

Hon Andrew Little
Minister for Treaty of Waitangi Negotiations

Proactive release – Ngāti Tara Tokanui Claims Settlement Bill: Approval for introduction

Date of issue: 5 December 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 Tara Tokanui Claims Settlement Bill: Approval for introduction <i>Cabinet Paper</i> Office of the Minister for Treaty of Waitangi Negotiations 20 October 2022	Released in full
2	Ngāti Tara Tokanui Claims Settlement Bill: Approval for introduction <i>Minute of Decision LEG-22-MIN-0170</i> Cabinet Legislation Committee 20 October 2022	Released in full
3.	Report of the Cabinet Legislation Committee: Period Ended 21 October 2022 <i>Minute of Decision CAB-22-MIN-0461</i> Cabinet Office 25 October 2022	Redacted in part as out of scope

In Confidence

Office of the Minister for Treaty of Waitangi Negotiations

Cabinet Legislation Committee

Ngāti Tara Tokanui Claims Settlement Bill: Approval for introduction

Proposal

- 1 I propose Cabinet approve the Ngāti Tara Tokanui Claims Settlement Bill (the bill) for introduction to the House of Representatives. The bill will give effect to aspects of the Ngāti Tara Tokanui Deed of Settlement (the deed), signed by Ngāti Tara Tokanui and the Crown on 28 July 2022.

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 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 Tara Tokanui Treaty negotiations and deed of settlement

- 4 Ngāti Tara Tokanui is an iwi of approximately 834 people (2018 census) located in the Paeroa area. The Ngāti Tara Tokanui 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 Tara Tokanui, 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 draft bill. The Crown also entered individual negotiations with all Hauraki iwi, including Ngāti Tara Tokanui.
- 6 On 2 December 2013 and 14 November 2016, Cabinet made decisions on settlement redress for Ngāti Tara Tokanui. The redress included acknowledgements and an apology for Crown breaches of the Treaty of Waitangi, the return of nine sites of significance, \$6 million and other cultural and commercial redress. Cabinet authorised the Minister for 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 Tara Tokanui, 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 Tara Tokanui 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 (26% participation; 78% in favour of the deed; 80% in favour of the governance entity) and agreed they showed sufficient support for the Crown and Ngāti Tara Tokanui to enter into the settlement. On 28 July 2022, following the conclusion of overlapping interests engagement and resolution of final technical matters, I signed the deed with Ngāti Tara Tokanui.

Contentious issues

- 8 The delay between ratification and deed signing was due to a Waitangi Tribunal inquiry into Crown process for settlements with Hauraki iwi, including Ngāti Tara Tokanui. The Tribunal found the Crown breached its Treaty obligations by failing to undertake an adequate overlapping interests process for settlement redress offered to Hauraki iwi. However, the Tribunal also found the Crown could rely on earlier agreements reached between groups.
- 9 For Ngāti Tara Tokanui, this meant further overlapping interests processes were necessary in relation to two items of relationship redress. I allowed two and a half years for this to occur and supported engagement between Ngāti Tara Tokanui and overlapping iwi with information, funding and facilitation. Ngāti Tara Tokanui made concerted efforts to address overlapping interests, particularly with Tauranga Moana iwi. Ultimately, overlapping issues were satisfactorily addressed through engagement with all groups except Ngāi Te Rangi. I made a decision to maintain the redress offered to Ngāti Tara Tokanui and informed overlapping groups before I signed the deed. Fair notice that I would make decisions if matters were not resolved between groups, and of my intention to sign the deed following making decisions, was provided. Ngāi Te Rangi has not raised any objections with me in relation to my decision to maintain the redress offered to Ngāti Tara Tokanui and sign the deed. Relations remain cordial between the leadership of Ngāti Tara Tokanui and Ngāi Te Rangi.

Ngāti Tara Tokanui Claims Settlement Bill

- 10 The deed, and the settlement, are conditional on the settlement legislation coming into force. Section 9 of the deed requires the Crown to propose the draft settlement bill for introduction to the House of Representatives and for the Ngāti Tara Tokanui governance entity to support the passage of the bill through Parliament.
- 11 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 Tara Tokanui, 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).
- 12 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.

