

# Departmental Disclosure Statement

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| Hawke's Bay Regional Planning Committee 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 the Ministry of Justice (Office of Treaty Settlements).

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

**3 April 2014.**

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## **Part One: General Policy Statement**

### **Purpose and scope of Bill**

This Bill implements the Government's decision to establish a statutory body called the Hawke's Bay Regional Planning Committee (the RPC). The RPC will be a joint committee of the Hawke's Bay Regional Council (the Council) and tāngata whenua members and will provide for 9 iwi or hapū groups to have input into the development and review of the regional policy statement and regional plans for the RPC region prepared in accordance with the Resource Management Act 1991.

The establishment of the RPC gives effect to the commitment made by the Government in the Ngāti Pāhauwera Deed of Settlement and recorded in the Maungaharuru-Tangitū Hapū Deed of Settlement to work with iwi and hapū and the Council to agree the details of the RPC in order to introduce legislation. This form of Treaty settlement redress is consistent with the Government's overarching position on natural resource management in the settlement of historical Treaty of Waitangi claims and is one of the 2 standard arrangements for involving iwi or hapū in natural resource management.

## Part Two: Background Material and Policy Information

### Published reviews or evaluations

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| <b>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?</b>               | <b>YES</b> |
| WAI 201 The Mohaka ki Ahuriri Report 2004, Waitangi Tribunal.<br>This report is available online at <a href="http://www.waitangi-tribunal.govt.nz">www.waitangi-tribunal.govt.nz</a> |            |

### Relevant international treaties

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| <b>2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?</b> | <b>NO</b> |
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| <b>2.2.1. If so, was a National Interest Analysis report prepared to inform a Parliamentary examination of the proposed New Zealand action in relation to the treaty?</b>  | <b>[YES/NO]</b> |
| <i>[If YES, provide the title, authoring agency, and date of the NIA, and indicate where a copy of the NIA can be accessed.</i><br><i>If NO, indicate why none was prepared (which might be because there was no Parliamentary examination).]</i><br><a href="http://www.treasury.govt.nz/publications/guidance/regulatory/disclosurestatements/09.htm">http://www.treasury.govt.nz/publications/guidance/regulatory/disclosurestatements/09.htm</a> |                 |

### Regulatory impact analysis

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| <b>2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?</b>  | <b>YES</b> |
| The Ministry of Justice (Office of Treaty Settlements) prepared a regulatory impact statement on 27 September 2011 to help inform the main policy decisions taken by the Government relating to the contents of this Bill. A copy of this regulatory impact statement can be found at <a href="http://www.ots.govt.nz">http://www.ots.govt.nz</a> |            |

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| <b>2.3.1. If so, did the RIA Team in the Treasury provide an independent opinion on the quality of any of these regulatory impact statements?</b>   | <b>NO</b> |
| The Office of Treaty Settlements, the Ministry for the Environment and Department of Internal Affairs undertook policy work from 2009 to 2011 to develop guidelines for natural resource co-governance mechanisms between local authorities and iwi. The proposal for the establishment of a regional planning committee has been assessed against the Cabinet's: <ul style="list-style-type: none"><li>• natural resource management guidelines [CAB Min (10)25/3 Rev 1 refers]; and</li><li>• guidelines for determining Crown contributions to new local government arrangements to better involve iwi in natural resource management, where the arrangements are developed as part of an historical Treaty settlement or in parallel to one [CAB Min (11) 29/9 refers].</li></ul> |           |

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| <b>2.3.2. Are there aspects of the policy to be given effect by this Bill that were not addressed by, or that now vary materially from, the policy options analysed in these regulatory impact statements?</b> | <b>NO</b> |
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#### **Extent of impact analysis available**

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

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

## Part Three: Testing of Legislative Content

### Consistency with New Zealand's international obligations

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| <b>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?</b> |
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| This Bill affects planning processes in a regional context. The Hawke's Bay Regional Council retains final decision making authority. There is no inconsistency with any international obligations. |
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### Consistency with the government's Treaty of Waitangi obligations

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| <b>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?</b> |
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| The Office of Treaty Settlements has been in negotiations since 2010 with the 9 tāngata whenua groups who will form part of the Regional Planning Committee. Their views have been taken into account in the final form of the Committee as presented in the Bill. The Bill has been reviewed by Crown Counsel and by officials and legal advisers of the Office of Treaty Settlements, Department of Internal Affairs and Ministry for the Environment for consistency with Treaty principles. |
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### Consistency with the New Zealand Bill of Rights Act 1990

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| <b>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?</b> |
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| YES |
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### Offences, penalties and court jurisdictions

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| <b>3.4. Does this Bill create, amend, or remove:</b> |
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| <b>(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?</b> |
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| NO |
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| <b>(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?</b> |
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| NO |
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| <b>3.4.1. Was the Ministry of Justice consulted about these provisions?</b> |
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| Not applicable |
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### Privacy issues

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| <b>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?</b> |
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| NO |
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| <b>3.5.1. Was the Privacy Commissioner consulted about these provisions?</b> |
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| Not applicable |
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## External consultation

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| <b>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?</b>  | <b>YES</b> |
| Participating tāngata whenua groups and Hawke's Bay Regional Council have been fully consulted on the draft content of the Bill. |            |

## Other testing of proposals

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| <b>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?</b>   | <b>YES</b> |
| The Regional Planning Committee has been operating as a standing committee under the delegated authority of the Hawke's Bay Regional Council since 2011. This has been a way of assessing the effectiveness of the model and establishing the key elements that should be included in the Bill. |            |

## 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?   | YES |
| The Bill establishes a new joint committee of the Hawke's Bay Regional Council that will exist beyond the 3 year electoral cycle. Final decision-making still rests with the Hawke's Bay Regional Council as prescribed by the Local Government Act 2002 but the committee, will nonetheless affect the decision-making relating to changes to regional plans and regional policy statements. |     |

### 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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| <b>4.8. Does this Bill create or amend any other powers to make delegated legislation?</b>  | <b>NO</b> |
| The Regional Planning Committee is based on a consensus model of decision-making. The functions of the Hawke's Bay Regional Council are prescribed by the Resource Management Act 1991 and the Local Government Act 2002. The role of the Regional Planning Committee is designed to add value to the existing statutory provisions around natural resources. |           |

#### **Any other unusual provisions or features**

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