

**Hon Andrew Little**  
Minister for Treaty of Waitangi Negotiations

**Proactive release – NGĀTI HINERANGI CLAIMS SETTLEMENT BILL: APPROVAL FOR INTRODUCTION**

Date of issue: 4 October 2019

The following document has 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 Hinerangi Claims Settlement Bill: Approval For Introduction</b> <i>Cabinet paper</i> Office of the Minister for Treaty of Waitangi Negotiations 27 August 2019	Released in full
2	<b>Ngāti Hinerangi Claims Settlement Bill: Approval For Introduction</b> <i>Minute of Decision (LEG-19-MIN-0126)</i> Cabinet Legislation Committee 27 August 2019	Released in full
3	<b>Report of the Cabinet Legislation Committee: Period Ended 30 August 2019</b> <i>Minute of Decision (CAB-19-MIN-0435)</i> Cabinet 2 September 2019	Redacted in part because out of scope

In Confidence

Office of the Minister for Treaty of Waitangi Negotiations

Chair, Cabinet Legislation Committee

## **NGĀTI HINERANGI CLAIMS SETTLEMENT BILL: APPROVAL FOR INTRODUCTION**

### **Proposal**

- 1 This paper seeks approval to introduce the Ngāti Hinerangi Claims Settlement Bill (the Bill).
- 2 The Bill gives effect to the Ngāti Hinerangi Deed of Settlement (the Deed), signed by the Crown, the mandated entity, the Ngāti Hinerangi Trust (NHT) and the post-settlement governance entity, Te Puāwaitanga o Ngāti Hinerangi Iwi Trust (PSGE) on 4 May 2019.

### **Policy**

#### *Ngāti Hinerangi*

- 3 Ngāti Hinerangi are an iwi in eastern Waikato based in Matamata with an area of interest extending from Matamata to Tauranga Moana and including part of the Kaimai Ranges. Ngāti Hinerangi have approximately 1200 registered members. The Ngāti Hinerangi area of interest map is attached at **Appendix 1**.
- 4 Ngāti Hinerangi's historical claims relate to conflict with the Crown in Tauranga, including the 1867 Bush campaign, the Crown's confiscation of land in Tauranga and the operation of the Native Land Court. Ngāti Hinerangi were left virtually landless by these actions which have contributed to their economic and social marginalisation within New Zealand society and the loss of traditional tribal structures and knowledge.

#### *Negotiations*

- 5 The Crown recognised the mandate of NHT to negotiate a settlement of Ngāti Hinerangi historical Treaty of Waitangi claims and signed terms of negotiation in February 2014. Negotiations began in March 2014.
- 6 On 27 October 2015, Cabinet approved a Crown offer of financial and commercial redress for Ngāti Hinerangi of \$8.1 million [CAB-15-MIN-0179 refers]. On 12 December 2015 the Crown and Ngāti Hinerangi signed an agreement in principle.
- 7 In July 2018, Cabinet approved the final redress package for the comprehensive settlement of the historical Treaty of Waitangi claims of Ngāti Hinerangi [CAB-18-MIN-0303 refers]. The final redress package includes an agreed historical account, Crown acknowledgements and apology, cultural redress, and financial and commercial redress of \$8.1 million. Ngāti Hinerangi accepted the Crown offer on 13 July 2018.
- 8 The Crown and Ngāti Hinerangi initialled the Deed on 14 December 2018.

### *Ratification of the Deed of settlement and post-settlement governance entity*

- 9** The Deed and the PSGE were ratified by the Ngāti Hinerangi claimant community between 8 February and 8 March 2019. The participation rate of all eligible and registered voters for the vote on the Deed was 58 per cent (502 votes) and 59 per cent (506 votes) for the PSGE, which is high compared to participation rates in other recent ratification processes. Support for the Deed was 96 per cent (482 votes) of votes cast and support for the PSGE was 95 per cent (481 votes).
- 10** On 23 April 2019, Te Minita Whanaketanga Māori and I approved the ratification results. The ratification results of the Deed and PSGE demonstrated sufficient support from the Ngāti Hinerangi claimant community for both the Deed and PSGE. Consequently the Deed was signed on 4 May 2019 by the Crown and Ngāti Hinerangi.

### *Why is the Bill required?*

- 11** Some of the components of the settlement package rely solely on the Deed but a substantive portion relies on legislation to be enacted and implemented. The Crown agreed in the Deed to introduce this legislation to Parliament.

