

## Hon Andrew Little

Minister for Treaty of Waitangi Negotiations

### Proactive release – Ngāti Hei Claims Settlement Bill: Approval for introduction

Date of issue: 21 February 2023

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

Some information has been withheld on the basis that it would not, if requested under the Official Information Act 1982 (OIA), be released. Where that is the case, the relevant section of the OIA has been noted and no public interest has been identified that would outweigh the reasons for withholding it.

No.	Document	Comments
1	<b>Ngāti Hei Claims Settlement Bill: Approval for introduction</b> Cabinet paper Office of the Minister for Treaty of Waitangi Negotiations 8 December 2022	Released in full
2	<b>Ngāti Hei Claims Settlement Bill: Approval for introduction</b> <i>Minute of Decision LEG-22-MIN-0225</i> Cabinet Legislation Committee Meeting date: 8 December 2022	Released in full
3.	<b>Report of the Cabinet Legislation Committee: Period Ended 9 December 2022</b> <i>Cabinet minute CAB-22-MIN-0570</i> Cabinet Office Meeting date: 12 December 2022	Redacted in part because out of scope

In Confidence

Office of the Minister for Treaty of Waitangi Negotiations

Cabinet Legislation Committee

## Ngāti Hei Claims Settlement Bill: Approval for introduction

### Proposal

- 1 I propose Cabinet approve the Ngāti Hei Claims Settlement Bill (the bill) for introduction to the House of Representatives. The bill will give effect to aspects of the Ngāti Hei Deed of Settlement (the deed), signed by Ngāti Hei and the Crown on 17 August 2017.

### Policy

- 2 The Crown has accepted an obligation to resolve the historical grievances of Māori arising from Crown actions or omissions before 21 September 1992 in accordance with the principles of the Treaty of Waitangi. The Crown negotiates settlements with large natural groups of tribal interests. Settlements are intended to remove the sense of grievance and include a Crown apology in addition to cultural, financial and commercial redress.
- 3 The policy given effect to by this bill directly relates to the Government's commitment to honour Te Tiriti o Waitangi, strengthen the Māori-Crown relationship and work in true partnership with Māori.

### *Ngāti Hei Treaty negotiations and deed of settlement*

- 4 Ngāti Hei is an iwi of approximately 630 people (2018 census) located on the eastern seaboard of the Coromandel Peninsula from Onemana to Whangapoua. Their area of interest is centred around Tairua and Ahuahu and includes offshore islands extending north to Cuvier Island. The Ngāti Hei area of interest is attached at **Appendix One**.
- 5 In 2009, the Crown proposed a regional approach to Treaty settlements in the Hauraki region. The twelve iwi of Hauraki, including Ngāti Hei, formed the Pare Hauraki Collective for the purpose of negotiating collective redress for shared interests in the Hauraki region. The Pare Hauraki Collective has its own separate collective redress deed and bill. The Crown also entered individual negotiations with all Hauraki iwi, including Ngāti Hei.
- 6 On 2 December 2013 and 14 November 2016, Cabinet made decisions on settlement redress for Ngāti Hei. The redress included acknowledgements and an apology for Crown breaches of the Treaty of Waitangi, the return of 15 sites of significance, two sites jointly vested in Ngāti Hei and other iwi, \$8.5 million and other cultural and commercial redress. Cabinet authorised the Minister of Māori Development and the Minister for Treaty of Waitangi Negotiations to consider the outcome of ratification of the proposed deed containing the redress by Ngāti Hei, and for the Minister for Treaty

of Waitangi Negotiations to sign it on behalf of the Crown [CAB Min 13 42-12 and CAB-16-MIN-0609.01 refer].

