

Hon Tama Potaka

Minister for Māori Crown Relations: Te Arawhiti

Proactive release – Te Pire mō Ō-Rākau, Te Pae o Maumahara / The Ō-Rākau Remembrance Bill: Approval for Introduction

Date of issue: 30 April 2024

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

Some information has been omitted on the basis that it is outside the scope of the proactive release.

No.	Document	Comments
1.	Te Pire mō Ō-Rākau, Te Pae o Maumahara / The Ō-Rākau Remembrance Bill: Approval for Introduction <i>Cabinet paper</i> Office of the Minister for Māori Crown Relations: Te Arawhiti 29 February 2024	Released in full
2.	Te Pire mō Ō-Rākau, Te Pae o Maumahara / The Ō-Rākau Remembrance Bill: Approval for Introduction <i>Minute of decision LEG-24-MIN-0023</i> Cabinet Legislation Committee Meeting date: 7 March 2023	Released in full
3.	Report of the Cabinet Legislation Committee: Period Ended 8 March 2024 <i>Cabinet minute CAB-24-MIN-0076</i> Cabinet Office Meeting date: 11 March 2024	Omitted in part because out of scope

In Confidence

Office of the Minister for Māori Crown Relations: Te Arawhiti

Cabinet Legislation Committee

Te Pire mō Ō-Rākau, Te Pae o Maumahara / The Ō-Rākau Remembrance Bill: Approval for Introduction

Proposal

- 1 I propose Cabinet approve Te Pire mō Ō-Rākau, Te Pae o Maumahara / The Ō-Rākau Remembrance Bill (the Bill) for introduction to the House of Representatives. The Bill as enacted by Parliament would authorise the transfer of the 9.7 hectare Ō-Rākau site from the Crown to tūpuna who had a customary connection to the site and/or fought at the Battle of Ō-Rākau (ngā tūpuna o Ō-Rākau), and will create the ownership structure for the site.
- 2 I also propose Cabinet approve a local government rates exemption for the Ō-Rākau site to be included in the Bill; and the inclusion of provisions that allow for the list of ngā tūpuna o Ō-Rākau included in the legislation to be able to be updated or amended via Order in Council.

Background

- 3 Ō-Rākau, located near Kihikihi (approximately 35 kilometres from Hamilton), is an area Raukawa, Maniapoto and Waikato groups (the Three Iwi) have long-standing customary connections with. It was the site of a pā constructed by Kīngitanga forces during the 1863-64 Crown invasion of the Waikato.
- 4 Crown forces attacked Ō-Rākau on 31 March 1864, in what became the last major battle of the Waikato War. Around 300 defenders, one-third of whom may have been women and children, held the pā for three days before breaking out to the south and retreating towards the Pūniu River. An estimated half of the defenders were killed either at the pā or while attempting to escape. In addition to the Three Iwi, members of at least 10 other iwi were present during the battle.¹
- 5 In 2015, the Crown purchased the property considered to be the site of the Battle of Ō-Rākau with the intention of returning it to iwi. It has since been held in the Treaty Settlements Landbank and is currently administered by Toitū Te Whenua Land Information New Zealand.
- 6 Following discussions with the Three Iwi, the Crown agreed it would not be appropriate to use the Ō-Rākau site as Treaty settlement redress due to multiple iwi interests shared across a combination of settled and non-settled groups, as well as those who travelled to the battle from outside their own rohe. The Crown has since been in discussion with the Three Iwi, as well as other iwi connected to the battle, to agree the terms of transfer, the nature of the title under which the land would be held and ongoing management of the property.

¹ The main additional iwi who have been identified as having been involved in the Battle of Ō-Rākau are Ngāti Kahungunu, Ngāti Manawa, Ngāti Porou, Rongowhakaata, Te Aitanga-a-Māhaki, Te Whānau-ā-Apanui, Ngāi Tūhoe, Ngāti Tūwharetoa, Whakatōhea, and Ngāti Whare.

Cabinet agreed to transfer Ō-Rākau site outside the Treaty settlement process

- 7 On 20 March 2023, Cabinet agreed, subject to confirming necessary Crown funding, for the Ō-Rākau site to be vested outside of the Treaty settlement process in ngā tūpuna o Ō-Rākau [CAB-23-MIN-0023 refers].

Funding has been addressed

- 8 On 12 June 2023, Cabinet approved in principle the transfer of underspend in Vote Te Arawhiti: *Non-Departmental Other Expense Claimant Funding* appropriation from the 2022/23 financial year to the 2023/24 financial year, and agreed in principle for \$2.027 million of the underspend to be used to fund expenses associated with the transfer of the Ō-Rākau site [CAB-23-MIN-0234 refers].
- 9 In September 2023, the Minister of Finance and Minister for Treaty of Waitangi Negotiations agreed pursuant to Cabinet delegation to establish a new appropriation under Vote Te Arawhiti for reconciliation initiatives outside of Treaty settlements; to transfer confirmed underspend from the Vote Te Arawhiti: *Non-Departmental Other Expense Claimant Funding* appropriation from the 2022/23 financial year to the new appropriation; and to use \$2.027 million from the new appropriation to fund expenses associated with transferring the Ō-Rākau site [TA 2023/24 – 079 refers].

Deed of Agreement has been signed

- 10 In September and October 2023, the Minister of Finance, Minister for Māori Crown Relations: Te Arawhiti and representatives of the Three Iwi signed the Deed of Agreement Relating to the Ō-Rākau site (the Deed) [TA 2023/24 – 062 refers].
- 11 Consistent with the Cabinet agreement, the Deed agrees to vest the Ō-Rākau site outside of Treaty settlement in ngā tūpuna o Ō-Rākau. It provides for the Three Iwi PSGES and/or their successors, collectively referred to as Ngā Ahi e Toru, to jointly have the rights and obligations of the registered owner of the Ō-Rākau site. Ngā Ahi e Toru will establish a managing entity, which will represent themselves as well as the other whānau, hapū and iwi involved in the battle, collectively referred to as ngā hoa pakanga; and other descendants of tūpuna listed on the record of title. The managing entity will be responsible for day-to-day management of the site.
- 12 Iwi encompassed by ngā hoa pakanga have been supportive of the proposal. Te Arawhiti and the Three Iwi have provided regular updates and opportunities for input during the development of proposed arrangements for the transfer and management of the site. Ngā hoa pakanga will also be able to provide the names of their tūpuna who were present at the battle for listing on the record of title.

