

Departmental Disclosure Statement

Ngatikahu ki Whangaroa Claims Settlement Bill

The departmental disclosure statement for a government Bill seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill.

It identifies:

- the general policy intent of the Bill and other background policy material;
- some of the key quality assurance products and processes used to develop and test the content of the Bill;
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

This disclosure statement was prepared by the Office of Treaty Settlements.

The Office of Treaty Settlements certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

23 February 2016

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Part One: General Policy Statement

This Bill gives effect to the deed of settlement signed on 18 December 2015 in which the Crown and Ngatikahu ki Whangaroa agreed to the full and final settlement of the historical Treaty of Waitangi claims of Ngatikahu ki Whangaroa. Legislation is necessary to give effect to certain aspects of this settlement. Other aspects of the settlements are provided for only in the deed of settlement.

It is intended to divide the Bill at the Committee of the Whole House stage so that–

Part 1 –

- sets out the purpose of the Bill and deals with other matters of general application; and
- defines Ngatikahu ki Whangaroa, historical claims, and other essential elements; and
- records the acknowledgements and apology offered by the Crown to Ngatikahu ki Whangaroa; and
- gives effect to the agreement between the Crown and Ngatikahu ki Whangaroa to a final settlement of the historical Treaty of Waitangi claims of Ngatikahu ki Whangaroa; and
- removes the jurisdiction of judicial bodies in respect of the Ngatikahu ki Whangaroa historical claims and the redress provided under the deed of settlement or the Bill; and
- deals with related issues, including a consequential amendment to the Treaty of Waitangi Act 1975 and the removal of certain resumptive memorials.

Part 2 sets out the cultural redress provided to Ngatikahu ki Whangaroa, including –

- provision for conservation and taonga tuturū protocols; and
- provision for statutory acknowledgement and a deed of recognition; and
- an overlay classification; and
- acknowledgement of the Ngatikahu ki Whangaroa statement of values and protection principles through the overlay classification; and
- official geographic name changes; and
- cultural redress properties and their vesting and administration provisions.

Part Two: Background Material and Policy Information

Published reviews or evaluations

2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill?	YES
Muriwhenua Land Report, The Waitangi Tribunal, 17 Jan 1997 (accessible at https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_68635760/Muriwhenua%20Land.pdf).	

Relevant international treaties

2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?	NO
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Regulatory impact analysis

2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?	NO
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Extent of impact analysis available

2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?	NO
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2.5. For the policy to be given effect by this Bill, is there analysis available on:	
(a) the size of the potential costs and benefits?	NO
(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?	NO

2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by:	
(a) the level of effective compliance or non-compliance with applicable obligations or standards?	NO
(b) the nature and level of regulator effort put into encouraging or securing compliance?	NO

Part Three: Testing of Legislative Content

Consistency with New Zealand's international obligations

3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?

No steps have been taken as there is no international dimension to the contents of the Bill.

Consistency with the government's Treaty of Waitangi obligations

3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi?

During settlement negotiations, the Office of Treaty Settlements and the Ngatikahu ki Whangaroa mandated entity engaged with iwi whose interests are directly affected by the settlement. The Bill has been reviewed by Crown Counsel and by officials and legal advisors of the Office of Treaty Settlements and other departments for consistency with Treaty principles and Treaty of Waitangi settlement policy.

Consistency with the New Zealand Bill of Rights Act 1990

3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?

YES

Advice provided to the Attorney-General by the Crown Law Office, or a section 7 report of the Attorney-General, is generally expected to be available on the Ministry of Justice website upon introduction of a Bill. Such advice, or reports, will be accessible on the Ministry's website at <http://www.justice.govt.nz/policy/constitutional-law-and-human-rights/human-rights/bill-of-rights/>

Offences, penalties and court jurisdictions

3.4. Does this Bill create, amend, or remove:

(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?

NO

(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?

YES

The Bill settles historic Treaty claims and removes the jurisdiction of courts, tribunals and other judicial bodies into the claims, deed of settlement and redress provided.

<http://www.treasury.govt.nz/publications/guidance/regulatory/disclosurestatements/16.htm>

3.4.1. Was the Ministry of Justice consulted about these provisions?

YES

These provisions were developed by the Office of Treaty Settlements which is part of the Ministry of Justice.

<http://www.treasury.govt.nz/publications/guidance/regulatory/disclosurestatements/16.htm>

Privacy issues

3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information?

NO

External consultation

3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill?	YES
<p>Stakeholder groups (e.g. overlapping iwi, councils and affected individuals) were informed of the key relevant provisions contained in the Bill as the settlement was negotiated and agreed, and were invited to comment on relevant parts of the Bill affecting them.</p> <p>The following overlapping groups were consulted: Ngāpuhi, Ngāti Kahu and Te Rarawa (who confirmed they do not overlap with Ngatikahu ki Whangaroa).</p>	

Other testing of proposals

3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill's provisions are workable and complete?	YES
<p>The proposed provisions are tested throughout the negotiations process through consultation with key stakeholders and engagement with third parties. The deed of settlement was ratified by the claimant community of Ngatikahu ki Whangaroa iwi before it was signed.</p>	

Part Four: Significant Legislative Features

Compulsory acquisition of private property

4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?	NO
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Charges in the nature of a tax

4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?	NO
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Retrospective effect

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	NO
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Strict liability or reversal of the usual burden of proof for offences

4.4. Does this Bill:	
(a) create or amend a strict or absolute liability offence?	NO
(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?	NO

Civil or criminal immunity

4.5. Does this Bill create or amend a civil or criminal immunity for any person?	NO
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Significant decision-making powers

4.6. Does this Bill create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?	NO
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Powers to make delegated legislation

4.7. Does this Bill create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?	NO
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4.8. Does this Bill create or amend any other powers to make delegated legislation?	NO
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Any other unusual provisions or features

4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?	NO
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