

Hon Andrew Little
Minister for Treaty of Waitangi Negotiations

Proactive release – Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua and Te Rohe o Rongokako: Approval for Introduction

Date of issue: 18 March 2022

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	Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua Settlement Bill and Te Rohe o Rongokako Joint Redress Bill: Approval for Introduction <i>Cabinet paper</i> Office for Māori Crown Relations – Te Arawhiti	No comment.
2	Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua Settlement Bill and Te Rohe o Rongokako Joint Redress Bill: Approval for Introduction <i>Cabinet Legislation Committee</i> <i>Summary LEG-21-SUB-0189</i> Cabinet Office	No comment.
3	Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua Settlement Bill and Te Rohe o Rongokako Joint Redress Bill: Approval for Introduction <i>Cabinet Legislation Committee</i> <i>Minute of Decision LEG-21-MIN-0189</i> Cabinet Office <i>Meeting date: 18/11/2021</i>	No comment.
4	Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua Settlement Bill and Te Rohe o Rongokako Joint Redress Bill: Approval for Introduction <i>Cabinet</i> <i>Minute of Decision CAB-21-MIN-0489</i> Cabinet Office <i>Meeting date: 10 May 2021</i>	Some information has been withheld because it is out of scope of the proactive release.

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

NGĀTI KAHUNGUNU KI WAIRARAPA TĀMAKI NUI-A-RUA SETTLEMENT BILL AND TE ROHE O RONGOKAKO JOINT REDRESS BILL: APPROVAL FOR INTRODUCTION

Proposal

1. This Cabinet paper seeks approval to introduce the Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua Claims Settlement Bill (the Bill) and Te Rohe o Rongokako Joint Redress Bill (the Joint Bill).
2. The Bill gives effect to aspects of the Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua (Ngāti Kahungunu) Deed of Settlement (the Deed), signed by the Crown and the Ngāti Kahungunu ki Wairarapa Tāmaki nui-ā-Rua Settlement Trust (the Settlement Trust), the Ngāti Kahungunu post-settlement governance entity (PSGE), on 29 October 2021.
3. The Joint Bill gives effect to joint redress included in both the Ngāti Kahungunu Deed and the Rangitāne o Wairarapa Tāmaki Nui-ā-Rua (Rangitāne) Deed of Settlement signed on 9 August 2016.

Policy

Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua

4. Ngāti Kahungunu is a large natural group with an area of interest spanning the Wairarapa and Tararua regions. The Ngāti Kahungunu area of interest is attached as **Appendix 1**. Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua are the last of the Ngāti Kahungunu large natural groups to have their settlement legislation introduced into the House.
5. The 2013 census records the Ngāti Kahungunu population as being approximately 12,000. Ngāti Kahungunu is one of the two large natural groups negotiating the settlement of their historical Treaty of Waitangi claims in the Wairarapa and Tararua regions. The other group is Rangitāne, who have approximately 3,000 members, and are party to the Joint Bill.

Negotiations with Ngāti Kahungunu

6. In November 2011, the Crown recognised the mandate of the Ngāti Kahungunu ki Wairarapa Tāmaki nui-ā-Rua Trust to represent Ngāti Kahungunu in negotiating the settlement of their historical Treaty claims. Terms of Negotiation were signed in June 2013. On 7 May 2016, an Agreement in Principle was signed.
7. In November 2016, the Ngāti Kahungunu claimant community ratified the Settlement Trust as the PSGE, and agreed to transfer the mandate to the Settlement Trust.
8. On 6 June 2017, Cabinet approved the final redress package for the comprehensive settlement of the historical Treaty of Waitangi claims of Ngāti Kahungunu and the final joint redress arrangements with Rangitāne [CAB-17-MIN-268 refers]. On 13 December 2017, Cabinet approved a total settlement value for Ngāti Kahungunu [CAB-17-MIN-0547 refers]. The Deed was initialled in March 2018.

