

Hon Andrew Little

Minister for Treaty of Waitangi Negotiations

Proactive release – Pare Hauraki Collective Redress Bill: Approval for introduction

Date of issue: 21 February 2023

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

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

No.	Document	Comments
1	Pare Hauraki Collective Redress Bill: Approval for introduction Cabinet paper Office of the Minister for Treaty of Waitangi Negotiations 15 December 2022	Released in full
2	Pare Hauraki Collective Redress Bill: Approval for introduction <i>Minute of Decision LEG-22-MIN-0236</i> Cabinet Legislation Committee Meeting date: 15 December 2022	Released in full
3.	Report of the Cabinet Legislation Committee: Period Ended 16 December 2022 <i>Cabinet minute CAB-22-MIN-0601</i> Cabinet Office Meeting date: 19 December 2022	Redacted in part because out of scope

In Confidence

Office of the Minister for Treaty of Waitangi Negotiations

Cabinet Legislation Committee

Pare Hauraki Collective Redress Bill: Approval for introduction

Proposal

- 1 I propose Cabinet approve the Pare Hauraki Collective Redress Bill (the bill) for introduction to the House of Representatives. The bill will give effect to aspects of the Pare Hauraki Collective Redress Deed (the deed) signed by five iwi of Hauraki and the Crown on 2 August 2018 and subsequently by two further iwi of Hauraki in September 2018 and February 2019.

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 This particular bill gives effect to the shared commercial and cultural redress for the collective interests of the iwi of Hauraki. The Treaty settlement bills for each of the twelve-individual iwi of Hauraki provide the Crown apology, the financial redress and settlement of historical Treaty claims. Taken together, the collective and individual Treaty settlement bills achieve full and final settlement.
- 4 The policy given effect to by this bill directly relates to the Government's commitment to honour Te Tiriti o Waitangi, strengthen the Māori-Crown relationship and work in true partnership with Māori.

Background

Hauraki Collective Treaty negotiations and redress deed

- 5 In 2009, the twelve iwi of Hauraki (combined population approximately 16,000) formed the Hauraki Collective for the purpose of negotiating a Treaty settlement.¹
- 6 The areas of interest of the iwi of Hauraki extend from the Mahurangi in the north to the western Bay of Plenty and include the islands of the Hauraki Gulf / Tikapa Moana. The Hauraki Collective redress area is attached at **Appendix One**.

¹ The twelve iwi are Hako, Ngāi Tai ki Tāmaki, Ngāti Hei, Ngāti Maru, Ngāti Paoa, Ngāti Porou ki Hauraki, Ngāti Pūkenga, Ngāti Rāhiri Tumutumu, Ngāti Tamaterā, Ngāti Tara Tokanui, Ngaati Whanaunga and Te Patukirikiri.

- 7 In October 2010, the Crown and the Hauraki Collective signed a Framework Agreement, which outlined the negotiations process for settlement of shared claims and a collective settlement. In July 2011, iwi of Hauraki signed iwi-specific Agreement in Principle Equivalents which expanded upon the Framework Agreement and included iwi-specific redress proposals. On 2 December 2013, 30 June 2014, 4 August 2014, 20 June 2016 and 14 November 2016, Cabinet made decisions on cultural and commercial redress for the Hauraki Collective. The cultural redress includes two 1,000-hectare vestings of Moehau and Te Aroha maunga, natural resource arrangements, te reo Māori revitalisation and changes to place names. The commercial redress provides the right to purchase Crown forest licenced land, the transfer of 41 properties held in the Treaty settlements landbank, a right of first refusal over surplus Crown land, ownership of minerals in land transferred as part of the Treaty settlements (not including petroleum, gold, silver and uranium) and the right to purchase specified Crown properties within five years.
- 8 Cabinet authorised the Minister for Māori Development and the Minister for Treaty of Waitangi Negotiations to consider the ratification results for the proposed deed, and for the Minister for Treaty of Waitangi Negotiations to sign the deed on behalf of the Crown [CAB Min 13 42-12, CAB-MIN-14-22/14, CAB-MIN-14-26/19, CAB-16-MIN-0284 and CAB-16-MIN-0609.01 refer].
- 9 The deed was initialled by ten of the twelve iwi of Hauraki on 22 December 2016. Ngāti Porou ki Hauraki initialled the deed on 20 January 2017 and Ngāti Rāhiri Tumutumu initialled the deed later in February 2017.