Bill allows amending list of tūpuna via Order in Council

- 13 There is not currently a full list of tūpuna available. The Three Iwi are conducting historical research into tūpuna to be listed, and have been asked to provide an initial list of tūpuna to attach to the Bill prior to introduction. Ngā Ahi e Toru, in consultation with their respective whānau, hapū and iwi, will also have the ability to change (add, remove, correct) the tūpuna on the record of title following creation of the record of title.
- 14 The Bill provides that the list of ngā tūpuna o Ō-Rākau it includes may be amended by Order in Council made by the Governor-General, on the recommendation of the Minister for Māori Crown Relations: Te Arawhiti. The Minister may make a

recommendation to amend the list of tūpuna following a joint application by Ngā Ahi e Toru. This will allow for consistency with the names listed on the record of title for the Ō-Rākau site.

- 15 The provision specifies that the scope of any amendment via Order in Council is limited to adjustments to the names of ngā tūpuna. It is intended only to ensure due visibility of any changes made to the list of ngā tūpuna on the title after legislation has been passed by Parliament, and provide appropriate public recognition by the Crown of ngā tūpuna in line with iwi aspirations.

Bill includes provision for rates exemption

- 16 The Bill includes a provision creating a local government rates exemption for the Ō-Rākau site, which is intended to reduce the financial burden on Ngā Ahi e Toru post-return and support their ownership. The rates exemption would cease to have effect if the Ō-Rākau site is transferred out of tūpuna ownership. The Minister for Local Government and Minister for Māori Crown Relations: Te Arawhiti agreed in June and July 2023 to seek Cabinet approval for that provision [TA 2022/23 - 284 refers].

Te Pire mō Ō-Rākau, Te Pae o Maumahara / The Ō-Rākau Remembrance Bill

- 17 The structure of the Bill is:
- 17.1 Part 1: Preliminary provisions, including historical background;
 - 17.2 Part 2: Vesting and administration of the Ō-Rākau site, including the vesting of the property, registration of ownership, provisions for changes to ngā tūpuna, and transfer of the Ō-Rākau site from ngā tūpuna bringing certain legislative provisions to an end; and
 - 17.3 Schedules: Transitional, savings and related provisions; the list of tūpuna; and legal description of the Ō-Rākau site.

Impact analysis

- 18 The Treasury's Regulatory Impact Analysis team has determined that the proposal to allow the list of ngā tūpuna o Ō-Rākau in the legislation to be amended by Order in Council is exempt from the requirement to provide a Regulatory Impact Statement on the grounds that it has no or only minor impacts on businesses, individuals, and not-for-profit entities. There are no other regulatory making powers or provisions contained in the Bill which would alter the regulatory regime. As a result, a regulatory impact assessment is not required.

- 19 The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that CIPA requirements do not apply to this Bill as it not expected to result in any significant, direct emissions impacts.

Compliance

- 20 This Bill complies with the:
- 20.1 principles of the Treaty of Waitangi;

- 20.2 rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
- 20.3 disclosure statement requirements;
- 20.4 principles and guidelines set out in the Privacy Act 2020;
- 20.5 Legislation Design and Advisory Committee Legislation Guidelines (2021 edition); and
- 20.6 relevant international standards and obligations.

Consultation

- 21 The following departments were consulted in the development of the policy implemented in the Bill: Department of Inland Revenue, Department of Internal Affairs, Te Puni Kōkiri, The Treasury, and Toitū Te Whenua Land Information New Zealand. The Crown Law Office has provided advice in the preparation of this paper, and the Parliamentary Counsel Office (PCO) has provided advice in the preparation of the Bill.
- 22 Waipā District Council and Waikato Regional Council have been consulted and their officials have given provisional approval for the rates exemption provision of the Bill. Waipā District Council and Waikato Regional Council will confirm formal approval as part of the Select Committee process.
- 23 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.

Cost of living implications

- 24 The Bill and the policy it implements do not have cost of living implications.

External resourcing implications

- 25 Due to the highly specialised nature of the work that Te Arawhiti undertakes in terms of Treaty Settlements, the recognition of customary rights and interests in the takutai moana, direct engagement with iwi /Māori and specific te ao Māori kaupapa, there is a need to use external experts. Standard examples of this include the use of Chief Crown Negotiators, experts in tikanga and te ao Māori and external legal counsel to prepare settlement documents. External resources are contracted as and where required and in line with relevant guidance including from the Public Service Commission.
- 26 Te Arawhiti in this instance contracted Buddle Findlay to provide advice in the preparation of the deed, and an external valuer to assess the value of the Ō-Rākau site.

Binding on the Crown

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

Commencement of legislation

- 28 The resulting Act will come into force on the day after the date on which it receives Royal Assent. Certain provisions will come into force on vesting date, which is 20 working days after the Act comes into force.

Parliamentary stages

- 29 I propose the Bill be introduced following Cabinet approval, and before 160th anniversary commemorations for the Battle of Ō-Rākau which will be taking place between 31 March and 2 April.
- 30 The Bill has a priority 4 classification in the 2024 Legislative Programme to be referred to the Māori Affairs Committee this year.

Proactive release

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

Proactively released by the Minister for Māori Crown Relations: Te Arawhiti

Recommendations

- 32 The Minister for Māori Crown Relations: Te Arawhiti recommends that the Committee:
- 1 **note** the Te Pire mō Ō-Rākau, Te Pae o Maumahara / The Ō-Rākau Remembrance Bill gives effect to aspects of the Deed of Agreement Relating to the Ō-Rākau site signed on behalf of the Crown in September and October 2023;
 - 2 **approve** the provision of Te Pire mō Ō-Rākau, Te Pae o Maumahara / The Ō-Rākau Remembrance Bill to amend the scheduled list of tūpuna by Order in Council;
 - 3 **approve** the provision of Te Pire mō Ō-Rākau, Te Pae o Maumahara / The Ō-Rākau Remembrance Bill which will create a local government rates exemption for the Ō-Rākau site;
 - 4 **note** Te Pire mō Ō-Rākau, Te Pae o Maumahara / The Ō-Rākau Remembrance Bill will be assigned a priority in the 2024 Legislative Programme to be referred to a Select Committee;
 - 5 **note** the Parliamentary Counsel Office is undertaking final checks to ensure Te Pire mō Ō-Rākau, Te Pae o Maumahara / The Ō-Rākau Remembrance Bill is ready for introduction;
 - 6 **authorise** the Parliamentary Counsel Office to make any necessary minor changes to Te Pire mō Ō-Rākau, Te Pae o Maumahara / The Ō-Rākau Remembrance Bill before final consideration by Cabinet;
 - 7 **approve** Te Pire mō Ō-Rākau, Te Pae o Maumahara / The Ō-Rākau Remembrance Bill for introduction subject to the final approval of the Government caucus and sufficient support in the House of Representatives;
 - 8 **agree** that the Government propose Te Pire mō Ō-Rākau, Te Pae o Maumahara / The Ō-Rākau Remembrance Bill:
 - 7.1. be referred to the Māori Affairs Committee for consideration; and
 - 7.2. be enacted, if possible, in the first half of 2024.