- 7 In mid-2017, the Ngāti Hei claimant community ratified the settlement and supported the establishment of a governance entity to receive the redress. The Ministers at the time considered the ratification process and results (37% participation; 100% in favour of the deed; 92% in favour of the governance entity) and agreed they showed sufficient support for the Crown and Ngāti Hei to enter into the settlement. On 17 August 2017, I signed the deed with Ngāti Hei.
- 8 The delay between signing the deed and seeking approval to introduce the legislation is due to the structure of the Hauraki negotiations. Initially, the Ngāti Hei Claims Settlement Bill was drafted as part of an omnibus bill with other Hauraki settlement legislation to account for the significant inter-linkages between the bills, such as shared redress.
- 9 Due to ongoing delays across the Hauraki settlements, in 2021 I decided not to pursue the omnibus approach and the bills were re-drafted as stand-alone bills. Final drafting issues have now been resolved with Ngāti Hei and the bill is ready for introduction.

#### *Contentious issues*

- 10 Opposition to the bill is not expected. Ngāti Hei has strong internal cohesion and resolved overlapping interests with other Hauraki groups without issue. The Ngāti Hei redress includes some high-profile sites, for example at Hahei and Cathedral Cove, which could attract public interest and submission, but there has been very little public attention to date and public rights to access have been protected.
- 11 Ngāti Hei itself may submit on implementation matters, including lack of dedicated funding to support implementation. Officials are working with Ngāti Hei to resolve their implementation concerns.

#### *Ngāti Hei Claims Settlement Bill*

- 12 The deed, and the settlement, are conditional on the settlement legislation coming into force. Section 10 of the deed requires the Crown to propose the draft settlement bill for introduction to the House of Representatives and for the Ngāti Hei governance entity to support the passage of the bill through Parliament.
- 13 The bill (attached at **Appendix Two**) is required to ensure the finality of the settlement by removing the ability of the courts and Tribunal to re-open the historical claims of Ngāti Hei, to provide for statutory instruments to be applied, remove statutory memorials from land titles in the claim area and to vest land in the governance entity where normal administrative land transfer processes would not be appropriate (such as public conservation land).
- 14 Where public conservation land is being returned through the settlement, where required, measures have been put in place to ensure the conservation values of those sites is protected and public access, where appropriate, is maintained.
- 15 Parts of the bill relate to the Resource Management Act 1991 (RMA) which will be replaced by the Spatial Planning Act (SPA) and Natural and Built Environments Act

(NBA) as part of the resource management reforms. Officials are engaging with the Hauraki Collective, of which Ngāti Hei are a member, to discuss and agree how redress affected by the reforms will be upheld. Agreement with Ngāti Hei will be recorded through a deed to amend. The necessary legislative amendments could be implemented through a supplementary order paper to amend the bill (if the SPA and NBA have been enacted) or through an amendment bill to amend the settlement legislation (if it is enacted before the SPA and NBA).

- 16 The bill uses the standard clauses for Treaty settlement bills, agreed by the Attorney-General and Minister for Treaty of Waitangi Negotiations in 2013 and last updated in 2021.
- 17 The structure of the bill is:
  - 17.1. Part 1: Preliminary matters, including summary of historical account, acknowledgements and apology, and settlement of historical claims;
  - 17.2. Part 2: Cultural redress, including the transfer of public conservation land other, statutory acknowledgements, protocols redress and changes to official geographic names;
  - 17.3. Part 3: Commercial redress: transfer of commercial property and non-nationalised Crown-owned minerals in property transferring through the settlement;
  - 17.4. Part 4: Amendments to other legislation, including to the Reserves and Other Lands Disposal Act 1970, the Crown Minerals Act 1991, and the Wildlife Sanctuary (Aldermen Islands) Order 1965; and
  - 17.5. Schedules: Describe the cultural redress and statutory areas.

### **Impact analysis**

- 18 The bill does not have any regulatory making powers and does not alter the regulatory regime. As a result, a regulatory impact assessment is not required

### **Compliance**

- 19 The bill complies with the:
  - 19.1. principles of the Treaty of Waitangi;
  - 19.2. rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
  - 19.3. disclosure statement requirements;
  - 19.4. principles and guidelines set out in the Privacy Act 2020;
  - 19.5. Legislation Design and Advisory Committee Legislation Guidelines (2021 edition); and

19.6. relevant international standards and obligations.