Ratification and signing

- 10 Between April and August 2017, eleven of the twelve iwi undertook ratification of the deed and the post-settlement governance entities (PSGEs) proposed to receive the redress². Ministers at the time considered the ratification processes and results³ and agreed they showed sufficient support for the Crown and the Hauraki Collective to enter into the deed.
- 11 In August 2018, I signed the deed with five of the iwi of Hauraki (Ngāti Tara Tokanui, Ngāti Tamaterā, Ngāti Maru, Te Patukirikiri and Ngaati Whanuanga). Ngāti Hei subsequently signed the deed on 13 September 2018 and Ngāti Paoa signed the deed on 15 February 2019.
- 12 Three iwi, Hako, Ngāi Tai ki Tāmaki and Ngāti Rāhiri Tumutumu have ratified the deed but have not yet signed it. Having ratified the deed, these three iwi are able to sign the deed when they choose.
- 13 Ngāti Porou ki Hauraki and Ngāti Pūkenga, who have not ratified or signed the deed, were not required to sign it as their interests had already been protected by accession provisions in the deed. These provisions protect their right to accede to the deed in

² Ngāti Porou ki Hauraki chose to undertake ratification at the same time as for their individual deed of settlement. To date this has not occurred.

³ Nine groups ratified in April 2017 (30% participation; 94% in favour of the deed; 92% in favour of the PSGEs). Ngāti Pūkenga also participated in the ratification process but wrote to the Crown to advise they did not intend to sign the deed. Ministers therefore did not consider their ratification results. Ngāti Rāhiri Tumutumu ratified in August 2017 (46% participation; 86% in favour of the deed; 84% in favour of the PSGEs).

perpetuity, however they must accede within five years of the date the deed is signed by all of the other iwi of Hauraki if they wish to participate in the Collective forestry redress.

Overlapping interests

- 14 Following the signing of the deed, the Waitangi Tribunal (the Tribunal) granted urgency to six applications from overlapping groups concerned with the process the Crown had followed in offering redress to the iwi of Hauraki. In December 2019, the Tribunal released its report and found the Crown breached its Treaty obligations to three of those groups (Ngātiwai, Ngāi Te Rangi and Ngā Hapū o Ngāti Ranginui) by failing to undertake an adequate overlapping interests process for settlement redress offered to the iwi of Hauraki. The Tribunal recommended the Crown provide time, space and resources for the groups to engage in tikanga-based discussions. Where agreements on overlapping issues had previously been reached between groups, the Tribunal confirmed the Crown was entitled to rely on those agreements.
- 15 In response to the Tribunal's report, I agreed not to propose the bill for introduction until the groups had sufficient opportunity to engage on the issues. I allowed two and a half years for this engagement to occur and supported the process with information, funding and the offer of facilitation. In that time, the Hauraki Collective entered into tikanga-based discussions with Ngā Hapū o Ngāti Ranginui which resulted in an agreed tikanga-based process that will take place in future and in their own time to address the issues between them. Ngāi Te Rangi and Ngāti Pūkenga were encouraged to participate in those discussions and have an open invitation to join and participate in the agreed tikanga-based process. The Hauraki Collective also made efforts to address overlapping interests with Ngātiwai. I met with the groups on several occasions throughout this period to understand their perspectives, discuss progress and offer my help and support.
- 16 In May 2022, satisfied with the progress made between Ngā Hapū o Ngāti Ranginui and the Hauraki Collective, and with the Tribunal's finding that the Crown was entitled to rely on earlier agreements reached between Ngāi Te Rangi and the Hauraki Collective, I confirmed to those groups my intention to retain the redress offered and progress the bill to introduction, subject to overlapping interests with Ngātiwai being addressed. Ngāi Te Rangi have not formally responded on that intention.
- 17 To address the concerns of Ngātiwai, the Crown and the Hauraki Collective have agreed the name change proposed for Great Barrier Island (Aotea) will not take effect through the bill as originally proposed. Instead, the name change will take effect through a separate Order in Council made on my recommendation as Minister for Treaty of Waitangi Negotiations. That approach allows the name change to be given effect at a later date, or through another settlement, as appropriate. Ngātiwai, as well as Ngāti Rehua-Ngātiwai ki Aotea, have been informed and I consider overlapping interests on the redress in the deed and bill have now been adequately addressed.
- 18 The Crown's approach to addressing overlapping interests recognises that overlapping groups will not always be able to reach agreement and the settlement process cannot be held in hiatus indefinitely due to stalemate. This would not be fair, in this case for Hauraki iwi, depriving them of the benefits of settlement.

