

Hon Andrew Little
Minister for Treaty of Waitangi Negotiations

Proactive release – Ngāti Rangitihi Claims Settlement Bill: Approval for Introduction

Date of issue: by 19 April 2021

The following documents have been proactively released in accordance with Cabinet Office Circular CO (18) 4.

No.	Document	Comments
1	Ngāti Rangitihi Claims Settlement Bill: Approval for Introduction <i>Cabinet paper</i> Office for Māori Crown Relations – Te Arawhiti	No redactions
2	Ngāti Rangitihi Claims Settlement Bill: Approval for Introduction <i>Cabinet Legislation Committee</i> <i>Summary LEG-21-SUB-0021</i> Cabinet Office	No redactions
3.	Ngāti Rangitihi Claims Settlement Bill: Approval for Introduction <i>Cabinet Legislation Committee</i> <i>Minute of Decision LEG-21-MIN-0021</i> Cabinet Office <i>Meeting date: 11 March 2021</i>	No redactions
4	Ngāti Rangitihi Claims Settlement Bill: Approval for Introduction <i>Cabinet</i> <i>Minute of Decision CAB-21-MIN-0065</i> Cabinet Office <i>Meeting date: 15 March 2021</i>	Some information has been withheld because it is out of scope

In Confidence

Office of the Minister for Treaty of Waitangi Negotiations
Chair, Cabinet Legislation Committee

NGĀTI RANGITIHI CLAIMS SETTLEMENT BILL: APPROVAL FOR INTRODUCTION

Proposal

1. This Cabinet paper seeks approval to introduce the Ngāti Rangitihī Claims Settlement Bill (the Bill). The Bill gives effect to the Ngāti Rangitihī Deed of Settlement (the Deed), signed by the Crown and Te Mana o Ngāti Rangitihī Trust (Te Mana), the Ngāti Rangitihī post-settlement governance entity (PSGE), on 5 December 2020.

Policy

Ngāti Rangitihī

2. Ngāti Rangitihī are a Te Arawa iwi with an area of interest around Rotorua, Kaingaroa, and Matatā. Ngāti Rangitihī are represented in negotiations by Te Mana. The Ngāti Rangitihī area of interest is attached as **Appendix 1**.
3. Ngāti Rangitihī have been party to two previous Treaty settlements: the 2006 Te Arawa Lakes settlement and the 2008 Central North Island Forests Land Collective (CNI) settlement. Ngāti Rangitihī received on-account commercial redress in the form of land with a value of \$10.051 million (2017 dollars) through the CNI settlement.

Negotiations with Ngāti Rangitihī

4. In June 2015, the Crown recognised the mandate of Te Mana to represent Ngāti Rangitihī in negotiating the settlement of their historical Treaty claims. Terms of Negotiation were signed later in 2015.
5. Ngāti Rangitihī have been in substantive negotiations with the Crown since April 2016. Cabinet approved a comprehensive offer to Ngāti Rangitihī in May 2018 [CAB-18-MIN-0225 refers], and in October 2018, Cabinet approved an increase in financial redress [CAB-18-MIN-0514 refers]. In December 2018, the Crown and Te Mana signed an Agreement in Principle.
6. Between June and July 2019 the Ngāti Rangitihī claimant community ratified their PSGE, also named Te Mana, with a 92% approval rate and a 25% participation rate.
7. Cabinet approved the final Ngāti Rangitihī redress package in October 2019 [CAB-19-MIN-0537 refers], and in March 2020, Cabinet approved an increase in total settlement value to address matters arising from the valuation of a cultural redress property [CAB-20-MIN-0096 refers]. On 9 July 2020, the Crown and Te Mana initialled the Deed.
8. Between July and August 2020, the Ngāti Rangitihī claimant community ratified the Deed with a 92% approval rate and a 36% participation rate. On 5 December 2020, the Crown and Te Mana signed the Deed. Upon signing the Deed, Te Mana have advised they support the introduction of the Bill.

9. The Bill has a priority 4 classification in the 2021 Legislative Programme. The Bill will give effect to aspects of the signed Deed. More information about the Bill is attached in the Departmental Disclosure at **Appendix 2**.