## Possible contentious issues

### *Waitangi Tribunal urgency applications*

- 12** There has been ongoing opposition to the Ngāti Hinerangi settlement by some individuals throughout the negotiation process and leading up to ratification.
- 13** In July 2018 the Waitangi Tribunal dismissed two urgency applications (Wai 2578 and Wai 2693) on the basis that there were alternative remedies available to them, including a withdrawal process specified in the NHT deed of mandate. The Waitangi Tribunal also considered the applicants had not been able to show they had suffered or were about to suffer significant, immediate and irreversible prejudice arising from a Crown act or omission.
- 14** Following ratification of the Deed in May 2019, the Wai 2578 and Wai 2693 claimants again filed urgency applications in the Waitangi Tribunal. The Wai 2578 claimants once again challenged the mandate of NHT and the Ngāti Hinerangi PSGE, similar to previous applications which have been declined. The Wai 2693 claimants alleged that the majority of Ngāti Tokotoko hapū members have been excluded from participating in the ratification process and also challenge NHT's mandate.
- 15** A further urgency application was filed in the Waitangi Tribunal on behalf of another hapū, Ngāti Pango (Wai 2886). The applicant considers that Ngāti Pango will be left out of the Ngāti Hinerangi settlement. The Crown opposed all three urgency applications.
- 16** On 21 August the Waitangi Tribunal declined the Wai, 2578, Wai 2694 and Wai 2886 urgency applications. In relation to the Wai 2578 and Wai 2694 applications the Waitangi Tribunal considered the applications were largely repetitious of previous applications and did not make use of alternative remedies available to withdraw their mandate.
- 17** In respect of the Wai 2886 application the Waitangi Tribunal concluded that Ngāti Pango members had whakapapa connections to Ngāti Hinerangi and therefore will benefit from the Ngāti Hinerangi settlement.

### *Overlapping interests*

- 18** The Ngāti Hinerangi area of interest is overlapped by 11 groups.<sup>1</sup> All overlapping interests have been addressed.
- 19** In relation to Tauranga Moana iwi (Ngā Hapū o Ngāti Ranginui and Ngāi Te Rangi), Ngāti Hinerangi agreed to transfer ownership (in full or in part) post-settlement of three cultural redress properties and to establish new reserve management bodies for them.
- 20** Post-settlement Ngāti Hinerangi may transfer one cultural redress site and transfer another undivided half-share of a cultural redress site to Ngā Hapu o Ngāti Ranginui as tenants-in-common and establish a joint administering body. Ngāti Hinerangi may also transfer a half-share of a cultural redress site to Ngāi Te Rangi and establish a joint administering body. This Bill includes provisions to facilitate this process.

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<sup>1</sup> Ngāti Hauā, Raukawa, Ngāti Tara Tokanui, Ngāti Rāhiri Tumutumu, Ngāti Maru, Ngāti Tamaterā, Hako, Ngaati Whanaunga, Ngā Hapū o Ngāti Ranginui, Ngāti Pūkenga and Ngāi Te Rangi.

**21** The Minister of Conservation and I agreed to these proposals consistent with our delegations [CAB-18-MIN-303], as these arrangements addressed overlapping interests and have the greatest potential to set the relationship between Ngāti Hinerangi and the Tauranga Moana iwi on a new course post-settlement.

### **Regulatory impact analysis**

**22** This Bill does not have any regulatory making powers and does not alter the regulatory regime.

### **Compliance**

**23** The Bill complies with the:

- 1.1 principles of the Treaty of Waitangi;
- 1.2 rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
- 1.3 principles and guidelines set out in the Privacy Act 1993;
- 1.4 Legislation Advisory Committee Guidelines: Guidelines on Process and Content of Legislation; and
- 1.5 relevant international standards and obligations.

## Consultation

- 24** The following departments were consulted in the development of the policy implemented in this Bill: The Treasury, Department of Conservation, Department of Inland Revenue, Housing New Zealand Corporation, Ministry for Culture and Heritage, Ministry of Education, Department of Internal Affairs, Ministry for the Environment, Ministry of Business, Innovation and Employment, Ministry for Primary Industries, New Zealand Police, New Zealand Transport Agency, Te Puni Kōkiri, and Land Information New Zealand.
- 25** The Crown Law Office and the Parliamentary Counsel Office (PCO) were also consulted in the preparation of the Bill and this paper.
- 26** NHT has provided formal written support for its introduction.
- 27** 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

- 28** The Bill will be binding on the Crown.