19 In making decisions on redress for the Hauraki Collective, I have endeavoured to ensure a fair, robust, transparent process has been undertaken that is consistent with the Tribunal's recommendations, and Treaty principles, and that has taken into account the views and information shared by all the groups involved. I am confident the redress offered to the Hauraki Collective in the deed is fair, appropriate and commensurate with their interests.

Introduction of the bill

20 After 13 years of negotiation, and with overlapping interests being addressed to my satisfaction, I consider it is now appropriate to propose the bill for introduction. This represents a significant milestone for the Hauraki Collective and the Crown. I do not intend to progress the bill to first reading until Hako, Ngāi Tai ki Tāmaki and Ngāti Rāhiri Tumutumu have signed the deed or their interests have been protected by adding them to the accession provisions which currently apply to Ngāti Porou ki Hauraki and Ngāti Pūkenga.

Possible issues which may be raised at Select Committee

21 Overlapping interests issues are likely to be raised at select committee by Ngātiwai and Ngāi Te Rangi. It is possible individuals from Ngā Hapū o Ngāti Ranginui and Ngāti Pūkenga may also make submissions. There have been some internal tensions within the Hauraki Collective during the course of negotiations and it is possible individuals from within the Collective may choose to submit to the select committee on their concerns regarding bill and the Collective more generally.

Pare Hauraki Collective Redress Bill

22 The deed is conditional on the legislation coming into force. Clause 18 of the deed requires the Crown to propose the draft bill for introduction to the House of Representatives and for the Hauraki Collective governance entity to support the passage of the bill through Parliament.

23 The bill (attached at **Appendix Two**) is required to give effect to certain aspects of the deed, to provide for statutory instruments to be applied, remove statutory memorials from land titles in the claim area and to vest land in the PSGE where normal administrative land transfer processes would not be appropriate (such as public conservation land).

24 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.

25 Parts of the bill relate to the Resource Management Act 1991 (RMA) which is proposed to be replaced by the Spatial Planning Act (SPA) and Natural and Built Environments Act (NBA) as part of the resource management reforms. Officials are engaging with the Hauraki Collective to discuss and agree how the integrity of the redress affected by the reforms will be upheld. Agreement with the Collective will be recorded through a deed to amend. The necessary legislative amendments could be implemented through a supplementary order paper to amend the bill (if the SPA and NBA have been enacted) or through an amendment bill to amend the settlement legislation (if it is enacted before the SPA and NBA).

- 26 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.
- 27 The structure of the bill is:
- 27.1. Part 1: Preliminary matters, interpretation provisions, resumptive memorials and miscellaneous matters;
 - 27.2. Part 2: Cultural redress, including the transfer of public conservation land, statutory acknowledgements, official geographic names, conservation management plans and natural resource arrangements;
 - 27.3. Part 3: Commercial redress, including the transfer of commercial property and licensed land and non-nationalised Crown-owned minerals in property transferring through the settlement, a right of first refusal over surplus Crown land and the right to purchase specified Crown properties within five years;
 - 27.4. Part 4: Amendments to other Acts, Ngāti Pūkenga Claims Settlement Act (2017) and Ngāi Tai ki Tāmaki Claims Settlement Act (2017); and
 - 27.5. Eight Schedules: Setting out procedural matters for administrative functions and describing the cultural redress and statutory areas.

Impact analysis

- 28 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

- 29 The bill complies with the:
- 29.1. principles of the Treaty of Waitangi;
 - 29.2. rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
 - 29.3. disclosure statement requirements;
 - 29.4. principles and guidelines set out in the Privacy Act 2020;
 - 29.5. Legislation Design and Advisory Committee Legislation Guidelines (2021 edition); and
 - 29.6. relevant international standards and obligations.

Consultation

- 30 The following departments were consulted in the development of the policy implemented in the bill: The Treasury, Ministry for the Environment, Department of Conservation, Ministry of Primary Industries, Department of Inland Revenue, Ministry

for Culture and Heritage, Ministry of Education, Ministry of Business, Innovation and Employment, Te Puni Kōkiri, Ngā Pou Taunaha o Aotearoa New Zealand Geographic Board and Toitū Te Whenua Land Information New Zealand. The Crown Law Office and the Parliamentary Counsel Office (PCO) also provided advice in the preparation of the bill and this paper.

