

# Departmental Disclosure Statement

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Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua 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.

15 November 2021

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## Part One: General Policy Statement

This Bill gives effect to the Deed of Settlement signed by the Crown and Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua (Ngāti Kahungunu) on 29 October 2021, for the final settlement of the historical Treaty of Waitangi claims of Ngāti Kahungunu.

Legislation is necessary to give effect to certain aspects of the settlement. Other aspects of the settlement are provided for only in the Deed of Settlement.

### *Part 1—*

- sets out the purpose of the Bill and deals with other matters of general application;
- defines Ngāti Kahungunu, historical claims and other essential elements;
- records a summary of the historical account and the acknowledgements and apology offered by the Crown to Ngāti Kahungunu;
- gives effect to the agreement between the Crown and Ngāti Kahungunu to a final settlement of the historical Treaty of Waitangi claims of Ngāti Kahungunu;
- removes the jurisdiction of judicial bodies in respect of the Ngāti Kahungunu historical claims (except for some Wai 85 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 cultural redress provided to Ngāti Kahungunu, including—

- provisions for protocols, statutory acknowledgements, and deeds of recognition;
- provision for the trustees of the Ngāti Kahungunu ki Wairarapa Tāmaki nui-ā-Rua Settlement Trust to appoint a member to the Manawatu River catchment advisory board;
- provision for official geographic name changes;
- provision for vesting of 28 cultural redress properties and their administration;
- provision for vesting and gift back of Castlepoint Scenic Reserve; and
- provision for Te Upoko Taiao as a permanent committee of Wellington Regional Council.

### *Part 3* of the Bill makes provision for certain commercial redress to be provided for the benefit of Ngāti Kahungunu in relation to—

- commercial redress to be transferred to the trustees;
- provisions for Ngāti Kahungunu to purchase commercial properties and deferred selection properties; and
- a right of first refusal (RFR) over RFR land.

## Part Two: Background Material and Policy Information

### Published reviews or evaluations

<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>
<i>The Wairarapa ki Tararua Report, WAI 863, 2010 (accessible at <a href="https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_68640003/Wairarapa%20ki%20Tararua%20Vol%20I.pdf">https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_68640003/Wairarapa%20ki%20Tararua%20Vol%20I.pdf</a>)</i>	

### Relevant international treaties

<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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### Regulatory impact analysis

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

<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>	
(a) the size of the potential costs and benefits?	<b>NO</b>
(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?	<b>NO</b>

<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>	
(a) the level of effective compliance or non-compliance with applicable obligations or standards?	<b>NO</b>
(b) the nature and level of regulator effort put into encouraging or securing compliance?	<b>NO</b>

## 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 Kahungunu negotiators engaged together on the proposed settlement redress and also with their respective claimant communities. 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 removes the jurisdiction of courts, tribunals and other judicial bodies into the claims, deed of settlement and redress provided (clauses 15, 16, 17 and 18).*

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

YES

*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

3.5.1. Was the Privacy Commissioner consulted about these provisions?	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>Overlapping groups and relevant councils were informed of the key relevant provisions contained in the Bill as the settlement was negotiated and agreed. Councils were invited to comment on relevant parts of the Bill affecting them.</i></p> <p><b>Overlapping groups:</b> Rangitāne o Wairarapa Tamaki nui-ā-Rua, Heretaunga Tamatea, Ngāti Toa Rangatira, Ngāti Rangatahi, Taranaki Whānui ki Te Upoko o Te Ika, Ngāti Raukawa ki te Tonga, Ngāi Kaitiaki o Ngāti Kauwhata Inc, Muaūpoko, Ngāti Tama (Wellington) and Rangitāne o Manawatū.</p> <p><b>Councils:</b> Wellington Regional Council and South Wairarapa District Council.</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 negotiations process through consultation with iwi and engagement with third parties. The Deed of Settlement provisions were ratified by Ngāti Kahungunu before the Deed of Settlement was signed on 29 October 2021.</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?	NO
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