Hon Tama Potaka
Minister for Māori Crown Relations: Te Arawhiti

Appendix One: Te Pire mō Ō-Rākau, Te Pae o Maumahara / The Ō-Rākau Remembrance Bill

Proactively released by the Minister for Māori Crown Relations: Te Arawhiti

IN CONFIDENCE**Te Pire mō Ō-Rākau, Te Pae o Maumahara/Ō-Rākau
Remembrance Bill**

Government Bill

Explanatory note**General policy statement**

Legislation is required to give effect to certain provisions of te Whakaetanga Whakataunga mō Ō-Rākau, te Pae o Maumahara/the Deed of Agreement Relating to the Ō-Rākau Site dated 31 October 2023 between the Crown, Maniapoto, Raukawa, and Waikato (the **Ō-Rākau deed**). This Bill enables the record of title for the Ō-Rākau site to be held in the names of the ancestors (**ngā tūpuna**) who fought at the battle of Ō-Rākau (or had other connections with the land) and enables Maniapoto, Raukawa, and Waikato to jointly have, and exercise, the rights and obligations of the registered owner of the Ō-Rākau site.

Background

Ō-Rākau, located near Kihikihi (approximately 40 kilometres south of Hamilton) is an area to which Maniapoto, Raukawa, and Waikato have long-standing customary connections. It was the site of a pā constructed by Kīngitanga forces during the 1863–64 Crown invasion of the Waikato, and the site of the last major battle of the Waikato War. Additional iwi are recognised as having connections to the Ō-Rākau site through their involvement in the battle of Ō-Rākau, which took place from 31 March to 2 April 1864.

Key elements of this Bill

The vesting and ownership arrangements in this Bill are not redress provided for in settlement of any historical claims under te Tiriti o Waitangi/the Treaty of Waitangi. The Ō-Rākau deed and this Bill instead reflect the desire of all parties to acknowledge the history associated with, and the national significance of, the battle of Ō-Rākau and to enable the recognition of ngā tūpuna associated with the Ō-Rākau site.

Tūpuna title is an established means of holding title. Maniapoto, Raukawa, and Waikato have supplied the initial list of tūpuna in whom the Ō-Rākau site will be vested. The Bill provides that, in future, Maniapoto, Raukawa, and Waikato will be able to jointly apply in writing, from time to time, to change ngā tūpuna as recorded on the record of title for the Ō-Rākau site and in *Schedule 2*, to reflect developing historical knowledge.

While the record of title will be registered in the names of ngā tūpuna, Maniapoto, Raukawa, and Waikato will act as kaitiaki on behalf of ngā tūpuna, having the rights, duties, and powers of the registered owners of the Ō-Rākau site, and must perform those duties jointly. Certain provisions of the Bill, such as that the Ō-Rākau site is non-rateable under the Local Government (Rating) Act 2002, will cease to apply to the Ō-Rākau site if it is transferred from ngā tūpuna.

The Ō-Rākau deed records that Maniapoto, Raukawa, and Waikato intend to establish a managing entity to involve groups with a connection to the battle of Ō-Rākau in the administration of the Ō-Rākau site and will facilitate a process inviting each of those groups to develop a historical narrative that sets out that group's unique association with and perspective of the battle of Ō-Rākau.

Departmental disclosure statement

The Office for Māori Crown Relations—Te Arawhiti is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at [PPU to insert URL and link] (if it has been provided for publication).

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 is the commencement clause.

Part 1

Preliminary provisions

Clause 3 states the purpose of the Bill, which is to give legal effect to certain provisions of the Ō-Rākau deed, including vesting the Ō-Rākau site in the names of an initial list of tūpuna who fought at the battle of Ō-Rākau or had a customary connection to the site, and setting out the rights and obligations in relation to the land.

Clause 4 provides that the provisions of the Bill take effect on the vesting date (as opposed to the day on which the Bill comes into force) unless another provision states otherwise.

Clause 5 is the interpretation clause and defines certain terms used in the Bill, including identifying the different iwi and other representative parties who will deal with the administration of the Ō-Rākau site.

Clause 6 explains certain te reo Māori terms used in the Bill. It is provided in both te reo Māori and English.

Clause 7 provides for any transitional and savings provisions, of which there are none in the Bill as introduced.

Clause 8 binds the Crown.

Clause 9 records the background to the Bill, including the historical events that took place at Ō-Rākau in 1863–64, and the more recent discussions between the Crown and iwi to agree on the future of the Ō-Rākau site. It is provided in both te reo Māori and English.

Part 2

Vesting of Ō-Rākau site and related matters

Clause 10 vests the Ō-Rākau site in the tūpuna listed in *Schedule 2*.

Clause 11 deals with how the Ō-Rākau site will be administered given that the legal owners (**ngā tūpuna**) are ancestors from the 1860s. The clause therefore confers the ownership rights and obligations jointly on the representatives of Ngā Ahi e Toru (as defined in *clause 5*).

Clauses 12 and 13 provide a future mechanism for the representatives of Ngā Ahi e Toru to change the names of ngā tūpuna registered on the record of title, and listed in *Schedule 2*. An application to change ngā tūpuna must be made jointly by all 3 of the Ngā Ahi e Toru representatives. These clauses account for ever-evolving historical knowledge and aim to ensure that the list of tūpuna registered on the record of title and in *Schedule 2* is kept accurate based on current knowledge. Changes to *Schedule 2* cannot be made unless the record of title has first been changed under *clause 12*. This upholds the principle of indefeasibility of title and ensures that the record of title reflects the true legal ownership of the Ō-Rākau site at all times.

