

Departmental Disclosure Statement

Ngāti Rangi Claims Settlement Bill

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.

18 April 2018.

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Part One: General Policy Statement

The Bill gives effect to certain matters contained in the deed of settlement (the deed), known as Rukutia Te Mana, signed on 10 March 2018 between the Crown and Ngāti Rangī. The deed will be the final settlement of all the historical Treaty of Waitangi claims of Ngāti Rangī 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. While the deed fully and finally settles the historical claims of Ngāti Rangī, it also confirms the Crown's commitment to provide cultural redress in relation to the Tongariro National Park following a collective negotiation with all iwi who have interests in the Park.

This Bill comprises four 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 Rangī and historical claims;
- *Part 2* sets out in 10 subparts the cultural redress for Ngāti Rangī and includes protocols, statutory acknowledgements, deeds of recognition, overlay classifications, official geographic names, the vesting of cultural redress properties, authorisations to take certain minerals, joint responsibility of the Director-General of Conservation and Ngāti Rangī for preparing, amending and reviewing part of the Tongariro-Taupō Conservation Management Strategy, interim membership on the relevant Conservation Board, and the establishment of Te Pae Ao as a joint committee to administer certain reserve sites;
- *Part 3* sets out in 6 subparts redress related to the Whangaehu River (the River), including the Te Waiū-o-Te-Ika framework which requires that decision makers give appropriate consideration to a broad statement of iwi values when making specified decision in relation to the River. Part 3 also establishes a joint committee for the River, whose functions will include the creation of the Te Waiū-o-Te-Ika catchment document for use in planning processes related to the River catchment and the maintenance of a register of recommended hearing commissioners for resource consent applications relating to the River. Part 3 also provides for the creation of customary fisheries regulations;
- *Part 4* sets out in 4 subparts the financial and commercial redress for Ngāti Rangī and includes the transfer of commercial redress properties and deferred selection properties, redress over licenced land, access to protected sites, and rights of first refusal (RFR) over RFR land;

There are 9 schedules to the Bill:

- Schedule 1 describes the statutory areas to which the statutory acknowledgements and deeds of recognition apply;
- Schedule 2 describes the Te Tāpora area to which Te Tāpora (an overlay classification) applies;
- Schedule 3 describes the cultural redress properties;
- Schedule 4 provides matters relating to Te Pae Ao;

- Schedule 5 specifies which decisions require consideration of the Te Waiū-o-Te-Ika framework;
- Schedule 6 provides matters relating to the joint committee for the River;
- Schedule 7 provides matters relating to Te Waiū-o-Te-Ika catchment document;
- Schedule 8 provides matters relating to Te Waiū-o-Te-Ika catchment register; and
- Schedule 9 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>Te Kāhui Maunga: The National Park District Report (2013); and He Whiritaunoka: The Whanganui Land (Summary) Report (2015).</i></p> <p>All Waitangi Tribunal reports are accessible at: 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>The Office of Treaty Settlements is not required to prepare a regulatory impact statement because, although the redress does alter the regulatory regime, the changes are small and the impact is minor.</i></p> <p><i>A Preliminary Impact and Risk Assessment was completed in relation to the non-standard redress provided in relation to the Whangaehu River as it made minor alterations to regulatory regimes. The result of the assessment was that no regulatory impact statement was required on the basis that the redress would have only minor impacts on businesses, individuals or not-for-profit entities.</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 of Treaty Settlements and Ngāti Rangī Trust negotiators engaged with hapū and iwi whose interests are directly affected by the settlement. The redress given effect by 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

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 Rangī and removes the jurisdiction of courts, tribunals and other judicial bodies into the claims, deed and redress provided (clauses 15 to 18).

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
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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, recreation groups) 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.</i></p> <p><i>Overlapping iwi representative organisations: Ngāti Hāua Iwi Trust, Tūwharetoa Hapū Forum, Uenuku Charitable Trust, Whanganui Land Settlement Negotiation Trust, Mōkai Pātea Waitangi Claims Trust, Te Rūnanga o Ngā Wairiki – Ngāti Apa and Ngāti Hinemanu Me Ngāti Paki Heritage Trust.</i></p> <p><i>Councils: Manawatū-Wanganui Regional Council, Ruapehu District Council, Rangitikei District Council and Whanganui District Council.</i></p> <p><i>Other: Genesis Energy, the New Zealand Walking Access Commission and the New Zealand Fish and Game 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 was ratified by Ngāti Rangī during a five week voting period from 30 September to 3 November 2017.</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
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4.8. Does this bill create or amend any other powers to make delegated legislation?	NO
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The Bill requires the Minister of Fisheries to recommend the making of customary non-commercial fishing regulations for the Ngāti Rangi fisheries area subject to the Fisheries Act 1996. The power to create these regulations is already legislated for in section 186 of the Fisheries Act 1996.

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 the Whangaehu River catchment:</i></p> <ul style="list-style-type: none"> • <i>a statutory recognition instrument requiring decision-makers under 14 statutes to give appropriate legal weighting (i.e. 'recognise and provide for', 'have particular regard to', or 'have regard to') to a holistic statement of the Whangaehu River and a set of 'Whangaehu River Iwi' values when exercising functions or powers;</i> • <i>a statement of general relevance which allows any statutory decision-makers, at their absolute discretion, to 'consider' the Whangaehu River statutory recognition instrument when exercising statutory functions relating to the Whangaehu catchment;</i> • <i>a joint iwi/council entity (the River Entity), established as a permanent joint committee under the Local Government Act 2002, designed to promote the health and wellbeing of the Whangaehu River (similar to the entities for Ngāti Manawa and Ngāti Whare over the Rangitāiki River [2012] and for Tapuika in relation to the Kaituna River [2014]). Membership will be an equal split between the Whangaehu River Iwi and relevant local authorities, and will be no greater than 12 members in total. Decisions will be made by consensus or, where consensus is not possible, by a 75% majority vote;</i> • <i>a River document developed by the River Entity in which they set out an agreed strategy and objectives for the Whangaehu River (as in previous, standard natural resource settlements there will be associated legal weightings that require decision makers to 'recognise and provide for', or 'have particular regard to', the River document when exercising specific statutory functions or preparing and approving specific statutory instruments); and</i> • <i>a register of hearing commissioners (and a requirement for relevant consent authorities to 'have particular regard to' the register when appointing commissioners for specified resource consent applications affecting the Whangaehu River).</i> <p><i>These provisions are necessary as the Whangaehu River is spiritually and culturally significant to Ngāti Rangī and other iwi in the area. It flows from the crater lake on Mt. Ruapehu, where Ngāti Rangī have historically interred the bones of their ancestors. Many of the grievances Ngāti Rangī hold relate to the treatment of this river and their settlement aspirations centred around regaining a meaningful role in the management and governance of the river and its catchment, not just for themselves but for the other iwi with interests in the river as well. Ngāti Rangī consulted with the other iwi with interests in the Whangaehu River about this redress and offered them each an equal seat on the River Entity.</i></p>	