9. Between October and November 2018, the Deed was ratified by the Ngāti Kahungunu claimant community, with an approval rate of 72%. The Minister for Māori Development and I approved the ratification results in January 2019.
10. In November 2018, the Minister of Finance and I decided to defer the signing of the Deed due to two urgent remedies inquiries, one regarding the Ngāumu Crown Forest Licenced land, and the other regarding the Pouākani memorialised lands (including the Maraetai Power Station). Resumption applications were made by three parties: Wai 85 (the Wairarapa Moana ki Pouākani Incorporation) regarding the Pouākani lands; Wai 429 (on behalf of Ngāi Tūmapūhia-ā-Rangi, a Ngāti Kahungunu hapū) regarding the forest land; and the Settlement Trust, who applied for resumption as a defensive manoeuvre to ensure that should resumption occur, the redress would go to all of Ngāti Kahungunu rather than just Wai 85 or Wai 429.
11. Despite applying for resumption, the Settlement Trust continued to engage with the Crown to try and reach an agreement outside of litigation. This resulted in an agreement to proceed to sign the Deed following an offer of an enhanced settlement package.
12. In considering an enhanced offer to the Settlement Trust, I have also considered, in consultation with the Attorney-General, how best to proceed to settlement in light of active remedies proceedings and litigation in the superior courts (including an appeal directly to the Supreme Court for which leave has been granted). In my decision to settle all historical Treaty of Waitangi claims, including Wai 429 and Wai 85, through the Ngāti Kahungunu Deed, I have considered that the Tribunal said the two groups still seeking resumption were not appropriate recipients of resumable assets; while the judicial review proceedings may change the position, that remains speculative; there has already been long delay to the settlement, and there will likely be years more delay for court and Tribunal hearings; and the interests of multiple groups must be balanced (including Raukawa and Rangitāne).
13. The Bill gives effect to elements of the Deed. The Deed, which was signed on 29 October 2021, states that on and from the settlement date, the historical claims of Ngāti Kahungunu are settled. Once introduced into the House of Representatives, the Bill will remove the jurisdiction of any court, tribunal or other judicial body in relation to the historical Treaty of Waitangi claims of Ngāti Kahungunu.
14. The Bill has a priority 6 classification in the 2021 Legislative Programme given the remedies proceedings. The Bill is now ready to proceed. More information about the Bill is attached in the Departmental Disclosure at **Appendix 2**.

REMOVAL OF RESUMPTIVE MEMORIALS

15. The Waitangi Tribunal has jurisdiction to make recommendations, that can become binding on the Crown, for the transfer of land to Māori that was previously transferred by the Crown to State-owned enterprises. The Waitangi Tribunal may do this if a claim before it relates to such land. The jurisdiction is noted by a memorial on the title to the land (a “section 27B memorial”).
16. The Crown has previously lifted section 27B memorials when all historical claims are settled in an area. This last occurred with the completion of settlements in the top of the South Island in 2014.
17. This settlement effected by this Bill means historical Treaty of Waitangi claims are settled over a wide area from Wairarapa to Wairoa. The Bill removes section 27B memorials from memorialised properties in that area. Officials have been cautious to not remove memorials

in areas of interest of unsettled groups and claimants that overlap with this area including: Muaūpoko, Mōkai Patea, Ngāti Ruapani, Te Aitanga a Māhaki, Ngā Ariki Kaiputahi, and Te Whānau a Kai.

Rangitāne negotiations and the Joint Bill

18. Rangitāne signed their Deed of Settlement on 6 August 2016 and the Rangitāne Tū Mai Rā (Wairarapa Tamaki nui-ā-Rua) Claims Settlement Act was enacted on 14 August 2017.
19. The Ngāti Kahungunu and Rangitāne Deeds include joint cultural redress. The Joint Bill gives effect to joint redress included in both Deeds.
20. The Joint Bill has a priority 6 classification in the 2021 Legislative Programme. The Joint Bill is now ready to proceed. More information about the Bill is attached in the Departmental Disclosure at **Appendix 3**.

Potential contentious issues

21. There are two issues that may be raised at select committee.

Waitangi Tribunal remedies inquiries and superior courts litigation

22. It is likely that the remedies inquiries will be raised at select committee. Refer to paragraphs 10 – 13 for further information regarding the settlement of the remedies litigation and the litigation in the superior courts including the that the Supreme Court has now granted leave to directly appeal to it.
23. After the Deed was signed on 29 October, the Waitangi Tribunal granted an application for an urgent inquiry into the process by which the Crown reached a settlement with Ngāti Kahungunu. The Waitangi Tribunal has indicated it is likely to issue an oral decision at the conclusion of the urgent inquiry. I will consider the events at the Waitangi Tribunal hearing on 11 and 12 November before deciding when to introduce the Bill.