Potential contentious issue

10. A potential contentious issue that may be raised during the select committee process is that two of seven trustees of Te Mana do not currently support the settlement. These trustees were vocal during Deed ratification and encouraged others to vote against the Deed. One of their main concerns is that the Deed ratification process occurred during heightened COVID-19 alert levels, with Auckland being at Alert Level 3 and the rest of the nation being at Alert Level 2. They consider that this inhibited the Ngāti Rangitahi claimant community's ability to participate in ratification. My officials worked closely with Te Mana to ensure that appropriate measures were taken to keep Ngāti Rangitahi safe and able to engage in ratification.
11. Ultimately, an overwhelming majority of those who participated in the ratification voted in support of the Deed (92%). Despite heightened COVID-19 alert levels, Te Mana were able to increase voter participation from 25% during PSGE ratification to 36% during Deed ratification. The Minister for Māori Development and I agreed that the ratification demonstrated sufficient support from Ngāti Rangitahi for the Deed.

Regulatory impact analysis

12. The only aspect of this proposal that could potentially require a Regulatory Impact Statement is the Tarawera Awa Restoration Strategy Group natural resources arrangement.
13. The Treasury have confirmed that the Tarawera Awa Restoration Strategy Group natural resources arrangement is exempt from the requirement to provide a Regulatory Impact Statement. This is because the regulatory proposals of the arrangement implement a deed of settlement for a Treaty of Waitangi claim. In addition, it is also exempt on the basis that it has no or minor impact on businesses, individuals and not for profits.

Compliance

14. The Bill complies with the:
- 14.1. principles of the Treaty of Waitangi;
 - 14.2. rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
 - 14.3. principles and guidelines set out in the Privacy Act 1993;
 - 14.4. Legislation Advisory Committee Guidelines: Guidelines on Process and Content of Legislation; and
 - 14.5. relevant international standards and obligations.

Consultation

15. The following agencies have been consulted: Te Pūni Kōkiri, The Treasury, Land Information New Zealand, the Ministry for the Environment, the Department of Conservation, the Department of Internal Affairs, the Ministry for Culture and Heritage, the Ministry for Primary Industries, and the Ministry for Business, Innovation and Employment.

Binding on the Crown

16. The Bill will be binding on the Crown.

Allocation on decision-making powers

17. Not applicable.

Associated regulations

18. Not applicable.

Other instruments

19. Not applicable.

Key definitions

20. The Bill includes the following definitions:

- a. **administering body** has the meaning given in section 2(1) of the Reserves Act 1977;
- b. **aquatic life** has the meaning given in section 2(1) of the Conservation Act 1987;
- c. **Commissioner of Crown Lands** means the Commissioner of Crown Lands appointed in accordance with section 24AA of the Land Act 1948;
- d. **consent authority** has the meaning given in section 2(1) of the Resource Management Act 1991;
- e. **conservation area** has the meaning given in section 2(1) of the Conservation Act 1987;
- f. **Crown** has the meaning given in section 2(1) of the Public Finance Act 1989;
- g. **Director-General** means the Director-General of Conservation;
- h. **freshwater fisheries management plan** has the meaning given in section 2(1) of the Conservation Act 1987;
- i. **interest** means a covenant, easement, lease, license, license to occupy, tenancy or other right of obligation affecting a property;
- j. **LINZ** means Land Information New Zealand;
- k. **property redress schedule** means the property redress schedule of the deed of settlement;
- l. **record of title** has the meaning given in section 5(1) of the Land Transfer Act 2018;
- m. **Registrar-General** has the meaning given to Registrar in section 5(1) of the Land Transfer Act 2017;
- n. **reserve** has the meaning given in section 2(1) of the Reserves Act 1977;
- o. **resource consent** has the meaning given in section 2(1) of the Resource Management Act 1991;

- p. **settlement date** means the date that is 40 working days after the date on which this Act comes into force; and
- q. **Te Mana o Ngāti Rangitahi Trust** and **Trust** mean the trust of that name established by a trust deed dated 28 August 2019.

Commencement of legislation

21. The Act will come into force on the day after the date it receives Royal Assent. Many of the actions of matters occurring under the Bill will take effect on settlement date (40 working days after the date that the Act comes into force).

Parliamentary stages

22. The Deed contains a provision stating it is unconditional upon legislation coming into force and the Crown will propose the settlement legislation for introduction.
23. I recommend the Bill be introduced on the first available date after confirmation by the Māori Affairs Select Committee, and be passed by early-2022.

Proactive release

24. I intend to release this paper proactively, making any necessary redactions, within 30 business days of final Cabinet decisions, or following the introduction of the Bill.