- 31 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

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

Commencement of legislation

- 33 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. Certain provisions in relation to statutory acknowledgments will take effect on the effective date, which is 6 months after settlement date.

Parliamentary stages

- 34 I propose the bill be introduced following Cabinet approval.
- 35 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, and the signing of the deed by Hako, Ngāi Tai ki Tāmaki and Ngāti Rāhiri Tumutumu or updated accession provisions in the deed, before proceeding to first reading.
- 36 Once first reading occurs and the bill is referred to the Māori Affairs Committee, overlapping groups may choose to submit on the bill. The Māori Affairs Committee will consider these submissions as part of normal parliamentary process.

Proactive release

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

Recommendations

- 38 The Minister for Treaty of Waitangi Negotiations recommends the Committee:
- 1 **note** the Pare Hauraki Collective Redress Bill gives effect to aspects of the Pare Hauraki Collective Redress Deed signed by the members of the Pare Hauraki Collective and the Crown on 2 August 2018;

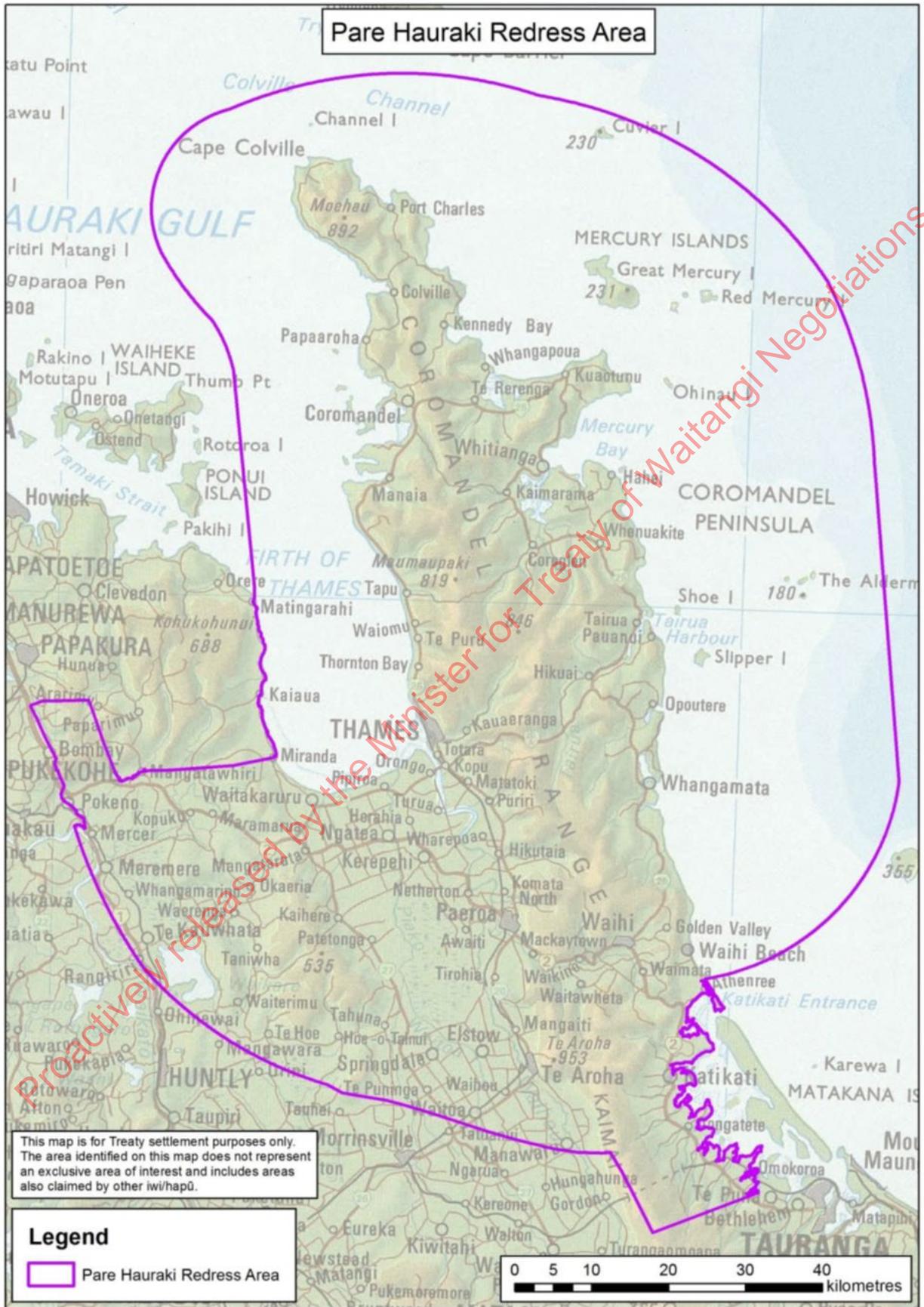
- 2 **note** the Pare Hauraki Collective Redress Bill holds a category 4 priority in the 2022 Legislation Programme to be referred to a select committee in the year;
- 3 **note** the Parliamentary Counsel Office is undertaking final quality assurance to ensure the Pare Hauraki Collective Redress Bill is ready for introduction;
- 4 **authorise** the Parliamentary Counsel Office to make any necessary minor changes to the Pare Hauraki Collective Redress Bill before final consideration by Cabinet;
- 5 **approve** the Pare Hauraki Collective Redress 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 Pare Hauraki Collective Redress Bill for introduction;
- 7 **note** the Minister for Treaty of Waitangi Negotiations proposes the Pare Hauraki Collective Redress Bill await the introduction of the remaining Hauraki bills, before proceeding to first reading;
- 8 **agree** the Pare Hauraki Collective Redress 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: Pare Hauraki Collective Redress Area Map