Clause 14 sets out how Ngā Ahi e Toru is to sign instruments or applications that are to be lodged with Land Information New Zealand in relation to the record of title for the Ō-Rākau site. The signing requirements also apply to an application to the Minister under *clause 13* to change *Schedule 2*.

Clause 15 sets out the Registrar-General of Land's process for creating the record of title for the Ō-Rākau site, and the recording of any relevant interests on the title. This clause also states that section 15 of the Land Transfer Act 2017, which deals with the registration of deceased persons on a record of title, does not apply.

Clause 16 deals with the application of other enactments including the Conservation Act 1987, the Crown Minerals Act 1991, the Resource Management Act 1991, Te Ture Whenua Maori Act 1993, and the Local Government (Rating) Act 2002.

Clause 17 sets out various matters the Registrar-General of Land must record on the record of title, including that the land is subject to Part 4A of the Conservation Act 1987.

Clause 18 provides a mechanism for any of the 3 representatives of Ngā Ahi e Toru to assign their status as representative under the Bill to another entity. The existing representative must first be satisfied of the matters outlined in *clause 18* and must provide notice to the other 2 representatives.

Clause 19 sets out the process if the land is to be transferred from ngā tūpuna to a new owner in the future.

Schedules

There are 3 schedules, as follows:

- *Schedule 1* sets out transitional, savings, and related provisions:
- *Schedule 2* lists the tūpuna to be recorded initially on the record of title. In the future, that schedule may be amended by Order in Council to reflect changes to the record of title:
- *Schedule 3* contains the legal description of the Ō-Rākau site.

Hon Tama Potaka

Te Pire mō Ō-Rākau, Te Pae o Maumahara/Ō-Rākau Remembrance Bill

Government Bill

Contents

		Page
1	Title	2
2	Commencement	2
Part 1		
Preliminary provisions		
3	Purpose	2
4	Provisions take effect on vesting date	2
5	Interpretation	3
6	He whakamāramatanga o ngā kupu reo Māori/Explanations of te reo Māori terms	5
7	Transitional, savings, and related provisions	5
8	Act binds the Crown	5
9	He whakamārama/Background	5
Part 2		
Vesting of Ō-Rākau site and related matters		
<i>Vesting, administration, and documents for Ō-Rākau site</i>		
10	Vesting of Ō-Rākau site	8
11	Administration and dealing with Ō-Rākau site	8
12	Changes to tūpuna named on record of title	8
13	Changes to tūpuna named in Schedule 2	9
14	Signing and other requirements for instruments and applications	9
<i>Provisions related to vesting of Ō-Rākau site</i>		
15	Registration of ownership	10
16	Application of other enactments	10

Te Pire mō Ō-Rākau, Te Pae o Maumahara/Ō-Rākau Remembrance Bill	
cl 1	
17	Matters to be recorded on record of title 11
	<i>Replacing representatives or owners</i>
18	Replacement for representative of Ngā Ahi e Toru 11
19	Subsequent transfer from ngā tūpuna to new owner 12
	Schedule 1 13
	Transitional, savings, and related provisions
	Schedule 2 14
	Ngā tūpuna o Ō-Rākau
	Schedule 3 16
	Ō-Rākau site

The Parliament of New Zealand enacts as follows:

1 Title

- (1) This Act is Te Ture mō Ō-Rākau, Te Pae o Maumahara **2024**/Ō-Rākau Remembrance Act **2024**.
- (2) This Act may also be cited as—
 - (a) Te Ture mō Ō-Rākau, Te Pae o Maumahara **2024**; or
 - (b) the Ō-Rākau Remembrance Act **2024**.

2 Commencement

This Act comes into force on the day after Royal assent.

Part 1

Preliminary provisions

3 Purpose

The purpose of this Act is to give effect to certain provisions of the Ō-Rākau deed relating to the Ō-Rākau site.

4 Provisions take effect on vesting date

- (1) The provisions of this Act take effect on the vesting date unless stated otherwise.
- (2) Before the date on which a provision takes effect, a person may prepare or sign a document or do anything else that is required for—
 - (a) the provision to have full effect on that date; or
 - (b) a power to be exercised under the provision on that date; or
 - (c) a duty to be performed under the provision on that date.

5 Interpretation

In this Act, unless the context otherwise requires,—

Crown has the meaning given in section 2(1) of the Public Finance Act 1989

interest means a covenant, easement, lease, licence, licence to occupy, tenancy, or other right or obligation affecting a property

Maniapoto has the meaning given in section 13 of the Maniapoto Claims Settlement Act 2022

Maniapoto deed of settlement has the meaning given to deed of settlement in section 12 of the Maniapoto Claims Settlement Act 2022

Ngā Ahi e Toru means each of the following:

- (a) Maniapoto:
- (b) Raukawa:
- (c) Waikato

ngā tūpuna means the tūpuna (the ancestors) that are recorded on the record of title for the Ō-Rākau site

Ō-Rākau deed—

- (a) means te Whakaaetanga Whakataunga mō Ō-Rākau, te Pae o Maumahara/the Deed of Agreement Relating to the Ō-Rākau Site dated 31 October 2023 and signed by—
 - (i) the Honourable Kelvin Davis, Minister for Māori Crown Relations: Te Arawhiti, and the Honourable Grant Robertson, Minister of Finance, for and on behalf of the Crown; and
 - (ii) Peter Te Matakahere Douglas, Bella Luana Takiari-Brame, Arepa Kruger Wetere, John Reihana Kaati, Muiora Barry, William Gannin Ormsby, Shannon Tariki Mangu Manawaiti, Ronald Tahī Takerei, Maria Pareraukawa Te Huia Maniapoto, Luke Thomas Moss, Wanairangi Kihī Rachael Tuwhangai, Mary Jacqueline Tapu, Georgina Annette Winter, and Kathryn Kahu McClintock, being the trustees of Te Nehenehenui; and
 - (iii) Kataraina Hodge, Marina Monehu Hireme, Huia Te Ata Huru-hanga Te Kanawa, Nachele Griffiths, Juanita Elaine Temarama, Cohra Jay Taihakoā Maui, Debbie Jean Davies, Phillipa Tapu, Rina Polly Lawson, Steven Cecil Daryll Oxenham, Grant Thompson, Donnie Maria Parker, Waimatao Jordene Sydney, Paraone Francis Gloyne, and James Luke Te Whakaheke Whetu, being the trustees of the Raukawa Settlement Trust; and
 - (iv) Tukoroirangi Morgan and Rahui Papa, for and on behalf of Te Whakakitenga o Waikato Incorporated as trustee of the Waikato Raupatu Lands Trust; and
- (b) includes—

