

Departmental Disclosure Statement

Te Pire Whakatupua mō Te Kāhui Tupua/Taranaki Maunga Collective Redress 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; and
- 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 Te Arawhiti – The Office for Māori Crown Relations.

Te Arawhiti – The Office for Māori Crown Relations certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

31 August 2023

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Part One: General Policy Statement

Te Pire Whakatupua mō Te Kāhui Tupua/Taranaki Maunga Collective Redress Bill (the Bill) gives effect to certain matters contained in Te Ruruku Pūtakerongo/the Taranaki Maunga collective redress deed signed on 1 September 2023 by the Crown and Ngā Iwi o Taranaki, the collective of the 8 iwi of the Taranaki region. The Bill contains provisions relating to redress that require legislation for their implementation. Other aspects of the arrangements are provided for only in the collective redress deed because they do not require legislative authority.

The Bill comprises 9 Parts and 5 schedules.

The Bill and the deed speak of the iwi of Taranaki and the origins of Taranaki Maunga:

Ko Taranaki, ko Pouākai, ko Kaitake, koia te puna i heke mai ai te tangata. Koia ko hō mātou nei okiokinga, ko mātou nei tō rātou okiokitanga.

Taranaki, Pouākai and Kaitake are a reflection, and the source, of our existence, in life and in death.

There are a number of new arrangements for Taranaki Maunga.

Legal personality

The concept of legal personality for Te Kāhui Tupua is primarily concerned with giving legal status to the tūpuna maunga of Ngā Iwi o Taranaki. The land in the national park owned by the Crown is to be vested in the legal personality. The land will also be inalienable (not able to be sold or otherwise disposed of), except in a very narrow set of circumstances. A similar legal personality has been delivered in Treaty settlements in respect of Ngāi Tūhoe (Te Urewera) and the Whanganui River (Te Awa Tupua). The legal personality requires that an entity acts on its behalf, being Te Tōpuni Kōkōurangi in the case of Te Kāhui Tupua.

The land to be vested in the legal personality will continue to be a national park administered under the National Parks Act 1980 as amended by this Act. The general principles of the National Parks Act, including free public access, will be protected alongside Ngā Pou Whakatupua (the Maunga values). The collective redress legislation will also repeal the Mount Egmont Vesting Act 1978.

The recognition of Te Kāhui Tupua as a legal person aligns closely with Ngā Iwi o Taranaki understanding of the maunga being tūpuna, requiring care and protection now and into the future.

Te Kāhui Tupua status

The arrangements provide for a status statement for the legal personality. This status statement expresses the meaning of the legal personality and provides an explanation of what the legal personality is intended to represent. Similar statutory recognition statements have been included in the Te Awa Tupua (Whanganui River) and Ngāti Rangī (Te Waiūo-te-Ika arrangements over the Whangaehu River settlements. The status statement, alongside Ngā Pou Whakatupua, will have the same effect as a general purpose under s4(1) of the National Parks Act 1980 and will form the foundation for the ongoing administration and management of the national park.

The recognition statement provides that the concept of the legal personality extends beyond the national park boundary into the surrounding lands, although with no direct legal effect. This extension aligns with the Ngā Iwi o Taranaki understanding of their tūpuna, which does not stop at the national park boundary. The Bill includes protection of all land within the national park from all commercial mining activities.

Note on historical summary

The historical summary included in the Bill is not the full historical account. That is contained in Te Ruruku Pūtakerongo.

Some of the place names in the historical account and included in Te Pire Whakatupua mō Te Kāhui Tupua reflect the spellings that are used in the relevant historical sources.

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
<i>The Taranaki Report: Kaupapa Tuatahi (1996)</i> <i>Te Kāhui Maunga: The National Park District Inquiry Report (2013)</i> <i>All Waitangi Tribunal reports are accessible at: https://forms.justice.govt.nz/search/WT/reports.html.</i>	

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
<i>The Treasury agrees no Regulatory Impact Assessment is required for this proposal, since it implements a collective redress deed that will complete all Treaty of Waitangi negotiations in the Taranaki Region, provides for the commencement of existing legislation and is expected to have only minor impacts on businesses, individuals, or not-for-profit entities.</i>	

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
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 undertaken.

