

Departmental Disclosure Statement

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| Te Hiku Claims Settlement Bill |
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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 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.

7 April 2014.

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Part One: General Policy Statement

This Bill gives effect to the deeds of settlement in which the Crown and Ngāti Kuri, Te Aupouri, Ngāi Takoto and Te Rarawa agreed to the final settlement of the historical Treaty of Waitangi claims of those iwi. Legislation is necessary to give effect to certain aspects of these settlements. Other aspects of the settlements are provided for only in the respective deeds of settlement.

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

- Parts 1 to 3 become the Ngāti Kuri Claims Settlement Bill;
- Parts 4 to 7 become the Te Aupouri Claims Settlement Bill;
- Parts 8 to 10 become the Ngāi Takoto Claims Settlement Bill;
- Parts 11 to 13 become the Te Rarawa Claims Settlement Bill;
- Part 14 becomes the Ngāti Kahu Accumulated Rentals Trust Bill;
- Part 15 becomes an amendment to the Reserves and Other Lands Disposal Act 1977.

Parts 1, 4, 8 and 11—

- set out the purpose of each Bill and deal with other matters of general application; and
- define historical claims, and other essential elements; and
- record the Crown acknowledgements and apology to the respective iwi in English, and also in te reo Māori in parts 1, 8 and 11; and
- give effect to the agreement between the Crown and the respective iwi to a final settlement of their historical Treaty of Waitangi claims; and
- remove the jurisdiction of judicial bodies in respect of the respective iwi's historical claims and the redress provided under the respective deed of settlement or the Bill; and
- deal with related issues, including a consequential amendment to the Treaty of Waitangi Act 1975, and the removal of certain resumptive memorials.

Part 2, 5, 9 and 12 - set out the cultural redress provided to the respective iwi, including—

- cultural redress properties and their vesting provisions;
- establishment of the Te Oneroa-a-Tohe Board, a permanent joint committee with equal Te Hiku o Te Ika iwi and local authority membership, which is responsible for preparing a beach management plan over the Te Oneroa-a-Tohe management area. Provisions also specify the effect of that plan on other planning and management responsibilities in the area, including how applications for resource consents in that area are handled;
- establishment of the Te Hiku o Te Ika Conservation Board, which provides for a co-governance arrangement of Te Hiku iwi and the Crown over conservation land in the korowai area;
- statutory acknowledgements which provide for recognition under the Resource Management Act 1991 and the Historic Places Act 1993 of the association between the respective iwi and particular sites or areas of significance;
- deeds of recognition in respect of Ngāi Takoto (Part 9);
- provision for protocols which provide for the conduct of the relationship between specified Crown agencies and each respective iwi;
- appointment of individual iwi-specific fisheries advisory committees and a joint fisheries advisory committee with other Te Hiku o Te Ika iwi;
- assigning of official geographic names;
- the technical requirements for transferring Ōwhata land to Te Rarawa (Part 12); and
- the Warawara Whenua Ngāhere i te Taiao, an agreement providing for joint roles for Te Rarawa and the Crown in respect of the governance and management of the Warawara Conservation Park (Part 12).

Parts 3, 6, 10 and 13 makes provision for certain commercial redress to be provided for the benefit of the respective iwi in relation to—

- commercial redress properties that are to be transferred to the relevant trustees;

- deferred selection properties that are to be transferred to the relevant trustees in parts 10 and 13 only;
- transfer of licensed land;
- access to protected sites; and
- a right of first refusal (RFR) over RFR land, which is shared between or among other Te Hiku o Te Ika iwi.

Part 7 and subpart 5 of Part 13 set out the transitional arrangements for governance reorganisation, including transitional tax arrangements and miscellaneous matters, for Te Aupouri and Te Rarawa respectively. Provisions include the dissolution of the Aupouri Maori Trust Board and Te Runanga o Te Rarawa and the vesting of the assets and liabilities of those entities in the respective iwi governance entities which will receive the settlement redress.

Part 14 – Ngāti Kahu Accumulated Rentals Trust Bill

Part 14 makes the necessary legislative provisions for the matters contained in the deed of trust entered into by the Crown and Public Trust to establish the Ngāti Kahu Accumulated Rentals Trust. The Crown's intention is to:

- preserve the Crown's ability, in relation to a proportion of the Accumulated Rentals of the Peninsula Block, to provide for the settlement of Ngāti Kahu's historical Treaty of Waitangi claims that may be negotiated and entered into between Ngāti Kahu and the Crown; and
- provide for the transfer of a proportion of the Accumulated Rentals as a consequence of any relevant recommendation made by the Waitangi Tribunal under section 8HB of the Treaty of Waitangi Act 1975 that becomes final under section 8HC(6) of that Act.

Part 15 – Amendment to Reserves and Other Lands Disposal Act 1977

Part 15 repeals section 17 (Te Puna-Topu-O-Hokianga Trust) of the Reserves and Other Land Disposal Act 1977, giving effect to the Te Rarawa deed of settlement by repealing the provision that empowered the Crown to enter into a 999 lease over the relevant land (which was vested in Te Puna-Topu-O-Hokianga Trust on 2 May 1974 under the Maori Affairs Act 1953).

Part Two: Background Material and Policy Information

Published reviews or evaluations

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| 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

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| 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

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| 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

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| 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 |

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| 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 Te Hiku iwi negotiators engaged with iwi and hapū whose interests are directly affected by the settlement. The redress given effect by this Bill is consistent 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 (clauses 15, 16, 195, 196, 398, 399, 579 and 580).

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

NO

These provisions were developed by the Office of Treaty Settlements which is part 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 |
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| <p>Stakeholder groups (e.g. overlapping iwi, councils, affected individuals, etc) 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>Overlapping groups: Te Wahapu (Ngāpuhi) and Ngāti Kahu.</p> <p>Councils: Far North District Council and Northland Regional Council.</p> <p>Stakeholders: Crown Forestry Rental Trust, New Zealand Māori Council, Federation of Māori Authorities.</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 |
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| <p>The proposed provisions are tested throughout the negotiations process through consultation with key stakeholders and engagement with third parties. The deeds of settlement were ratified by the claimant community of the relevant Te Hiku iwi before they were signed.</p> | |

Part Four: Significant Legislative Features

Compulsory acquisition of private property

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| 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

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| 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

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| 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

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| 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

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| 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

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| 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

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| 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

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| 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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