- 13 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.
- 14 The structure of the bill is:
- 14.1. Part 1: Preliminary matters, historical account, acknowledgements and apology, and settlement of historical claims;
 - 14.2. Part 2: Cultural redress, including the transfer of public conservation land other, statutory acknowledgements, protocols redress and classification of specified areas;
 - 14.3. Part 3: Commercial redress: transfer of commercial property and non-nationalised Crown-owned minerals in property transferring through the settlement; and
 - 14.4. Schedules: Describe the cultural redress and statutory areas.

Impact analysis

- 15 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

- 16 The bill complies with the:
- 16.1. principles of the Treaty of Waitangi;
 - 16.2. rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
 - 16.3. disclosure statement requirements;
 - 16.4. principles and guidelines set out in the Privacy Act 2020;
 - 16.5. Legislation Design and Advisory Committee Legislation Guidelines (2021 edition); and
 - 16.6. relevant international standards and obligations.

Consultation

- 17 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, Department of Internal Affairs, 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.

- 18 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

- 19 The resulting act will be binding on the Crown.

Commencement of legislation

- 20 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

- 21 I propose the bill be introduced following Cabinet approval.
- 22 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 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.
- 23 Once first reading occurs and the bill is referred to the Māori Affairs Select Committee, Ngāi Te Rangī and other overlapping groups 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

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

Recommendations

The Minister for Treaty of Waitangi Negotiations recommends the Committee:

- 1 **note** the Ngāti Tara Tokanui Claims Settlement Bill gives effect to aspects of the Ngāti Tara Tokanui Deed of Settlement signed by Ngāti Tara Tokanui and the Crown on 28 July 2022;
- 2 **note** the Ngāti Tara Tokanui 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 Tara Tokanui Claims Settlement Bill is ready for introduction;

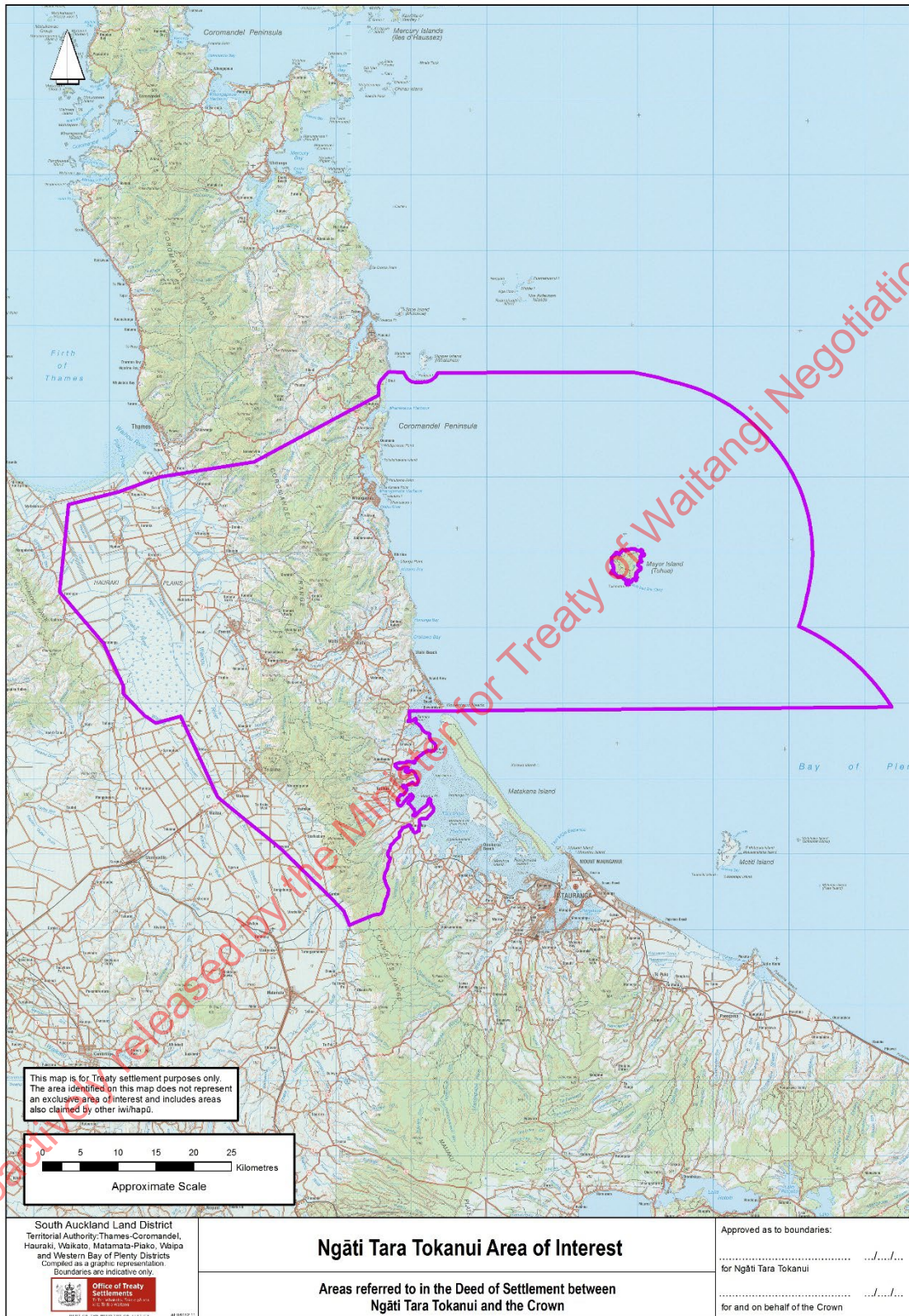
- 4 **authorise** the Parliamentary Counsel Office to make any necessary minor changes to the Ngāti Tara Tokanui Claims Settlement Bill before final consideration by Cabinet;
- 5 **approve** the Ngāti Tara Tokanui Claims Settlement Bill for introduction subject to the final approval of the government caucus and sufficient support in the House of Representatives;
- 6 **agree** the bill be introduced after Cabinet has approved the Ngāti Tara Tokanui Claims Settlement Bill for introduction;
- 7 **note** the Minister for Treaty of Waitangi Negotiations proposes the Ngāti Tara Tokanui Claims Settlement Bill await the introduction of the remaining Hauraki bills, before proceeding to first reading;
- 8 **agree** the Ngāti Tara Tokanui 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