### **Consultation**

- 20 The following departments were consulted in the development of the policy implemented in the bill: The Treasury, Ministry for the Environment, Department of Conservation, Ministry of Primary Industries, Department of Inland Revenue, Ministry for Culture and Heritage, Ministry of Education, Ministry of Business, Innovation and Employment, Te Puni Kōkiri, Ngā Pou Taunaha o Aotearoa New Zealand Geographic Board and Toitū Te Whenua Land Information New Zealand. The Crown Law Office and the Parliamentary Counsel Office (PCO) also provided advice in the preparation of the bill and this paper.
- 21 PCO are undertaking final quality assurance processes to ensure the bill is ready for introduction. I propose PCO be authorised to make any necessary minor changes to the bill before final consideration by Cabinet.

### **Binding on the Crown**

- 22 The resulting Act will be binding on the Crown.

### **Commencement of legislation**

- 23 The resulting Act will come into force on the day after the date on which it receives Royal Assent. Many of the actions or matters occurring under the bill will occur or take effect on settlement date, which is 60 working days after the date on which the Act comes into force.

### **Parliamentary stages**

- 24 I propose the bill be introduced following Cabinet approval.
- 25 The bill has a priority 4 classification in the 2022 Legislative Programme to be referred to a select committee this year. However, the Parliamentary Business Committee has agreed Hauraki settlement bills (excluding Hako and Ngāti Porou ki Hauraki) will proceed in cognate through the legislative process to ensure the resulting acts have the same settlement date. Upon introduction, the bill will await the introduction of the remaining Hauraki bills, before proceeding to first reading. Depending on the progress of the other Hauraki bills, it may not be possible for the bill to progress to first reading this year.
- 26 Once first reading occurs and the bill is referred to the Māori Affairs Select Committee, parties may choose to submit on the bill to the Māori Affairs Select Committee and those submissions will be for the committee to consider as part of normal parliamentary process.

### **Proactive release**

- 27 I intend to release this paper proactively, subject to redaction as appropriate under the principles of the Official Information Act 1982, within 30 business days.

## Recommendations

- 28 The Minister for Treaty of Waitangi Negotiations recommends the Committee:
- 1 **note** the Ngāti Hei Claims Settlement Bill gives effect to aspects of the Ngāti Hei Deed of Settlement signed by Ngāti Hei and the Crown on 17 August 2017;
  - 2 **note** the Ngāti Hei Claims Settlement Bill holds a category 4 priority in the 2022 Legislation Programme to be referred to a select committee in the year;
  - 3 **note** the Parliamentary Counsel Office is undertaking final quality assurance to ensure the Ngāti Hei Claims Settlement Bill is ready for introduction;
  - 4 **authorise** the Parliamentary Counsel Office to make any necessary minor changes to the Ngāti Hei Claims Settlement Bill before final consideration by Cabinet;
  - 5 **approve** the Ngāti Hei Claims Settlement Bill for introduction subject to the final approval of the Government caucus and sufficient support in the House of Representatives;
  - 6 **agree** the bill be introduced after Cabinet has approved the Ngāti Hei Claims Settlement Bill for introduction;
  - 7 **note** the Minister for Treaty of Waitangi Negotiations proposes the Ngāti Hei Claims Settlement Bill await the introduction of the remaining Hauraki bills, before proceeding to first reading;
  - 8 **agree** the Ngāti Hei Claims Settlement Bill:
    - 8.1 be referred to the Māori Affairs committee for consideration; and
    - 8.2 be enacted, if possible, in the first half of 2024.