Recommendations

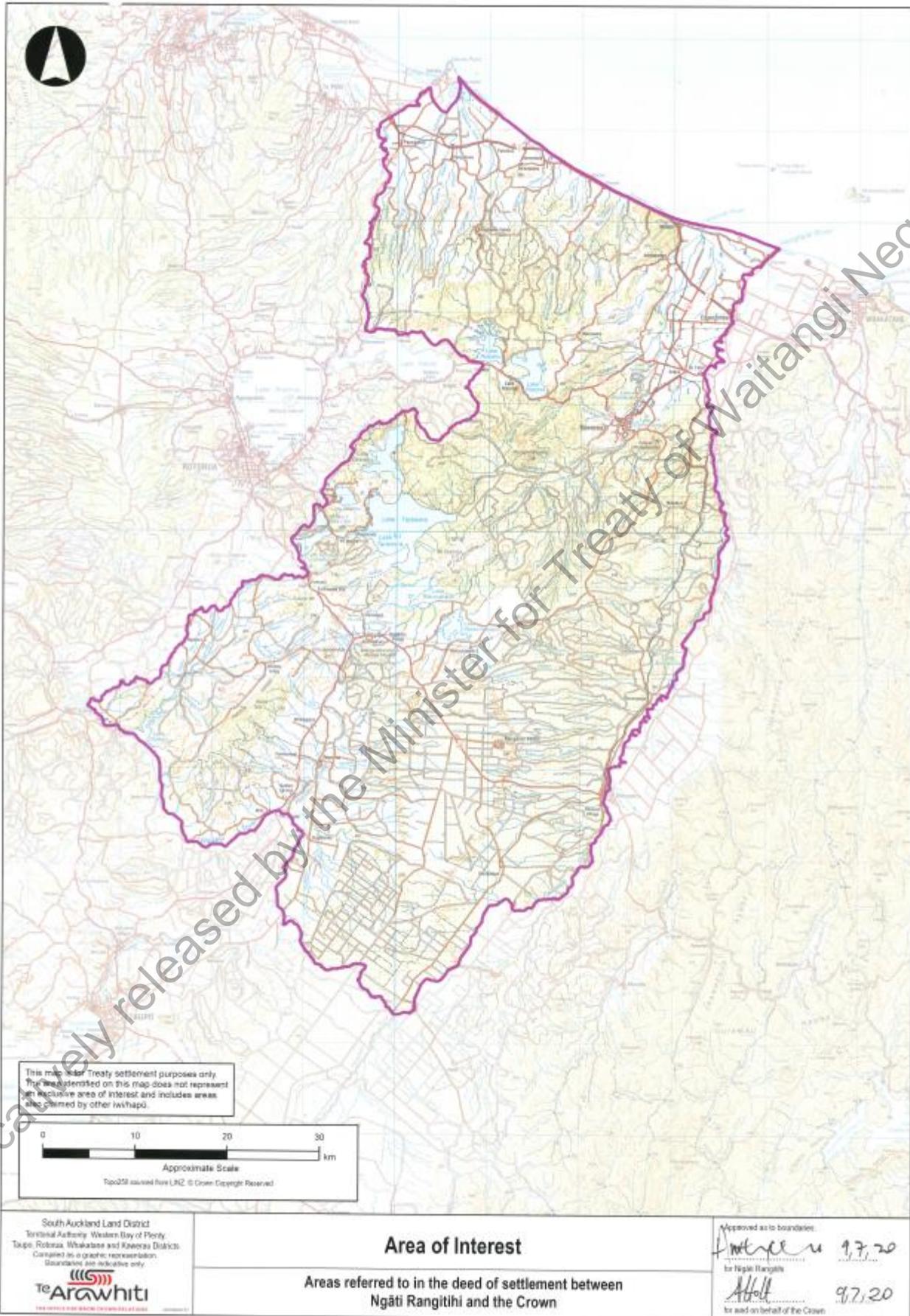
I recommend that the Committee:

1. **note** the Ngāti Rangitahi Claims Settlement Bill has a priority 4 classification in the 2021 Legislative Programme;
2. **note** the Ngāti Rangitahi Claims Settlement Bill gives effect to aspects of the Ngāti Rangitahi Deed of Settlement that was signed on 5 December 2020;
3. **note** Te Mana o Ngāti Rangitahi Trust supports the introduction of the Ngāti Rangitahi Claims Settlement Bill into the House;
4. **agree** the Ngāti Rangitahi Claims Settlement Bill be introduced on the first available date after Cabinet approval; and
5. **agree** the Government propose the Ngāti Rangitahi Claims Settlement Bill be:
 - 5.1. referred to the Māori Affairs Select Committee for consideration; and
 - 5.2. enacted, if possible, by mid-2022.

