

# Departmental Disclosure Statement

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| Te Pire Haeata ki Parihaka / Parihaka Reconciliation 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 Ministry of Justice (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.

24 July 2017.

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## Part One: General Policy Statement

The Parihaka and the Crown Reconciliation Bill records elements of Te Kawenata ō Rongo, the deed of reconciliation signed on 9 June 2017 in which the Crown and Parihaka agree to reconcile their relationship.

The Bill includes only those elements of Te Kawenata that the Crown and Parihaka agree should be recorded in legislation in order to improve understanding of Parihaka's history, recognise the mana of the community and promote its legacy and enshrine the Crown and Parihaka's commitment to a new relationship

### Background

Parihaka is a small settlement in South Taranaki. It is located within the rohe of Taranaki Iwi, however all iwi of Taranaki as well as many iwi throughout New Zealand (and many non-Māori) have connections to Parihaka.

Parihaka was the centre of non-violent protest to the large-scale land confiscations that took place in Taranaki in the mid-1860s and is known for the peace legacy of its leaders Tohu Kākahi and Te Whiti o Rongomai. The Crown sought to destroy the Parihaka community and its actions included:

- imprisonment of Parihaka residents and their detention without trial;
- invasion of Parihaka in November 1881 and destruction of homes, sacred buildings, cultivations and livestock;
- arrest and detention of Tohu Kākahi and Te Whiti o Rongomai without trial.

The Crown took these actions under the legislation listed in *clause* 3 of the Bill shown in the te reo Māori version of the Bill with the Māori language titles adopted when the Acts were translated.

Further, in the aftermath of the invasion rapes were committed by Crown troops causing enduring harm to the women of Parihaka and the community.

### Crown apology and reconciliation package

The Crown has apologised for its historical actions at Parihaka in its Treaty of Waitangi settlements with the iwi of Taranaki. However, because of the special place Parihaka occupies in Taranaki and New Zealand the Crown has committed to reconciling its relationship directly with the Parihaka community. A reconciliation package has been developed for the Parihaka community outside of the Treaty settlement process. The reconciliation package will assist Parihaka to strengthen its infrastructure and achieve other development aspirations.

Te Kawenata ō Rongo sets out in full the reconciliation package that has been agreed by the Crown and Parihaka Papakāinga Trust. Te Kawenata was signed at He Puanga Haeata, the reconciliation ceremony held at Parihaka on 9 June 2017. At the ceremony the Crown also apologised directly to the people of Parihaka, past and present, for its historical actions.

## 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 |
| <p><i>The Taranaki Report: Kaupapa Tuatahi (1996)</i><br/> All Waitangi Tribunal reports are accessible at:<br/> <a href="https://forms.justice.govt.nz/search/WT/reports.html">https://forms.justice.govt.nz/search/WT/reports.html</a>.</p> |     |

### 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 |
| 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? | NO |

### 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 |
| 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?  | NO |
| 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? | NO |

### 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 |
| 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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| <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

**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 reconciliation process, the Office of Treaty Settlements and the Parihaka Papakāinga Trust engaged with the Parihaka community whose interests are directly affected by the reconciliation process. The Bill is consistent with Treaty principles.*

### 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?**

**YES**

*The 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

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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> |
| <i>The Office of Treaty Settlements has consulted with the Parihaka Papakāinga Trust on the provisions of the draft Bill. The Parihaka Papakāinga Trust support the Bill's introduction to Parliament.</i> |            |

## 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> |
| <i>The Parihaka Papakāinga Trust engaged with the Parihaka community to ensure that recording the Crown apology and the legacy statement would be an appropriate and fitting way to acknowledge Parihaka. The Parihaka community expressed strong support for the Bill.</i> |            |

## 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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