- (i) the schedules of, and attachments to, the deed; and
- (ii) any amendments to the deed or its schedules and attachments

Ō-Rākau site means the land of that name described in **Schedule 3**

Raukawa has the meaning given in section 13 of the Raukawa Claims Settlement Act 2014

Raukawa deed of settlement has the meaning given to deed of settlement in section 12 of the Raukawa Claims Settlement Act 2014

record of title has the meaning given in section 5(1) of the Land Transfer Act 2017

Registrar-General has the meaning given to Registrar in section 5(1) of the Land Transfer Act 2017

representative of Ngā Ahi e Toru means each of the following, or a replacement that is assigned the status of representative of Ngā Ahi e Toru under **section 18**:

- (a) for Maniapoto, the trustees of Te Nehenehenui:
- (b) for Raukawa, the trustees of the Raukawa Settlement Trust:
- (c) for Waikato, Te Whakakitenga o Waikato Incorporated as trustee of the Waikato Raupatu Lands Trust

trustees of Te Nehenehenui has the meaning given in section 12(1) of the Maniapoto Claims Settlement Act 2022

trustees of the Raukawa Settlement Trust has the meaning given in section 12 of the Raukawa Claims Settlement Act 2014

vesting date means the date that is 20 working days after the date on which this Act comes into force

Waikato has the meaning given in section 7 of the Waikato Raupatu Claims Settlement Act 1995

Waikato Raupatu deed of settlement has the meaning given to deed of settlement in section 7 of the Waikato Raupatu Claims Settlement Act 1995

Waikato Raupatu Lands Trust means the trust of that name established by trust deed dated 10 November 1995

working day means a day other than—

- (a) Saturday, Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's birthday, Te Rā Aro ki a Matariki/Matariki Observance Day, and Labour Day:
- (b) if Waitangi Day or Anzac Day falls on a Saturday or Sunday, the following Monday:
- (c) a day in the period commencing with 25 December in any year and ending with the close of 15 January in the following year:

- (d) the days observed as the anniversaries of the provinces of Auckland and Wellington.

6 He whakamāramatanga o ngā kupu reo Māori/Explanations of te reo Māori terms

Ka whakatakoto tēnei wehenga i ngā whakamāramatanga o ētehi kupu Māori kua whakamahia i tēnei Ture, engari he kuputohu noa iho, e hara i te whakamāramatanga tukupū.

- (a) **Ō-Rākau, Te Pae o Maumahara**—Ō-Rākau, te pae o maumahara. Ka whakamahia ēnei kupu i roto i te taitara o tēnei Ture:
- (b) **Ngā Ahi e Toru**—Ko ngā ahi e toru, e tohu ana i a Maniapoto, Raukawa me Waikato (e rūpeke tahi ana hei Ngā Ahi e Toru), e whakarāmeme ai te ahi, te mahana, te whakaaro pai me te mahi ngātahi a tēnā, a tēnā mō Ō-Rākau, i Ō-Rākau hoki, e tiria ai taua mahana me taua uara tētahi ki tētahi.

The following are English explanations of certain te reo Māori terms used in this Act, but they are merely a guide, not definitions:

- (a) **Ō-Rākau, Te Pae o Maumahara**—Ō-Rākau, the threshold of memories. This term is used in the name of this Act:
- (b) **Ngā Ahi e Toru**—the 3 fires, symbolising Maniapoto, Raukawa, and Waikato (coming together as Ngā Ahi e Toru), whose individual fires and warmth, good will, and mahi ngātahi come together for and at Ō-Rākau, where that warmth and value are shared with each other.

7 Transitional, savings, and related provisions

The transitional, savings, and related provisions (if any) set out in **Schedule 1** have effect according to their terms.

8 Act binds the Crown

This Act binds the Crown.

9 He whakamārama/Background

- (1) Ka whakatakoto tēnei wehenga i ngā whakamārama o te puka whakaaetanga e pā ana ki te pae o te riri o Ō-Rākau me tēnei Ture.

Whakamārama aronehe

- (2) Ko te pakanga o Ō-Rākau tētehi o ngā pakanga tino hira rawa i te hītori o Aotearoa. Koia te pakanga matua whakamutunga o tā te Karauna urutomo ki a Waikato. I ngā tau 1860, ko Waikato te pou o te Kīngitanga, he rangatohe iwi maha e whai ana i te mutunga o ngā kakaritanga i waenga iwi, i te pupuru whenua, i te whakamanatanga o te reo Māori i ngā take whakahaere i ō rātou anō hapori.