Authorised for lodgement

Hon Andrew Little
Minister for Treaty of Waitangi Negotiations

Appendix 1: Ngāti Rangitahi Area of Interest



South Auckland Land District
 Territorial Authority: Western Bay of Plenty,
 Taupo, Rotorua, Whakatane and Kawerau Districts.
 Contours as a graphic representation.
 Boundaries are indicative only.

Te Arawhiti
Te Kaitiaki Take Kōwhiri Mātahi

Area of Interest

Areas referred to in the deed of settlement between
 Ngāti Rangitahi and the Crown

Approved as to boundaries:
[Signature] 9.7.20
 for Ngāti Rangitahi
[Signature] 9.7.20
 for and on behalf of the Crown

Appendix 2: Departmental Disclosure Statement

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Departmental Disclosure Statement

Ngāti Rangitahi 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 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.

2 March 2021

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Part One: General Policy Statement

This Bill gives effect to certain matters contained in the Deed of Settlement (the Deed), signed on 5 December 2020 by the Crown and Ngāti Rangitihī. The Deed provides for the final settlement of all the historical Treaty of Waitangi claims of Ngāti Rangitihī 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 Rangitihī and historical claims;
- *Part 2* sets out in 9 subparts the cultural redress for Ngāti Rangitihī and includes protocols, a statutory acknowledgement, deeds of recognition, a whenua rāhui, a joint advisory committee, a reserve status reclassification, official geographic names, vesting of cultural redress properties, and a natural resource arrangement;
- *Part 3* sets out in 2 subparts commercial redress for Ngāti Rangitihī and includes a right of first refusal, a two year deferred selection property and a right of first offer.

There are 4 schedules to the Bill:

- Schedule 1 describes the areas subject to a statutory acknowledgement;
- Schedule 2 describes the areas subject to a whenua rāhui;
- Schedule 3 describes the cultural redress properties; and
- Schedule 4 provides for notices in relation to right of first refusal 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>He Maunga Rongo: Report on Central North Island Claims,</i> https://forms.justice.govt.nz/search/WT/reports/reportSummary.html?reportId=wt_DOC_68568897 https://forms.justice.govt.nz/search/WT/reports/reportSummary.html?reportId=wt_DOC_68569171 https://forms.justice.govt.nz/search/WT/reports/reportSummary.html?reportId=wt_DOC_68569454 https://forms.justice.govt.nz/search/WT/reports/reportSummary.html?reportId=wt_DOC_68569572</p> <p><i>The Ngāti Awa Settlement Cross-Claims Report</i> https://forms.justice.govt.nz/search/WT/reports/reportSummary.html?reportId=wt_DOC_68003530</p> <p><i>The Ngāti Tūwharetoa ki Kawerau Settlement Cross-Claim Report</i> https://forms.justice.govt.nz/search/WT/reports/reportSummary.html?reportId=wt_DOC_68003530</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 Treasury agrees no Regulatory Impact Assessment is required for this proposal, since it implements deeds of settlement for Treaty of Waitangi claims, provides for the commencement of existing legislation and is expected to 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 for Māori Crown Relations – Te Arawhiti and Te Mana o Ngāti Rangitihī negotiators engaged with 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

The Office for Māori Crown Relations – Te Arawhiti provided the Bill to Crown Law Office on 21 July 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 of Waitangi claims of Ngāti Rangitihī and removes the jurisdiction of courts, tribunals and other judicial bodies to inquire into the claims, Deed of Settlement, and redress provided (clauses 14 and 15).