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 the negotiations, Te Arawhiti – The Office for Māori Crown Relations and Ngā Iwi o Taranaki negotiators engaged with hapū and iwi whose interests are directly affected by the proposed arrangements. The redress given effect by this Bill is consistent with the Treaty of Waitangi and its principles and the 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)?

NO

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

NO

If NO, you have the option to briefly explain why the Ministry of Justice was not consulted.

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

The provisions were developed by Te Arawhiti – The Office for Māori Crown Relations, a departmental agency of The Ministry of Justice.

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><i>Crown agencies, local authorities, environmental stakeholder groups, concession holders, and affected individuals were informed of the key relevant provisions contained in the deed as the redress was negotiated and agreed. The relevant parts of the deed that are being given effect to in the Bill have been consulted with affected parties.</i></p> <p><i>Crown agencies: Land Information New Zealand; Ministry for the Environment; Ministry for Culture and Heritage; Ministry of Business, Innovation, and Employment; Ngā Pou Taunaha o Aotearoa New Zealand Geographic Board; Te Puni Kōkiri; Department of Internal Affairs; Inland Revenue Department; and The Treasury.</i></p> <p><i>Local authorities: Taranaki Regional Council, New Plymouth District Council, Stratford District Council, South Taranaki District Council.</i></p> <p><i>Environmental stakeholder groups: New Zealand Conservation Authority, Taranaki-Whanganui Conservation Board, Fish and Game New Zealand, Fish and Game Taranaki, Forest and Bird New Zealand, Forest and Bird North Taranaki, Forest and Bird South Taranaki, The NEXT Foundation.</i></p> <p><i>Other relevant stakeholders: Mount Egmont Alpine Club, Stratford Mountain Club, Taranaki Alpine Club, Kordia, Federated Farmers New Zealand, Federated Farmers Taranaki, Federated Mountain Clubs of New Zealand, New Plymouth Tramping Club, New Zealand Alpine Club, Ruapehu Mountain Clubs Association, Venture Taranaki, Herenga ā Nuku Aotearoa.</i></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><i>The proposed arrangements were ratified by Ngā Iwi o Taranaki during a five and a half voting period from 7 July to 16 August 2023.</i></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?	YES
The Bill proposes an income tax exemption for Te Tōpuni Kōkōrangī, Te Kāhui Tupua, and the asset management company.	

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
4.8. Does this Bill create or amend any other powers to make delegated legislation?	NO

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?	YES
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The Bill provides for the recognition of Te Kāhui Tupua as a legal person and records Ngā Pou Whakaturua: Maunga values in clauses 16 to 19:

- Clause 16 states how Te Kāhui Tupua is recognised: Te Kāhui Tupua is a living and indivisible whole comprising Taranaki Maunga and other tūpuna maunga, including Pouākai (Pouakai) and Kaitake (Kaitake Peak), from their peaks to, and including, all the surrounding lands, and incorporating all their physical and metaphysical elements.
- Clause 17 declares Te Kāhui Tupua to be a legal person with the full capacity of a legal person, while also providing that all the rights, powers, and duties of Te Kāhui Tupua must be exercised or performed by Te Tōpuni Kōkōrangī. All its liabilities and responsibilities are taken by Te Tōpuni Kōkōrangī on behalf of, and in the name of, Te Kāhui Tupua.
- Clause 18 sets out the intrinsic values representing the essence of Te Kāhui Tupua in both te reo Māori and in English.
- Clause 19 requires that the national park land must be managed and administered to acknowledge and uphold the intrinsic values alongside the general purposes in the National Parks Act 1980.

Schedule 4 of the Bill provides for some decisions concerning leases, licences to occupy and easements within the national park to be jointly made by the Minister of Conservation and Te Tōpuni Kōkōrangī