- (3) He mea urutomo a Waikato e te Ope Taua o Piritene i te Hūrae 1863, ā, tae noa mai ki te mutunga o Pēpuere 1864 kua kōkiri atu ki Kihikihi i muri i ngā kakaritanga wawana. I te Māche 1864 ka whakatau ngā kaihautū ki te hanga i tētehi pā i Ō-Rākau ki reira matatū ai.
 - (4) Tōna 300 o ngā Māori nō Tainui waka me ētahi anō iwi, he hautoru o rātou he wāhine he tamariki, i tū ki Ō-Rākau nōna i tāwhawhe ai e tōna 1,400 hōia Piritene i te 31 o Māche 1864. E toru rā te roa o te pakanga, me te whakatau tata i mate tata ki te haurua o rātou e noho ana i roto i te pā. I whakanau ērā e toe ana i te pā i te tono kia whakahauraro, ka pahiko ohorete atu, ā, i taua pahikotanga i hinga, i taotū rānei ētehi atu. E noho ana te māia i kitea i Ō-Rākau hei tohu mō te ātete Māori ki ngā mahi tika kore a te Karauna ko te hekenga ā-toto me te whakamōtī rawa te mutunga iho.
 - (5) Kua whakaae te Karauna, i roto i te Whakaaetanga Whakataunga a Maniapoto, i te Whakaaetanga Whakataunga a Raukawa me te Whakaaetanga Whakataunga mō te Raupatu i Waikato, ko te raupatu—tae atu ki tana urutomo ki Waikato, ko te pakanga, te hekenga ā-toto me te raupatu whenua te mutunga iho—he tika kore, he takahi i te mana o te Tiriti o Waitangi/the Treaty of Waitangi me ana mātāpono.
 - (6) Kāore anō ngā mahi hautoa me te whakawhere a ngā Māori i whawhai i Ō-Rākau kia whakamana tikahia i te pae o Ō-Rākau.
- Ngā takenga hou*
- (7) Mai rā anō i te tau 1864 e tautiakina ana te mōhiotanga me te tūhononga ki ngā mahi i te pakanga o Ō-Rākau e ētehi rōpū me ētehi tāngata. I te 2011 ka whakatūria The Battle of Ō-Rākau Heritage Society Inc, ki te arotahi ki te whakanui i te huritau 150 o taua pakanga me te whakaako i tana hītori ki ētehi atu hei ara whakahōnore i ngā mahi onamata me te whakatairanga i te whakareka me te māramatanga.
 - (8) He mea hoko e te Karauna i te 2015 tētahi papanoho i te Rori o Arapuni, tērā i whakaarohia ko te pae o te pā o Ō-Rākau i tū ai te pakanga o Ō-Rākau. I hokona taua pae e te Karauna hei whakamana i te hiranga o te pae, me ngā mahi i taka i Ō-Rākau, ki te Māori me te Pākehā.
 - (9) I te Noema 2017 ka tuhi reta te Karauna ki ētehi iwi e whakapuaki ana i te hiahia kia kōrerorerotia te anamata o taua pae. Nō te tōmuatanga o te 2018 kua whakawhanakehia e Maniapoto, Raukawa, me Waikato he marohi tuatahi mō te āhua e puritia ai te pae o te riri o Ō-Rākau hei whakanui i ērā katoa i whai pānga ki ngā mahi i taka i Ō-Rākau. I tukuna te marohi ki ngā rōpū whai hononga ki te pakanga o Ō-Rākau kia whiwhi whakahoki kōrero.
 - (10) Kua tuhia e Maniapoto, Raukawa, me Waikato (e huihui tahi ana hei Ngā Ahi e Toru) me te Karauna ngā wāhi matua e whakaae tahi ai rātou mō te anamata o te pae o te riri o Ō-Rākau i roto i te puka whakaaetanga.
 - (11) Kua whakaaehia e Ngā Ahi e Toru mā rātou e mahi mō ngā tūpuna e pā ana ki te pae o te riri o Ō-Rākau.

- (1) This section sets out the background to the Ō-Rākau deed and this Act.

Historical background

- (2) The battle of Ō-Rākau was one of the most significant events in the history of Aotearoa/New Zealand and was the last major battle of the Crown's invasion of Waikato. In the 1860s, Waikato was the centre of the Kīngitanga, a pan-tribal movement seeking the end of intertribal conflict, the retention of land, and Māori having a dominant voice in the governance of their own communities.
- (3) The British Army invaded Waikato in July 1863, and by the end of February 1864 soldiers had advanced to Kihikihi after much hard fighting. In March 1864, Māori leaders decided to construct a pā at Ō-Rākau where they would make a stand.
- (4) About 300 Māori from Tainui waka and other tribal groups, one-third of whom may have been women and children, were present at Ō-Rākau when it was encircled by some 1,400 British troops on 31 March 1864. The battle lasted for 3 days, and it has been estimated that about half the pā's occupants were killed. Those remaining refused an offer to surrender and made a surprise escape, in the course of which they suffered additional casualties. The bravery shown at Ō-Rākau has become a symbol of Māori resistance in the face of the Crown's unjust actions that caused loss of life and devastation of property.
- (5) The Crown has acknowledged, in the Maniapoto deed of settlement, the Raukawa deed of settlement, and the Waikato Raupatu deed of settlement, that raupatu—including its invasion of the Waikato, which led to war, loss of life, and confiscation of land—was unjust and a grievous breach of te Tiriti o Waitangi/the Treaty of Waitangi and its principles.
- (6) The courage and sacrifice of the Māori who fought at Ō-Rākau have never been sufficiently recognised at the Ō-Rākau site.

Recent background

- (7) Since 1864, the knowledge of, and connection to, the events at the battle of Ō-Rākau have been maintained by a number of groups and individuals. In 2011, The Battle of Ō-Rākau Heritage Society Incorporated was established, with a focus on commemorating the 150th anniversary of the battle to educate others about this history, as a way to honour the past and promote healing and understanding.
- (8) In 2015, the Crown purchased a property on Arapuni Road, which is believed to contain the site of Ō-Rākau pā where the battle of Ō-Rākau occurred. The Crown purchased the property in recognition of the significance of the site, and the events at Ō-Rākau, to both Māori and Pākehā.
- (9) In November 2017, the Crown wrote to a number of iwi with a wish to discuss the future of the site. By early 2018, Maniapoto, Raukawa, and Waikato had developed an initial proposal for a way to hold the Ō-Rākau site that provided recognition for all those who had a connection to the events at Ō-Rākau. The

proposal was provided to groups with a connection to the battle of Ō-Rākau for comment.

- (10) Maniapoto, Raukawa, and Waikato (coming together as Ngā Ahi e Toru) and the Crown have recorded key areas of agreement for the future of the Ō-Rākau site in the Ō-Rākau deed.
- (11) Ngā Ahi e Toru have agreed to act as kaitiaki on behalf of ngā tūpuna in relation to the Ō-Rākau site.

Part 2

Vesting of Ō-Rākau site and related matters

Vesting, administration, and documents for Ō-Rākau site

10 Vesting of Ō-Rākau site

The fee simple estate in the Ō-Rākau site vests in the tūpuna listed in **Schedule 2**, and the registered owners of the Ō-Rākau site will accordingly be ngā tūpuna from time to time until any transfer under **section 19**.

11 Administration and dealing with Ō-Rākau site

- (1) This section applies despite—
 - (a) the vesting of the Ō-Rākau site under **section 10**; or
 - (b) ngā tūpuna being the registered owners of the Ō-Rākau site.
- (2) The representatives of Ngā Ahi e Toru—
 - (a) have all the rights and obligations of the registered owner of the Ō-Rākau site; and
 - (b) must exercise the rights, and perform the obligations, jointly in the names of the representatives of Ngā Ahi e Toru.
- (3) The Registrar-General and any other relevant person must have regard to this section.

