials](#)  
**Subject:** FW: Key messages around Tahua Tautoko funding  
**Date:** Monday, 18 December 2023 5:00:00 pm  
**Attachments:** [image001.jpg](#)  
[image002.png](#)  
[BP 47927 Māori Spectrum Working Group letter - context and proposed approach for response.pdf](#)  
[47927 - Attachment 1 Māori Spectrum Working Group letter to Hon Tama Potaka.pdf](#)  
[47927 - Attachment 2 Māori-Crown Memorandum of Understanding on Radio Spectrum.pdf](#)  
[47927 - Maori Spectrum Working Group signed.pdf](#)

FYI Erin & Jayd (I'm not sure exactly how things are being managed over there this week)—

- Tū Ātea: Māori Spectrum and Telecommunications Service (formerly named the Interim Māori Spectrum Commission) is the operational arm of the Māori Spectrum Working Group, which signed an MOU with the Crown in February 2022 over Māori interests in radio spectrum.
- Tū Ātea is planning to issue a media release tomorrow about its acquisition of the Broadtech Group, supported by government funding provided in line with the MOU (the funding is known as Tahua Tautoko, or kick start, funding).
- This is a positive development for the promotion of Māori involvement in spectrum-related industries and the digital economy.
- Hon Melissa Lee, Minister for Media and Communications, has lead Ministerial responsibility for all Government work on radio spectrum. However, the Minister for Māori Development and TPK officials have in the past provided support for work in this area.
- It's possible Hon Tama Potaka may be approached for comment in his capacity as Minister for Māori Development. If contacted, Hon Potaka may want to defer to Hon Lee as lead Minister. If Hon Potaka wishes to make a comment, we recommend it's in line with the suggested talking points that MBIE has provided in the email below.

Happy to discuss [s9\(2\)\(a\)](#) at any point if helpful.

Ngā mihi, nā Mark

**Mark Field-Dodgson** ([he/him/ia](#))  
 Aporei Mātai | Principal Analyst  
 Te Puni Kaupapa Here | Policy Partnerships Puni  
 Te Tari Matua | National Office



**Waea Pūkoro M** [s9\(2\)\(a\)](#)  
**Waea Whakaahua F** : 0800 875 329  
**Paetukutuku W** : [www.tpk.govt.nz](#)

**Te Puni Kōkiri**, Te Puni Kōkiri House, 143 Lambton Quay, Wellington 6011  
 PO Box 3943, Wellington 6140, New Zealand

**From:** Gemma Coutts <[Gemma.Coutts@s9\(2\)\(a\)](#)>  
**Sent:** Monday, December 18, 2023 2:59 PM  
**To:** Mark Field-Dodgson <[Mark.FieldDodgson@s9\(2\)\(a\)](#)> Matangi, Duncan  
 <[Duncan.Matangi@s9\(2\)\(a\)](#)>  
**Cc:** Hannah Altern <[Hannah.Altern@s9\(2\)\(a\)](#)>  
**Subject:** RE: Key messages around Tahua Tautoko funding

Kia ora again

We have provided our Minister's office with an update on Tū Ātea's tahua tautoko acquisition and suggested reactive lines (below). Tū Ātea will be making a press release tomorrow (timing TBC), which focuses on the acquisition. We understand that at this stage any comms from our Minister's office are likely to be reactive rather than proactive.

Ngā mihi  
Gemma

**Updates on Tahua Tautoko transaction and press release timing:**

- The Sale and Purchase Agreement between Tū Ātea and Broadtech was signed last week as planned.
- Tū Ātea are making a staff announcement with Broadtech staff today.
- Tū Ātea will make a public PR tomorrow as planned (time TBC – we will let you know when we know this).

**Suggested reactive statement (if following Tū Ātea's PR)**

- The Tahua Tautoko funding supports Tū Ātea's investment in the telecommunications and technology sector, enabling Tū Ātea to acquire The Broadtech Group [providing this goes after Tū Ātea's announcement].
- This acquisition will bring together the technical capability of Broadtech and Tū Ātea's access to spectrum creating new opportunities for products and services that enhance resilience and benefit rural communities, as well as broadening the market with new innovation.
- A package of funding has been provided, including funding to support Tū Ātea: the Māori Spectrum and Telecommunications Service (formerly the Interim Māori Spectrum Commission) and its investment in the telecommunications and technology sector.

**Suggested reactive Q&As**

*What is Tahua Tautoko and what is it for?*

- Tahua Tautoko is accelerated industry investment funding.
- The fund enables Tū Ātea to purchase a technology business, to accelerate Māori participation into the telecommunications and technology sector to create a gateway for Māori training, jobs, business and leadership pipelines.

*How much is the funding?*

- Tahua Tautoko is a \$25m commitment, and the Crown has provided Tū Ātea with \$14.25m to enable the purchase of Broadtech.
- The remainder of the fund is set aside for further development and agreement between Ministers and Tū Ātea.

*Will there be any further funding?*

- Tū Ātea will be supported for its first few years of operation, as it moves towards self-sufficiency. The operational funding is for \$32m, agreed in the February 2022 Crown-Māori agreement.
- The package of funding set out in the February 2022 agreement is limited to that agreed, with Tū Ātea becoming self-sufficient after completion of the funding.

*What/who is Tū Ātea?*

- Tū Ātea: the Māori Spectrum and Telecommunications Service (formerly the Interim Māori Spectrum Commission) holds and manages spectrum allocated to it under the 2022 agreement on behalf of Māori.
- Tū Ātea manages the radio spectrum to support Māori regional, economic, cultural, environmental and social wellbeing.

Ngā mihi  
Gemma

**Gemma Coutts** ([she/her](#))

SENIOR POLICY ADVISOR

Building Resources and Markets Group  
Ministry of Business, Innovation & Employment

[\(Gemma.Coutts@s9\(2\)\(a\)\)](mailto:Gemma.Coutts@s9(2)(a))

Waea/Telephone: [9\(2\)\(a\)](#)

Level 14, 25 The Terrace, Te Puāwai o te Aroha – Pastoral House, Wellington



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