

Departmental Disclosure Statement

Te Pire kia Unuhia te Hara kai Runga I a Rua Kēnana Rua Kēnana Pardon 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 Te Puni Kōkiri.

The Te Puni Kōkiri certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

Rahera Ohia
Deputy Chief Executive, Policy Partnerships
Te Puni Kōkiri

23 May 2019

Part One: General Policy Statement

Te Pire kia Unuhia te hara kai Runga i a Rua Kēnana, the Rua Kēnana Pardon Bill, gives effect to the agreement between the Crown and Ngā Toenga o Ngā Tamariki a Ihairaira me Ngā Uri o Maungapōhatu Charitable Trust to provide a statutory pardon for Rua Kēnana. This agreement was signed on 9 September 2017.

The Bill is required in order to provide an appropriate response to a specific set of circumstances focused on the criminal conviction of Rua Kēnana. The Bill seeks to restore the character, mana, and reputation of Rua Kēnana and his uri. The package of measures, including the statutory pardon of Rua Kēnana, Crown acknowledgements of the harm suffered, and an apology to the whānau of Rua Kēnana, is designed to alleviate the ongoing suffering of the whānau, and adheres to the Crown's objective to promote reconciliation in the wake of historical wrongs.

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
Waitangi Tribunal Report on Te Urewera District Inquiry (2012) All Waitangi Tribunal reports are accessible at: https://forms.justice.govt.nz/search/WT/reports.html	

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
Te Puni Kōkiri is not required to prepare a regulatory impact statement. It has been determined that the regulatory policy decisions sought in this paper are exempt from Cabinet's Impact Analysis Requirements as they have no or only minor impacts.	

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
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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 taken.

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?

This Bill gives effect to the agreement between the Crown and Ngā Toenga o Ngā Tamariki a Iharaia me Ngā Uri o Maungapohatu Charitable Trust to provide a statutory pardon for Rua Kenana.

The Bill is consistent with the principles of the Treaty of Waitangi.

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 Ministry of Justice, 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

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

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
Consultation on these matters has been undertaken with Ngā Toenga o Ngā Tamariki a Iharaia me ngā Uri o Maungapohatu Charitable Trust as representatives of the uri of Rua Kenana and Ngā Toenga o Ngā Tamariki a Iharaia. The trustees support the introduction of the Bill to Parliament.	

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
The policy details to be given effect by the Bill have been tested against other cases where statutory pardons and associated Crown apologies and acknowledgements have been provided in New Zealand.	

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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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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