12 Changes to tūpuna named on record of title

- (1) This section applies after the record of title has been created for the Ō-Rākau site under **section 15**.
- (2) The representatives of Ngā Ahi e Toru may, at any time, jointly apply in writing to the Registrar-General to change ngā tūpuna (who are the registered owners of the Ō-Rākau site).
- (3) The application must specify 1 or more of the following:
 - (a) the name of each tūpuna who is to be added:
 - (b) the correct name of each tūpuna whose name is to be corrected:
 - (c) the name of each tūpuna who is to be removed.

- (4) On receipt of an application in accordance with this section and **section 14**, the Registrar-General must register the tūpuna, as changed under the application, as the owners of the fee simple estate in the Ō-Rākau site.

13 Changes to tūpuna named in Schedule 2

- (1) This section applies after the Registrar-General has registered a change of ngā tūpuna under **section 12(4)**.
- (2) The representatives of Ngā Ahi e Toru may, at any time, jointly apply in writing to the Minister to update **Schedule 2** to replicate the changes made to the record of title under **section 12**.
- (3) The application must include the following:
- (a) a copy of the application made to the Registrar-General under **section 12**; and
 - (b) a copy of the record of title for the Ō-Rākau site as registered under **section 12(4)**.
- (4) The Governor-General may, by Order in Council, made on the recommendation of the Minister, amend or replace **Schedule 2** to replicate ngā tūpuna listed on the record of title.
- (5) The Minister must not make a recommendation under **subsection (4)** unless an application has been received in accordance with this section and **section 14**.
- (6) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

14 Signing and other requirements for instruments and applications

- (1) This section applies to—
- (a) an instrument to be lodged under the Land Transfer Act 2017 for registration on the record of title for the Ō-Rākau site that must be executed by the representatives of Ngā Ahi e Toru; and
 - (b) an application to change ngā tūpuna under **section 12**; and
 - (c) an application to change the tūpuna listed in **Schedule 2** under **section 13**.

Collective reference

- (2) An instrument or application is not required to individually name each tūpuna registered on the record of title for the Ō-Rākau site but may refer collectively to ngā tūpuna.

Signing requirements

- (3) For each representative of Ngā Ahi e Toru that executes the instrument or application,—

- (a) the persons who sign must state on that instrument or application which representative of Ngā Ahi e Toru that person represents; and
 - (b) where an instrument or application is being signed by the trustees of an unincorporated trust,—
 - (i) 2 trustees may sign on behalf of all of the trustees; and
 - (ii) those trustees must sign in the presence of a witness, who must also sign the instrument or application.
- (4) The Registrar-General, or the Minister as applicable, need not make any inquiries as to the persons who sign the instrument or application for each representative of Ngā Ahi e Toru.

Other requirement

- (5) The instrument or application must be accompanied by each notice given under **section 18** that is still in effect.

Provisions related to vesting of Ō-Rākau site

15 Registration of ownership

- (1) The Registrar-General must, in accordance with a written application by an authorised person,—
- (a) create a record of title for the fee simple estate in the Ō-Rākau site in the names of the tūpuna listed in **Schedule 2**; and
 - (b) record on the record of title any interests that are registered, noted, or to be noted and that are described in the application.
- (2) **Subsection (1)** is subject to the completion of any survey necessary to create a record of title.
- (3) A record of title must be created under this section as soon as is reasonably practicable after the vesting date, but not later than—
- (a) 3 months after the vesting date; or
 - (b) any later date that is agreed in writing by the Crown and the representatives of Ngā Ahi e Toru.
- (4) Section 15 of the Land Transfer Act 2017 does not apply in relation to the Ō-Rākau site.
- (5) In this section, **authorised person** means a person authorised by the chief executive of Land Information New Zealand.

16 Application of other enactments

- (1) The vesting of the fee simple estate in the Ō-Rākau site under this Part is a disposition for the purposes of Part 4A of the Conservation Act 1987, but sections 24(2A), 24A, and 24AA of that Act do not apply to the disposition.

- (2) The vesting of the fee simple estate in the Ō-Rākau site under this Part does not—
 - (a) limit section 10 or 11 of the Crown Minerals Act 1991; or
 - (b) affect other rights to subsurface minerals.
- (3) Section 11 and Part 10 of the Resource Management Act 1991 do not apply to—
 - (a) the vesting of the fee simple estate in the Ō-Rākau site under this Part; or
 - (b) any matter incidental to, or required for the purpose of, the vesting.
- (4) The representatives of Ngā Ahi e Toru, when acting in respect of the Ō-Rākau site in accordance with this Act, are not a trust constituted in respect of—
 - (a) any Māori land for the purpose of section 236(1)(b) of Te Ture Whenua Maori Act 1993; or
 - (b) any General land owned by Māori for the purpose of section 236(1)(c) of that Act.
- (5) Nothing in Te Ture Whenua Maori Act 1993 applies to the Ō-Rākau site.
- (6) The Ō-Rākau site is non-rateable under the Local Government (Rating) Act 2002.

17 Matters to be recorded on record of title

- (1) The Registrar-General must record on the record of title for the Ō-Rākau site—
 - (a) that the land is subject to Part 4A of the Conservation Act 1987; and
 - (b) that the land is subject to **sections 11, 12, 14, 16(4) to (6), 18, and 19**.
- (2) A notation made under **subsection (1)(a)** that land is subject to Part 4A of the Conservation Act 1987 is to be treated as having been made in compliance with section 24D(1) of that Act.

Replacing representatives or owners

18 Replacement for representative of Ngā Ahi e Toru

- (1) A representative of Ngā Ahi e Toru (the **existing entity**) may assign its status as representative of Ngā Ahi e Toru to another entity (the **new entity**), including the trustees of a trust.
- (2) The existing entity must be satisfied that the new entity—
 - (a) is appropriate to exercise the rights and obligations of the existing entity under the Ō-Rākau deed and this Act; and
 - (b) has a structure that—
 - (i) provides for transparent decision making; and
 - (ii) includes a dispute resolution process; and

- (c) is accountable to the other representatives of Ngā Ahi e Toru in fulfilling the joint obligations under the Ō-Rākau deed and under this Act.
- (3) The existing entity must give notice to the other 2 representatives of Ngā Ahi e Toru.
- (4) The notice must—
 - (a) state that the new entity has replaced the existing entity as a representative of Ngā Ahi e Toru under this section; and
 - (b) specify the date of the assignment; and
 - (c) specify the name of the new entity and, if it is an unincorporated trust, the names of the trustees; and
 - (d) specify the street address, postal address, and electronic address for notices to the new entity.
- (5) The new entity is a representative of Ngā Ahi e Toru under this Act, in place of the existing entity, starting on the date specified in the notice given under this section.