## Definitions

- 29** The Bill includes the following definitions:
- 1.6 **administering body** has the meaning given in section 2(1) of the Reserves Act 1977;
- 1.7 **aquatic life** has the meaning given in section 2(1) of the Conservation Act 1987;
- 1.8 **Commissioner of Crown Lands** means the Commissioner of Crown Lands appointed in accordance with section 24AA of the Land Act 1948;
- 1.9 **consent authority** has the meaning given in section 2(1) of the Resource Management Act 1991;
- 1.10 **conservation area** has the meaning given in section 2(1) of the Conservation Act 1987;
- 1.11 **conservation legislation** means –
- 1.11.1 the Conservation Act 1987; and
- 1.11.2 the enactments listed in Schedule 1 of that Act;
- 1.12 **conservation management plan** has the meaning given in section 2(1) of the Conservation Act 1987;
- 1.13 **conservation management strategy** has the meaning given in section 2(1) of the Conservation Act 1987;

- 1.14 **Crown** has the meaning given in section 2(1) of the Public Finance Act 1989;
- 1.15 **Director-General** means the Director-General of Conservation;
- 1.16 **LINZ** means Land Information New Zealand;
- 1.17 **reserve** has the meaning given in section 2(1) of the Reserves Act 1977; and
- 1.18 **resource consent** has the meaning given in section 2(1) of the Resource Management Act 1991.

### **Commencement of legislation**

- 30** The 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 the date that is 40 working days after the date on which the Act comes into force.

### **Introduction and passage**

- 31** I propose the Bill be introduced after Cabinet confirmation and be passed by mid-2020. The Bill has a priority 4 classification in the 2019 Legislative Programme to be referred to a select committee in the year.
- 32** I propose the Bill be referred to the Māori Affairs Committee.
- 33** The Deed contains a provision stating it is conditional upon legislation coming into force and the Crown will propose the settlement legislation for introduction.
- 34** The Deed provides both the Crown and Ngāti Hinerangi with a right to terminate the Deed should the settlement legislation not have come into force within 36 months after the signing of the Deed. It is my expectation the Bill will be enacted in the first half of 2020 and will therefore comfortably meet the 36-month condition.

### **Proactive release**

- 35** I intend to proactively release this paper in whole, making any necessary redactions, once the Bill is introduced.

### **Recommendations**

- 37** I recommend that the Cabinet Legislation Committee:
- 1 **note** the Ngāti Hinerangi Claims Settlement Bill has priority 4 classification in the 2019 Legislative Programme to be referred to a select committee in the year;
  - 2 **note** the Ngāti Hinerangi Claims Settlement Bill gives effect to aspects of the Ngāti Hinerangi Deed of Settlement signed on 4 May 2019;
  - 3 **note** the Parliamentary Counsel Office is undertaking final quality assurance to ensure the Ngāti Hinerangi Claims Settlement Bill is ready for introduction;

- 4 **authorise** the Parliamentary Counsel Office to make any necessary minor changes to the Ngāti Hinerangi Claims Settlement Bill before final consideration by Cabinet;
- 5 **approve** the Ngāti Hinerangi Claims Settlement Bill for introduction;
- 6 **agree** the Ngāti Hinerangi Claims Settlement Bill be introduced after Cabinet has approved the Ngāti Hinerangi Claims Settlement Bill for introduction;
- 7 **agree** the Government proposes the Ngāti Hinerangi Claims Settlement Bill be:
  - 7.1 referred to the Māori Affairs Committee; and
  - 7.2 enacted, if possible, in the first half of 2020.