Te Hika o Pāpāuma

24. Some members of Te Hika o Pāpāuma, a shared hapū of Ngāti Kahungunu and Rangitāne through whakapapa, geographic proximity and intermarriage, have consistently lobbied to be recognised as a large natural group for Treaty settlement purposes. In March 2015, the Waitangi Tribunal declined an application by some members of Te Hika o Pāpāuma to inquire into the negotiations with Rangitāne Settlement Negotiations Trust and the Settlement Trust.
25. The Crown's view is that Te Hika o Pāpāuma are not a large natural group for Treaty settlement purposes and it has encouraged Te Hika Pāpāuma to discuss their concerns with the Settlement Trust and the Rangitāne Tū Mai Rā Trust (the Rangitāne PSGE).
26. Te Hika o Pāpāuma members will be the beneficiaries of both settlements and will have the opportunity to participate in the ongoing affairs of the respective PSGEs. This has been clearly communicated to members of Te Hika o Pāpāuma.

Overlapping interests

27. Ngāti Kahungunu overlap with 18 different groups. All overlapping interests have been resolved to the satisfaction of the Crown. Ngāti Kahungunu and Rangitāne are closely related and their areas of interest are almost entirely overlapped. Since 2013, Rangitāne and

Ngāti Kahungunu have engaged closely on their respective settlement packages. Discussions were difficult at times as they relate to matters of whakapapa and identity.

28. Of the 17 other groups that have areas of interest that overlap with the Ngāti Kahungunu area of interest, nine of these groups noted they had no overlapping interests in Ngāti Kahungunu's settlement redress. Five of the groups raised specific concerns with some of the redress offered to Ngāti Kahungunu. The Settlement Trust and the former Office of Treaty Settlements engaged with these groups and their issues have been resolved to the Crown's satisfaction.

Regulatory impact analysis

29. The Office for Māori Crown Relations – Te Arawhiti is not required to prepare a Regulatory Impact Statement since the Bill and the Joint Bill are not altering the regulatory regime.

Compliance

30. The Bill and the Joint Bill both comply with the:
 - 30.1. principles of the Treaty of Waitangi;
 - 30.2. rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
 - 30.3. principles and guidelines set out in the Privacy Act 1993;
 - 30.4. Legislation Advisory Committee Guidelines: Guidelines on Process and Content of Legislation; and
 - 30.5. relevant international standards and obligations.

Consultation

31. The following departments were consulted in the development of the policy implemented in these Bills: Ministry for Culture and Heritage, The Treasury, Ministry for Business, Innovation and Employment, Ministry of Education, Ministry for the Environment, Te Puni Kōkiri, Department of Internal Affairs, Ministry for Primary Industries, Department of Conservation, and Land Information New Zealand.
32. The Crown Law Office has provided feedback on this paper.
33. Relevant local authorities were consulted on the parts of the Bill and the Joint Bill which affect them.
34. The Settlement Trust and Rangitāne Tū Mai Rā have been engaged in the drafting the Bill and the Joint Bill.

Binding on the Crown

35. The Bill and the Joint Bill will be binding on the Crown.

Allocation on decision-making powers

36. Not applicable.

Associated regulations

37. Not applicable.

Other instruments

38. Not applicable.

Key definitions

39. The Bill and the Joint Bill both include the following definitions:

- a. **administering body** has the meaning given in section 2(1) of the Reserves Act 1977;
- b. **Commissioner of Crown Lands** means the Commissioner of Crown Lands appointed in accordance with section 24AA of the Land Act 1948;
- c. **consent authority** has the meaning given in section 2(1) of the Resource Management Act 1991;
- d. **conservation area** has the meaning given in section 2(1) of the Conservation Act 1987;
- e. **Crown** has the meaning given in section 2(1) of the Public Finance Act 1989;
- f. **Director-General** means the Director-General of Conservation;
- g. **interest** means a covenant, easement, lease, license, license to occupy, tenancy or other right of obligation affecting a property;
- h. **LINZ** means Land Information New Zealand;
- i. **record of title** has the meaning given in section 5(1) of the Land Transfer Act 2018;
- j. **Registrar-General** has the meaning given to Registrar in section 5(1) of the Land Transfer Act 2017;
- k. **reserve** has the meaning given in section 2(1) of the Reserves Act 1977;
- l. **resource consent** has the meaning given in section 2(1) of the Resource Management Act 1991; and
- m. **settlement date** means the date that is 40 working days after the date on which this Act comes into force.

