

Departmental Disclosure Statement

Ngāti Hinerangi 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 the Office for Māori Crown Relations – Te Arawhiti.

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

[Date finalised June 2019].

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Part One: General Policy Statement

The Bill gives effect to certain matters contained in the deed of settlement (the Deed), signed on 4 May 2019 between the Crown and Ngāti Hinerangi. The Deed will be the final settlement of all the historical Treaty of Waitangi claims of Ngāti Hinerangi resulting from acts or omissions by the Crown before 21 September 1992. This Bill contains provisions related to settlement redress that require legislation for their implementation. Other aspects of the settlement are provided for only in the Deed because they do not require legislative authority.

This Bill comprises three parts:

- *Part 1* sets out the purpose of the Bill, provides the provisions of the Bill take effect on the settlement date unless a provision states otherwise, specifies the Bill binds the Crown and defines terms used in the Bill, including Ngāti Hinerangi and historical claims;
- *Part 2* sets out in 5 subparts the cultural redress for Ngāti Hinerangi and includes protocols, a statutory acknowledgement, a geothermal statutory acknowledgement, deeds of recognition, overlay classification, an advisory committee in relation to specified fisheries, and vesting of cultural redress properties;
- *Part 3* sets out in 4 subparts the financial and commercial redress for Ngāti Hinerangi and includes the transfer of commercial redress properties, redress over Crown forest licenced land, access to protected sites, and rights of first refusal (RFR) in relation to RFR land;

There are 4 schedules to the Bill:

- Schedule 1 describes the areas subject to a statutory acknowledgement, the areas subject to both statutory acknowledgement and deeds of recognition, and the areas subject to a geothermal statutory acknowledgement;
- Schedule 2 describes the area subject to an overlay classification;
- Schedule 3 describes the cultural redress properties; and
- Schedule 4 provides for notices in relation to RFR land.

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
<p><i>Waitangi Tribunal reports:</i> <i>Te Raupatu o Tauranga Moana: Report on the Tauranga Confiscation Claims, Wai 215 (2004); and Tauranga Moana 1886-2006: Report on the Post-Raupatu Claims, Wai 215 (2010).</i> <i>All Waitangi Tribunal reports are accessible at:</i> https://forms.justice.govt.nz/search/WT/reports.html.</p>	

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
<p><i>This bill does not have any regulatory making powers and does not alter the regulatory regime.</i></p>	

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 settlement negotiations, the Office for Māori Crown Relations – Te Arawhiti and Ngāti Hinerangi Trust negotiators engaged with hapū and iwi whose interests are directly affected by the settlement. The redress given effect to in 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

The Office for Māori Crown Relations – Te Arawhiti provided the Bill to Crown Law on 1 May 2019. No issues were raised. 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 the historical Treaty claims of Ngāti Hinerangi and removes the jurisdiction of courts, tribunals and other judicial bodies to inquire into the claims, deed and redress provided (clause 15).

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

NO

The provisions were developed by the former Office of Treaty Settlements which was 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
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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>Stakeholder groups (e.g. overlapping iwi, councils, affected individuals) were informed of the key relevant provisions contained in the deed as the settlement 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>Overlapping iwi representative organisations: Hako, Ngā Hapū o Ngāti Ranginui Settlement Trust, Ngāi Te Rangi Settlement Trust, Ngāti Haua Iwi Trust, Ngāti Maru, Ngāti Rāhiri Tumutumu, Ngāti Tamaterā, Ngāti Tara Tokanui, Ngaati Whanaunga Incorporated Society, Raukawa Settlement Trust, and Te Tāwharau o Ngāti Pūkenga Trust.</i></p> <p><i>Councils: Waikato Regional Council, Matamata-Piako District Council.</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 provisions are tested throughout the negotiation process by consultation with relevant agencies, key stakeholders and engagement with third parties. The Deed of Settlement was ratified by Ngāti Hinerangi during a four week voting period from 8 February to 8 March 2019.</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?	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
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
<p><i>The settlement package includes the following elements of redress in relation to subsequent transfer of reserve land:</i></p> <ul style="list-style-type: none"> • <i>to allow Ngāti Hinerangi to apply to the Minister of Conservation to transfer the fee simple estate in Ngāti Hinerangi Waipapa property to the trustees of Ngā Hapū o Ngāti Ranginui Settlement Trust, who will be the new administering body;</i> • <i>to allow Ngāti Hinerangi to apply to the Minister of Conservation to transfer an undivided half share as tenants in common in Te Tuhi (East) property to the trustees of Ngā Hapū o Ngāti Ranginui Settlement Trust;</i> • <i>to allow Ngāti Hinerangi to apply to the Minister of Conservation to transfer an undivided half share as tenants in common in Te Ara o Maurihoro (East) property to the trustees of Ngāi Te Rangī Settlement Trust;</i> • <i>to establish a joint management body for each of Te Tuhi (East) property and Te Ara o Maurihoro (East) property if the property is transferred.</i> <p><i>These provisions in the Bill are necessary to give effect to overlapping interests agreements reached by Ngāti Hinerangi to address overlapping interests with Ngā Hapū o Ngāti Ranginui Settlement Trust and Ngāi Te Rangī Settlement Trust.</i></p> <p><i>The arrangement achieves an agreed outcome for these iwi through a tikanga-based process and has the greatest potential to set the relationship between Ngāti Hinerangi and these Tauranga Moana iwi on a new course in a post-settlement environment.</i></p>	