Authorised for lodgement

Hon Andrew Little  
Minister for Treaty of Waitangi Negotiations

# Appendix One: Ngāti Hei area of Interest



North Auckland & South Auckland Land Districts  
 Territorial Authority:  
 Thames-Coromandel District  
 and Auckland Council  
 Compiled as a graphic representation.  
 Boundaries are indicative only.

**Office of Treaty Settlements**  
 Te Kaitiaki Take Kōwhiri  
 P.O. Box 1040, Wellington  
 PART OF THE MINISTRY OF JUSTICE

**Ngāti Hei Area of Interest**

Areas referred to in the Deed of Settlement between  
 Ngāti Hei and the Crown

Approved as to boundaries:  
 [Signature] 14.09.17  
 for Ngāti Hei  
 [Signature] 14.09.17  
 for and on behalf of the Crown

**Appendix Two: Ngāti Hei Claims Settlement Bill**

Proactively released by the Minister for Treaty of Waitangi Negotiations

Proactively released by the Minister for Treaty of Waitangi Negotiations



# Cabinet Legislation Committee

## Minute of Decision

*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 Hei Claims Settlement Bill: Approval for introduction

**Portfolio**                      **Treaty of Waitangi Negotiations**

On 8 December 2022, the Cabinet Legislation Committee:

- 1        **noted** that the Ngāti Hei Claims Settlement Bill (the Bill) gives effect to aspects of the Ngāti Hei Deed of Settlement signed by Ngāti Hei and the Crown on 17 August 2017;
- 2        **noted** that the Bill holds a category 4 priority in the 2022 Legislation Programme (to be referred to a select committee in 2022);
- 3        **noted** that the Parliamentary Counsel Office is undertaking final quality assurance to ensure the Ngāti Hei Claims Settlement Bill is ready for introduction;
- 4        **authorised** the Parliamentary Counsel Office to make any necessary minor changes to the Ngāti Hei Claims Settlement Bill before introduction;
- 5        **approved** the Ngāti Hei Claims Settlement Bill [PCO 18984/8.46] for introduction subject to the final approval of the government caucus and sufficient support in the House of Representatives;
- 6        **agreed** that the Bill be introduced after Cabinet approval;
- 7        **noted** that the Minister for Treaty of Waitangi Negotiations proposes that the Ngāti Hei Claims Settlement Bill await the introduction of the remaining Hauraki bills, before proceeding to first reading;
- 8        **agreed** that the Ngāti Hei Claims Settlement Bill be:
  - 8.1        referred to the Māori Affairs committee for consideration;
  - 8.2        enacted, if possible, in the first half of 2024.

Rebecca Davies  
Committee Secretary

**Attendance: see over**

**Present:**

Hon Chris Hipkins (Chair)  
Hon Andrew Little  
Hon David Parker  
Hon Michael Wood  
Hon Dr David Clark  
Hon Dr Ayesha Verrall  
Dr Duncan Webb, MP

**Officials present from:**

Office of the Prime Minister  
Officials Committee for LEG

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# Cabinet

## Minute of Decision

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### Report of the Cabinet Legislation Committee: Period Ended 9 December 2022

On 12 December 2022, Cabinet made the following decisions on the work of the Cabinet Legislation Committee for the period ended 9 December 2022:

[REDACTED]	[REDACTED]	[REDACTED]	Out of scope
[REDACTED]	[REDACTED]	[REDACTED]	
[REDACTED]	[REDACTED]	[REDACTED]	
[REDACTED]	[REDACTED]	[REDACTED]	
LEG-22-MIN-0225	<b>Ngāti Hei Claims Settlement Bill: Approval for Introduction</b> Portfolio: Treaty of Waitangi Negotiations		CONFIRMED
[REDACTED]	[REDACTED]	[REDACTED]	Out of scope
[REDACTED]	[REDACTED]	[REDACTED]	
[REDACTED]	[REDACTED]	[REDACTED]	

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[REDACTED]

[REDACTED]

[REDACTED]

Out of scope

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Rachel Hayward  
Secretary of the Cabinet

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