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
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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>Ngāti Rangitahi were consulted on the content of the Bill.</i></p> <p><i>Stakeholder 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>Stakeholder groups: Tūhourangi, Ngāti Awa, Ngāti Manawa, Ngāti Tūwharetoa (Bay of Plenty), Ngāti Tarāwhai, Whakatāne District Council, Rotorua Lakes Council, Kawerau District Council, and the Bay of Plenty Regional 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 negotiations process through consultation with relevant agencies, key stakeholders, and engagement with third parties. The Deed of Settlement was ratified by Ngāti Rangitahi during a four-week voting period in July and August 2020.</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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Cabinet Legislation Committee

Summary

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Ngāti Rangitahi Claims Settlement Bill: Approval for Introduction

Portfolio	Treaty of Waitangi Negotiations
Purpose	This paper seeks approval for the introduction of the Ngāti Rangitahi Claims Settlement Bill (the Bill).
Previous Decisions	In October 2019, MCR approved the final settlement package for the comprehensive settlement of the historical Treaty of Waitangi claims of Ngāti Rangitahi [MCR-19-MIN-0037].
Proposal	On 5 December 2020, the Crown and Ngāti Rangitahi signed a Deed of Settlement. The Bill gives effect to the settlement package.
Impact Analysis	Not required.
Compliance	A Departmental Disclosure Statement is attached.
Timing Matters	Introduced: as soon as possible; Referred: Māori Affairs Committee; Enacted: by mid-2022, if possible.
Communications	None indicated.
Consultation	Paper prepared by Te Arawhiti. MCH, DoC, MoE, MBIE, MfE, Treasury, LINZ, DIA, TPK, and MPI were consulted. The Minister for Treaty of Waitangi Negotiations indicates that the Minister of Energy and Resources, the Minister for Arts, Culture and Heritage, the Minister of Local Government, and LEG ministers were consulted.

The Minister for Treaty of Waitangi Negotiations recommends that the Committee:

- 1 note that the Ngāti Rangitahi Claims Settlement Bill gives effect to aspects of the Ngāti Rangitahi Deed of Settlement that was signed on 5 December 2020;
- 2 note that Te Mana o Ngāti Rangitahi Trust supports the introduction of the Ngāti Rangitahi Claims Settlement Bill into the House;
- 3 approve for introduction the Ngāti Rangitahi Claims Settlement Bill [PCO 20387/6.0], subject to the approval of the government caucus and sufficient support in the House of Representatives;
- 4 agree that the Ngāti Rangitahi Claims Settlement Bill be introduced on the first available date after Cabinet's approval;
- 5 agree that the government propose the Ngāti Rangitahi Claims Settlement Bill be:
 - 5.1 referred to the Māori Affairs Committee for consideration; and
 - 5.2 enacted, if possible, by mid-2022.

Gerrard Carter
Committee Secretary

Hard-copy distribution:

Cabinet Legislation Committee
Minister of Energy and Resources
Minister for Arts, Culture and Heritage
Minister of Local Government



Cabinet Legislation Committee

Minute of Decision

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Ngāti Rangitahi Claims Settlement Bill: Approval for Introduction

Portfolio Treaty of Waitangi Negotiations

On 11 March 2021, the Cabinet Legislation Committee:

- 1 **noted** that the Ngāti Rangitahi Claims Settlement Bill gives effect to aspects of the Ngāti Rangitahi Deed of Settlement that was signed on 5 December 2020;
- 2 **noted** that Te Mana o Ngāti Rangitahi Trust supports the introduction of the Ngāti Rangitahi Claims Settlement Bill into the House;
- 3 **approved** for introduction the Ngāti Rangitahi Claims Settlement Bill [PCO 20387/6.0], subject to the approval of the government caucus and sufficient support in the House of Representatives;
- 4 **agreed** that the Ngāti Rangitahi Claims Settlement Bill be introduced on the first available date after Cabinet's approval;
- 5 **agreed** that the government propose the Ngāti Rangitahi Claims Settlement Bill be:
 - 5.1 referred to the Māori Affairs Committee for consideration; and
 - 5.2 enacted, if possible, by mid-2022.

