

29 Mahuru 2025

File Ref: OIA 50510

Tēnā koe [REDACTED]

Official Information Act request

Thank you for your request dated 5 Hereturikōkā 2025. You sought the following:

*“- the cabinet paper of this week through which it was decided to progress the proposed amendment to the Takutai Moana legislation and to ‘clarify’ the tests.
- all advice from agencies to ministers in advance of and alongside progressing this amendment
(Broadly speaking - the advice - to any and all ministers and from all agencies - that presaged and informed the cabinet paper)
- correspondence to and from minister goldsmith and/or his office/staff on the same cabinet paper and advice - and the issue more broadly.
- advice to the minister and all correspondence (as defined above) concerning the ‘dual pathway’ problem”.*

Your request was originally made to Te Tari Whakatau. On 19 Hereturikōkā 2025 Te Tari Whakatau transferred the following part of your request to Te Puni Kōkiri for a response:

*“- all advice from agencies to ministers in advance of and alongside progressing this amendment
(Broadly speaking - the advice - to any and all ministers and from all agencies - that presaged and informed the cabinet paper)”*

On 16 Mahuru 2025 you were notified of an extension of the timeframe for response to enable time for consultations. We are now in a position to respond.

Two 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) – to protect the privacy of natural persons
- section 9(2)(b)(ii) - to protect information that 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)(f)(iv) - to maintain the constitutional conventions that protect the confidentiality of advice tendered by Ministers of the Crown and officials

- section 9(2)(g)(i) - to maintain the effective conduct of public affairs through the free and frank expression of opinions.

In relation to information that has been withheld under section 9 of the Act, I am of the opinion that there are no countervailing considerations that make it desirable, in the public interest, to make the information available at this time.

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 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 uia@tpk.govt.nz.

Ngā mihi



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

Appendix A: Documents OIA request from [REDACTED] dated 5 Hereturikōkā 2025

Item	Date	Document description	Decision
1.	May 2025	Ministerial consultation: <i>Progressing the Marine and Coastal Area (Takutai Moana) (Customary Marine Title) Amendment Bill</i>	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
2.	July 2025	OMNI: <i>Progressing the Marine and Coastal Area (Takutai Moana) (Customary Marine Title) Amendment Bill</i>	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

Ministerial consultation: Progressing the Marine and Coastal Area (Takutai Moana) (Customary Marine Title) Amendment Bill

From: Hon Paul Goldsmith, Minister for Treaty of Waitangi Negotiations

Author: 9(2)(a), *Principal Analyst, Te Puni Kōkiri*

Due: 12 May 2025

Purpose

1. The paper seeks agreement to progress the Marine and Coastal Area (Takutai Moana) (Customary Marine Title) Amendment Bill (**the Bill**) in response to developments since the Bill was introduced, 9(2)(f)(iv)

Recommended actions

2. **Consider raising:**

a) 9(2)(g)(i)

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

9(2)(g)(i)

c) 9(2)(b)(ii), 9(2)(g)(i)

d) 9(2)(f)(iv), 9(2)(g)(i)

9(2)(g)(i)

Matters raised in the paper of particular significance for Māori

3. The coalition agreement between the National Party and the New Zealand First Party includes an agreement to amend section 58 of the Marine and Coastal Area (Takutai Moana) Act 2011 (**the principal Act**) to make clear Parliament's original intent, in light of the judgment of the Court of Appeal in *Whakatōhea Kotahitanga Waka (Edwards) & Ors v Te Kahui and Whakatōhea Māori Trust Board & Ors* [2023] NZCA 504 (**Re Edwards**) (the Court of Appeal judgment).

4. The paper proposes 9(2)(f)(iv)

a. 9(2)(f)(iv)

b.

c.

- i. 9(2)(f)(iv)
- ii.

5. 9(2)(f)(iv)

9(2)(g)(i)

6. 9(2)(f)(iv), 9(2)(g)(i)

7. 9(2)(f)(iv)

9(2)(g)(i)

Retrospective application of the test

8. 9(2)(g)(i)

9(2)(f)(iv)

9. 9(2)(g)(i)

9(2)(b)(ii)

10. 9(2)(f)(iv)

9(2)(b)(ii)

9(2)(f)(iv)

11. 9(2)(f)(iv)

9(2)(g)(i)

12. 9(2)(g)(i)

Te Tautuhi ō Rongo analysis

13. Partnership axis: The Crown has a responsibility to engage with Iwi, Hapū and Māori 9(2)(g)(i)

14. 9(2)(g)(i)

Te Puni Kōkiri involvement

15. 9(2)(f)(iv)

We noted that:

○ 9(2)(f)(iv), 9(2)(g)(i)

○

○

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

Cabinet Social Outcomes Committee

**Progressing the Marine and Coastal Area (Takutai Moana) (Customary Marine Title)
Amendment Bill**

Key issues (including implications for Iwi and Māori)

1. The proposal has very little change from the draft circulated to 9(2)(f)(iv)

[REDACTED]

2. 9(2)(g)(i)

[REDACTED]

3. 9(2)(g)(i)

[REDACTED]

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

Te Tautuhi-ō-Rongo considerations

4. Partnership axis – The Crown has a responsibility to engage with Iwi, Hapū and Māori

9(2)(g)(i)
[REDACTED]

Recommended action/s

5. 9(2)(b)(ii), 9(2)(f)(iv), 9(2)(g)(i)

[REDACTED]

Te Puni Kōkiri involvement

6. 9(2)(g)(i)

[REDACTED]