Proactively released by the Minister for Treaty of Waitangi Negotiations

Appendix One: Ngāti Tara Tokanui area of Interest



Appendix Two: Ngāti Tara Tokanui Claims Settlement Bill

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.

Ngati Tara Tokanui Claims Settlement Bill: Approval for Introduction

Portfolio Treaty of Waitangi Negotiations

On 20 October 2022, the Cabinet Legislation Committee:

- 1 **noted** that the Ngāti Tara Tokanui Claims Settlement Bill (the Bill) gives effect to aspects of the Ngāti Tara Tokanui Deed of Settlement signed by Ngāti Tara Tokanui and the Crown on 28 July 2022;
- 2 **noted** that the Bill holds a category 4 priority on the 2022 Legislation Programme (to be referred to a select committee in the year);
- 3 **noted** that the Parliamentary Counsel Office is undertaking final quality assurance to ensure the Bill is ready for introduction;
- 4 **authorised** the Parliamentary Counsel Office to make any necessary minor changes to the Bill before introduction;
- 5 **approved** the Ngāti Tara Tokanui Claims Settlement Bill [PCO 18987/7.19] 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** the Minister for Treaty of Waitangi Negotiations proposes the Ngāti Tara Tokanui Claims Settlement Bill await the introduction of the remaining Hauraki bills, before proceeding to first reading;
- 8 **agreed** the Ngāti Tara Tokanui 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.

Sam Moffett
Committee Secretary

Present:

Hon Andrew Little (Chair)
Hon Nanaia Mahuta
Hon Poto Williams
Hon Meka Whaitiri
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 21 October 2022

On 25 October 2022, Cabinet made the following decisions on the work of the Cabinet Legislation Committee for the period ended 21 October 2022:

[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
LEG-22-MIN-0170	Ngāti Tara Tokanui Claims Settlement Bill: Approval for Introduction Portfolio: Treaty of Waitangi Negotiations	CONFIRMED
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Out of scope

CONFIRMED

CONFIRMED

Out of scope

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Rachel Hayward
Acting Secretary of the Cabinet

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