Appendix Two: Pare Hauraki Collective Redress Bill

Proactively released by the Minister for Treaty of Waitangi Negotiations



Cabinet Legislation Committee

Minute of Decision

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Pare Hauraki Collective Redress Bill: Approval for Introduction

Portfolio **Treaty of Waitangi Negotiations**

On 15 December 2022, the Cabinet Legislation Committee:

- 1 **noted** that the Pare Hauraki Collective Redress Bill (the Bill) gives effect to aspects of the Pare Hauraki Collective Redress Deed, signed by the members of the Pare Hauraki Collective and the Crown on 2 August 2018;
- 2 **noted** that the Pare Hauraki Collective Redress Bill holds a category 4 priority in the 2022 Legislation Programme (to be referred to a select committee in 2022);
- 3 **noted** that the Parliamentary Counsel Office is undertaking final quality assurance to ensure the 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 Pare Hauraki Collective Redress Bill [PCO 17856/8.0] for introduction, subject to the final approval of the Government caucus and sufficient support in the House of Representatives;
- 6 **agreed** that the Bill be introduced after Cabinet approval;
- 7 **noted** that the Minister for Treaty of Waitangi Negotiations proposes the Pare Hauraki Collective Redress Bill await the introduction of the remaining Hauraki bills, before proceeding to first reading;
- 8 **agreed** the Pare Hauraki Collective Redress Bill be:
 - 8.1 referred to the Māori Affairs Committee for consideration;
 - 8.2 enacted, if possible, in the first half of 2024.

Rebecca Davies
Committee Secretary

Attendance: (see over)

Present:

Hon Andrew Little
Hon David Parker
Hon Michael Wood (Chair)
Hon Kieran McAnulty
Dr Duncan Webb, MP

Officials present from:

Office of the Prime Minister
Officials Committee for LEG

Proactively released by the Minister for Treaty of Waitangi Negotiations



Cabinet

Minute of Decision

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Report of the Cabinet Legislation Committee: Period Ended 16 December 2022

On 19 December 2022, Cabinet made the following decisions on the work of the Cabinet Legislation Committee for the period ended 16 December 2022:

[REDACTED]	[REDACTED]	[REDACTED]	Out of scope
[REDACTED]	[REDACTED]	[REDACTED]	
LEG-22-MIN-0236	Pare Hauraki Collective Redress Bill: Approval for Introduction Portfolio: Treaty of Waitangi Negotiations	CONFIRMED	
[REDACTED]	[REDACTED]	[REDACTED]	Out of scope
[REDACTED]	[REDACTED]	[REDACTED]	
[REDACTED]	[REDACTED]	[REDACTED]	
[REDACTED]	[REDACTED]	[REDACTED]	

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[REDACTED]

[REDACTED]

[REDACTED]

Out of scope

[REDACTED]

Rachel Hayward
Secretary of the Cabinet

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