Gerrard Carter
Committee Secretary

Present:

Hon Chris Hipkins (Chair)
Hon Andrew Little
Hon Poto Williams
Hon Kris Faafoi
Hon Michael Wood (Deputy Chair)
Hon Dr David Clark
Keiran McAultry, MP (Senior Government Whip)

Officials present from:

Office of the Prime Minister
Officials Committee for LEG



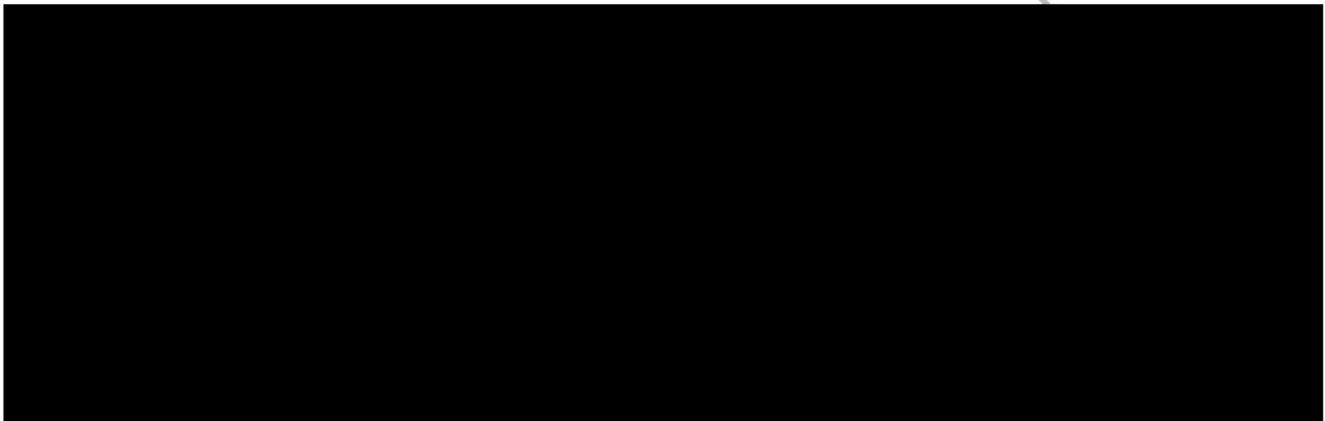
Cabinet

Minute of Decision

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Report of the Cabinet Legislation Committee: Period Ended 12 March 2021

On 15 March 2021, Cabinet made the following decisions on the work of the Cabinet Legislation Committee for the period ended 12 March 2021:



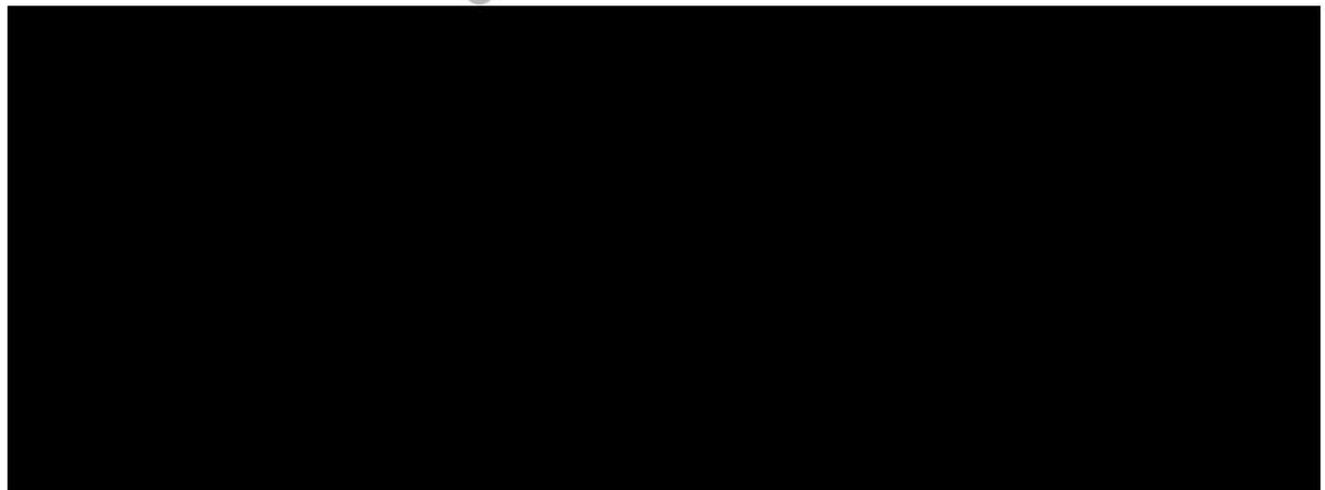
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scope

LEG-21-MIN-0021

**Ngāti Rangitihi Claims Settlement Bill: Approval
for Introduction**

CONFIRMED

Portfolio: Treaty of Waitangi Negotiations



out of
scope

Michael Webster
Secretary of the Cabinet