Commencement of legislation

40. The two Acts will come into force on the day after the date they receive Royal Assent. Many of the actions of matters occurring under each Bill will take effect on settlement date (40 working days after the date that the Act comes into force).

Parliamentary stages

41. Rangitāne strongly prefer that the Joint Bill is introduced to the House of Representatives before the Bill is introduced, and that the two Bills are dealt with separately. Their concern is that they do not want the joint redress to be too closely aligned with the Ngāti Kahungunu settlement. On 15 March 2016, my predecessor wrote to Rangitāne advising the Joint Bill will be introduced separately to the Bill.

42. I recommend the Joint Bill and the Bill be introduced separately, with the Joint Bill being introduced first, and that both Bills be progressed in 2021. I also recommend that these Bills be referred to the Māori Affairs Committee after first reading.

Proactive release

43. I intend to release this paper proactively, making any necessary redactions, once both Bills have been introduced.

Recommendations

I recommend that the Committee:

1. **note** the Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua Claims Settlement Bill and Te Rohe o Rongokako Joint Redress Bill has a priority 6 classification in the 2021 Legislative Programme;
2. **note** the Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua Claims Settlement Bill gives effect to aspects of the Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua Deed of Settlement that was signed on 29 October 2021, and Te Rohe o Rongokako Joint Redress Bill gives effect to aspects of the Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua Deed of Settlement and the Rangitāne o Wairarapa Tamaki Nui-ā-Rua Deed of Settlement signed on 6 August 2016;
3. **approve** the Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua Claims Settlement Bill and Te Rohe o Rongokako Joint Redress Bill for introduction, subject to final approval of the government caucus and sufficient support in the House of Representatives;
4. **agree** the Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua Claims Settlement Bill and Te Rohe o Rongokako Joint Redress Bill be introduced separately after Cabinet approval, as soon as the Minister for Treaty of Waitangi Negotiations considers it appropriate, with Te Rohe o Rongokako Joint Redress Bill being introduced first; and
5. **agree** the Government propose the Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua Claims Settlement Bill and Te Rohe o Rongokako Joint Redress Bill be:
 - 5.1. referred to the Māori Affairs Select Committee for consideration; and
 - 5.2. enacted, if possible, by the end of 2022.

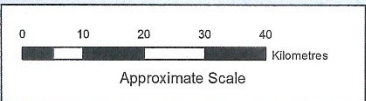
Authorised for lodgement

Hon Andrew Little
Minister for Treaty of Waitangi Negotiations

Appendix 1: Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua Area of Interest



This map is for Treaty settlement purposes only. Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua and the Crown acknowledge other iwi may also have interests within this area.



OTS - 203 - 01

Hawke's Bay and Wellington Land Districts
 Territorial Authority: Tararua, Masterton, Carterton, Kapiti Coast, South Wairarapa, Central Hawke's Bay and Horowhenua Districts, Lower Hutt City and Upper Hutt City
 Compiled as a graphic representation. Boundaries are indicative only.



MS0100233

Area of Interest
 Areas referred to in the Deed of Settlement between
 Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua and the Crown

Approved as to boundaries:
 [Signature] 13/03/18
 for Ngāti Kahungunu ki Wairarapa
 Tāmaki nui-a-Rua
 [Signature] 14/3/18
 for and on behalf of the Crown



Cabinet Legislation Committee

Summary

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Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua Settlement Bill and Te Rohe o Rongokako Joint Redress Bill: Approval for Introduction

Portfolio Treaty of Waitangi Negotiations

This paper seeks approval to introduce the:

- Ngāti Kahungunu ki Wairarapa Tāmakinui-a-Rua Claims Settlement Bill;
- Te Rohe o Rongokako Joint Redress Bill.

The Ngāti Kahungunu ki Wairarapa Tāmakinui-a-Rua Claims Settlement Bill gives effect to aspects of the Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua Deed of Settlement, signed by the Crown and the Ngāti Kahungunu ki Wairarapa Tāmaki nui-ā-Rua Settlement Trust, the Ngāti Kahungunu post-settlement governance entity, on 29 October 2021.