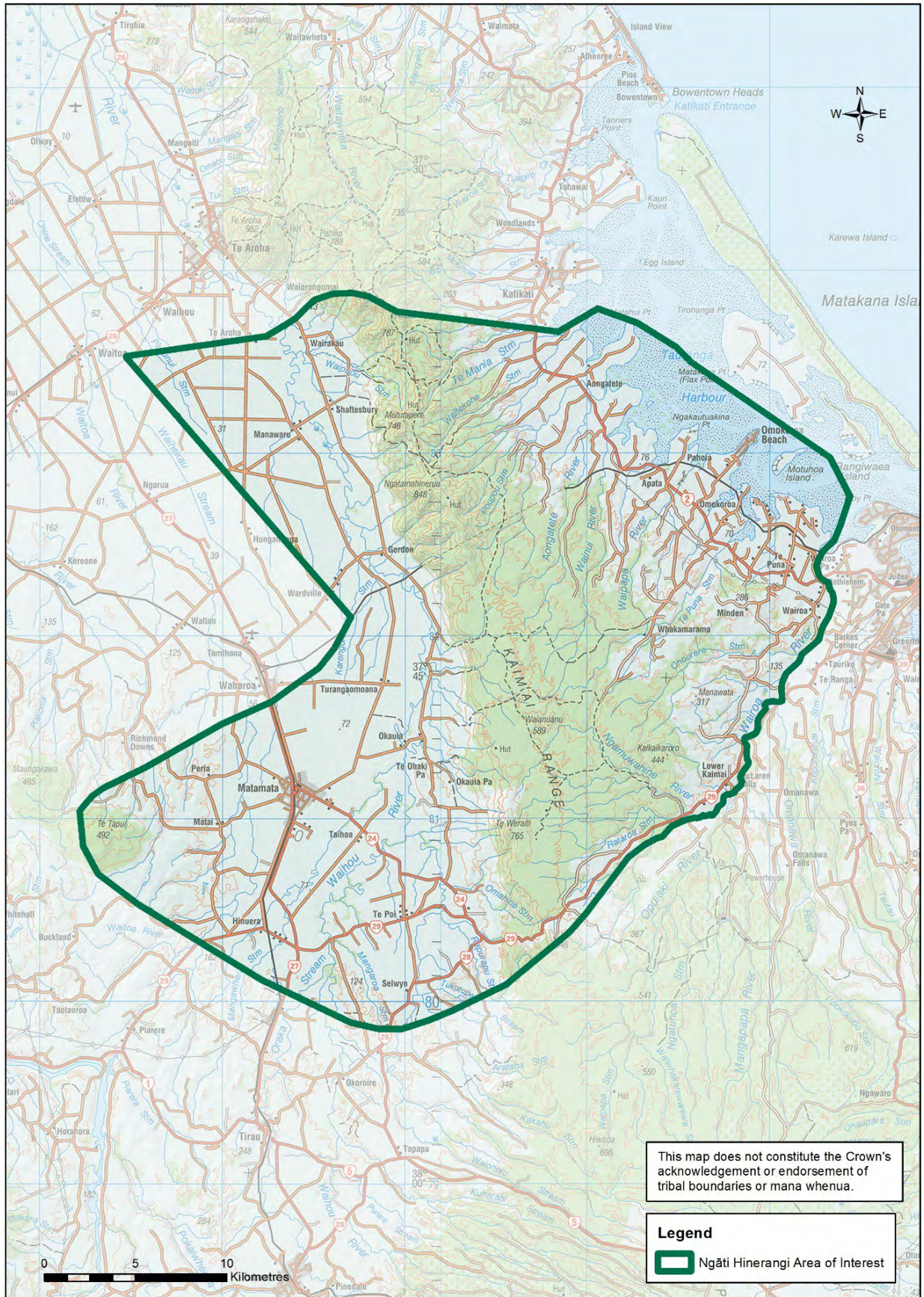
Authorised for lodgement

Hon Andrew Little

Minister for Treaty of Waitangi Negotiations



# Appendix 1: Ngāti Hinerangi Area of Interest





# Cabinet Legislation Committee

## Minute of Decision

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### Ngāti Hinerangi Claims Settlement Bill: Approval for Introduction

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

On 27 August 2019, the Cabinet Legislation Committee:

- 1        **noted** the Ngāti Hinerangi Claims Settlement Bill has priority 4 classification in the 2019 Legislative Programme to be referred to a select committee in the year;
- 2        **noted** the Ngāti Hinerangi Claims Settlement Bill gives effect to aspects of the Ngāti Hinerangi Deed of Settlement signed on 4 May 2019;
- 3        **noted** the Parliamentary Counsel Office is undertaking final quality assurance to ensure the Ngāti Hinerangi Claims Settlement Bill is ready for introduction;
- 4        **authorised** the Parliamentary Counsel Office to make any necessary minor changes to the Ngāti Hinerangi Claims Settlement Bill before final consideration by Cabinet;
- 5        **approved** the Ngāti Hinerangi Claims Settlement Bill [PCO 19925/5.7] for introduction, subject to the final approval of the government caucuses and sufficient support in the House of Representatives;
- 6        **agreed** the Ngāti Hinerangi Claims Settlement Bill be introduced after Cabinet has approved the Ngāti Hinerangi Claims Settlement Bill for introduction;
- 7        **agreed** the government proposes the Ngāti Hinerangi Claims Settlement Bill be:
  - 7.1        referred to the Māori Affairs Committee;
  - 7.2        enacted, if possible, in the first half of 2020.

Vivien Meek  
Committee Secretary

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**Present:**

Hon Chris Hipkins (Chair)  
Hon Andrew Little  
Hon David Parker  
Hon Iain Lees-Galloway  
Hon Damien O'Connor  
Hon Tracey Martin  
Michael Wood, MP (Senior Government Whip)

**Officials present from:**

Office of the Prime Minister  
Officials Committee for LEG

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Minister for Treaty of Waitangi Negotiations



# Cabinet

## Minute of Decision

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### Report of the Cabinet Legislation Committee: Period Ended 30 August 2019

On 2 September 2019, Cabinet made the following decisions on the work of the Cabinet Legislation Committee for the period ended 30 August 2019:

LEG-19-MIN-0126    **Ngāti Hinerangi Claims Settlement Bill: Approval for Introduction**    CONFIRMED  
Portfolio: Treaty of Waitangi Negotiations

Out of scope

Michael Webster  
Secretary of the Cabinet

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