19 Subsequent transfer from ngā tūpuna to new owner

- (1) The fee simple estate in the Ō-Rākau site may be transferred from ngā tūpuna only in accordance with this section.
- (2) The transfer instrument must state that, after the transfer, the land is not subject to **sections 11, 12, 14, 16(4) to (6), 18, and 19**.
- (3) On registration of the transfer,—
 - (a) the Registrar-General must remove from the record of title for the Ō-Rākau site the notations that the land is subject to **sections 11, 12, 14, 16(4) to (6), 18, and 19**; and
 - (b) the land is no longer subject to those sections.

Schedule 1
Transitional, savings, and related provisions

s 7

Part 1
Provisions relating to this Act as enacted

There are no transitional, savings, or related provisions in this Act as enacted.

Proactively released by the Minister for Māori Crown Relations: Te Arawhiti

Schedule 2
Ngā tūpuna o Ō-Rākau

ss 10, 13, 15

Ahumai Te Paerata
Ahuriri Te Kohika
Brownie Ngaheu
Ewa (daughter of Hineiturama)
Haa Moetu
Hauauru
Hemara Rerehau Te Whanonga
Hine-i-turama
Hitiri Te Paerata
Hoani Paruparu
Hone Teri
Kaawhia Te Ngohi
Kahotea Tamaki
Karipa Kiharoa
Matawaia (married to Ahumai)
Maupakanga
Ngā Whira
Niketi Poneke
Patena
Peita Kotuku
Perenera [sic] Perenara Te Huia
Poneke
Poupatate Te Huihi
Puhiwāhine
Raureti Paiaka
Rewi Manga Maniapoto
Rihi
Taonui Hikaka
Te Ahipu Tukorehu
Te Awhipera Nepe
Te Kohika Raureti
Te Paerata (Hoariri)

Te Rangikātua (Te Riri)

Te Raore

Te Takiwa te Momo

Te Tatana (married to Ahumai before he went to Waipapa)

Te Uruhero Tipa

Te Wairoa Piripi

Te Waro Te Haate

Te Whakatapu Paiaka

Te Whakataute Te Huia Raureti

Te Wharekotua

Tiniwata Te Kohika

Ti-Ti-Ti Ti Te Kepa (also named Taro Titi Tekepa)

Wahanui Huatare

Werohia Te Hiko

Winitana Tupotahi

Proactively released by the Minister for Māori Crown Relations: Te Arawhiti

Schedule 3

Ō-Rākau site

s 5

Name of property	Description	Interests
Ō-Rākau site	<p data-bbox="592 533 922 591"><i>South Auckland Land District— Waipa District</i></p> <p data-bbox="592 600 922 714">9.7254 hectares, more or less, being Lot 1 DPS 19526 and Lot 1 DPS 25608. All transfer 10039559.1.</p>	Nil

Proactively released by the Minister for Māori Crown Relations: Te Arawhiti



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.

Te Pire mō Ō-Rākau, Te Pae o Maumahara / The Ō-Rākau Remembrance Bill: Approval for Introduction

Portfolio **Māori Crown Relations: Te Arawhiti**

On 7 March 2024, the Cabinet Legislation Committee:

- 1 **noted** that the Te Pire mō Ō-Rākau, Te Pae o Maumahara / The Ō-Rākau Remembrance Bill (the Bill) gives effect to aspects of the Deed of Agreement Relating to the Ō-Rākau site signed on behalf of the Crown in September and October 2023;
- 2 **agreed** to allow for the list of tupuna in the Schedule of the Bill to be amended by Order in Council;
- 3 **agreed** to create a local government rates exemption for the Ō-Rākau site;
- 4 **invited** the Minister for Māori Crown Relations: Te Arawhiti (the Minister) to consult with the Minister for Arts, Culture, and Heritage on recognition of the Battle of Ō-Rākau at the Ō-Rākau site;
- 5 **noted** that a bid has been submitted to include the Bill on the 2024 Legislation Programme with a priority of 4 (to be passed in 2024 if possible);
- 6 **approve** the Te Pire mō Ō-Rākau, Te Pae o Maumahara / The Ō-Rākau Remembrance Bill [PCO 25029/15 0] for introduction, subject to the final approval of the Government caucuses and sufficient support in the House of Representatives;
- 7 **agreed** that the Government propose that the Bill:
 - 7.1 be referred to the Māori Affairs Committee for consideration; and
 - 7.2 be enacted, if possible, in the first half of 2024.

Sam Moffett
Committee Secretary

(see over for attendance)

Present:

Rt Hon Winston Peters
Hon Chris Bishop (Chair)
Hon Dr Shane Reti
Hon Erica Stanford
Hon Paul Goldsmith
Hon Judith Collins
Hon Tama Potaka
Hon Brooke van Velden
Hon Nicole McKee
Hon Shane Jones
Hon Simon Watts
Hon Scott Simpson
Todd Stevenson, MP
Jamie Arbuckle, MP

Officials present from:

Office of the Prime Minister
Office of the Chair
Officials Committee for LEG

Proactively released by the Minister for Māori Crown Relations: Te Arawhiti



Cabinet

Minute of Decision

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Report of the Cabinet Legislation Committee: Period Ended 8 March 2024

On 11 March 2024, Cabinet made the following decisions on the work of the Cabinet Legislation Committee for the period ended 8 March 2024:

[REDACTED]	[REDACTED]	[REDACTED]	Out of scope
[REDACTED]	[REDACTED]	[REDACTED]	
LEG-24-MIN-0023	Te Pire mō Ō-Rākau, Te Pae o Maumahara / The Ō-Rākau Remembrance Bill: Approval for Introduction Portfolio: Māori Crown Relations Te Arawhiti	CONFIRMED	
[REDACTED]	[REDACTED]	[REDACTED]	Out of scope
[REDACTED]	[REDACTED]	[REDACTED]	

Rachel Hayward
Secretary of the Cabinet

Proactively released by the Minister for Māori Crown Relations: Te Arawhiti