Te Rohe o Rongokako Joint Redress Bill gives effect to joint redress included in both the Ngāti Kahungunu Deed and the Rangitāne o Wairarapa Tāmaki Nui-ā-Rua Deed of Settlement signed on 9 August 2016. Potential contentious issues are set out in **paragraphs 21 – 26**.

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

- 1 note that the Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua Claims Settlement Bill and Te Rohe o Rongokako Joint Redress Bill have a category 6 priority on the 2021 Legislation Programme;
- 2 note that the Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua Claims Settlement Bill gives effect to aspects of the Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua Deed of Settlement that was signed on 29 October 2021;
- 3 note that the Te Rohe o Rongokako Joint Redress Bill gives effect to aspects of the Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua Deed of Settlement and the Rangitāne o Wairarapa Tāmaki Nui-ā-Rua Deed of Settlement signed on 6 August 2016;
- 4 approve the Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua Claims Settlement Bill and Te Rohe o Rongokako Joint Redress Bill for introduction, subject to final approval of the government caucus and sufficient support in the House of Representatives;
- 5 agree that the Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua Claims Settlement Bill and Te Rohe o Rongokako Joint Redress Bill be introduced separately after Cabinet approval, as soon as the Minister for Treaty of Waitangi Negotiations considers it appropriate, with Te Rohe o Rongokako Joint Redress Bill being introduced first;

- 6 agree that the government propose the Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua Claims Settlement Bill and Te Rohe o Rongokako Joint Redress Bill will be:
- 6.1 referred to the Māori Affairs Select Committee for consideration;
 - 6.2 enacted, if possible, by the end of 2022.

Rebecca Davies
Committee Secretary

Hard-copy distribution:
Cabinet Legislation Committee

Proactively released by the Minister for Treaty of Waitangi Negotiations



Cabinet Legislation Committee

Minute of Decision

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Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua Settlement Bill and Te Rohe o Rongokako Joint Redress Bill: Approval for Introduction

Portfolio Treaty of Waitangi Negotiations

On 18 November 2021, the Cabinet Legislation Committee:

- 1 **noted** that the Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua Claims Settlement Bill and Te Rohe o Rongokako Joint Redress Bill have a category 6 priority on the 2021 Legislation Programme;
- 2 **noted** that the Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua Claims Settlement Bill gives effect to aspects of the Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua Deed of Settlement that was signed on 29 October 2021;
- 3 **noted** that the Te Rohe o Rongokako Joint Redress Bill gives effect to aspects of the Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua Deed of Settlement and the Rangitāne o Wairarapa Tamaki Nui-ā-Rua Deed of Settlement signed on 6 August 2016;
- 4 **approved** the Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua Claims Settlement Bill and Te Rohe o Rongokako Joint Redress Bill for introduction, subject to final approval of the government caucus and sufficient support in the House of Representatives;
- 5 **agreed** that the Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua Claims Settlement Bill and Te Rohe o Rongokako Joint Redress Bill be introduced separately after Cabinet approval, as soon as the Minister for Treaty of Waitangi Negotiations considers it appropriate, with Te Rohe o Rongokako Joint Redress Bill being introduced first;
- 6 **agreed** that the government propose the Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua Claims Settlement Bill and Te Rohe o Rongokako Joint Redress Bill will be:
 - 6.1 referred to the Māori Affairs Select Committee for consideration;
 - 6.2 enacted, if possible, by the end of 2022.

Rebecca Davies
Committee Secretary

Present:
Hon David Parker (Chair)
Hon Poto Williams
Hon Kris Faafoi
Keiran McAnulty, 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 19 November 2021

On 22 November 2021, Cabinet made the following decisions on the work of the Cabinet Legislation Committee for the period ended 19 November 2021:

[REDACTED]	[REDACTED]	[REDACTED] out of scope
LEG-21-MIN-0189	Ngāti Kahungunu ki Wairarapa Tamaki nui-a-Rua Settlement Bill and Te Rohe o Rongokako Joint Redress Bill: Approval for Introduction Portfolio: Treaty of Waitangi Negotiations	CONFIRMED
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED] out of scope
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Martin Bell
for Secretary of the Cabinet