

Hon Andrew Little
Minister for Treaty of Waitangi Negotiations

Proactive release – Taranaki Maunga: Remaining Issues to Enable Initialling of the Collective Redress Deed

Date of issue: 26 May 2023

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

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

No.	Document	Comments
1	<p>Taranaki Maunga: Remaining Issues to Enable Initialling of the Collective Redress Deed <i>Cabinet committee paper</i> Office of the Minister for Treaty of Waitangi Negotiations / Office of the Minister of Conservation 9 December 2021</p>	<p>Some information has been withheld in accordance with the following sections of the OIA:</p> <ul style="list-style-type: none"> • section 9(2)(f)(iv) – protect the confidentiality of advice tendered by Ministers of the Crown and officials; • section 9(2)(h) – maintain legal professional privilege; and • section 9(2)(j) – negotiations sensitive.
2	<p>Taranaki Maunga: Remaining Issues to Enable Initialling of Collective Redress Deed <i>Cabinet committee minute</i> <i>MCR-21-MIN-0020</i> Cabinet Office <i>Meeting date: 14 December 2021</i></p>	<p>Some information has been withheld in accordance with the following sections of the OIA:</p> <ul style="list-style-type: none"> • section 9(2)(h) – maintain legal professional privilege; and • section 9(2)(j) – negotiations sensitive.
3	<p>Report of the Cabinet Māori Crown Relations: Te Arawhiti Committee: Period Ended 17 December 2021 <i>Cabinet minute CAB-21-MIN-0538</i> Cabinet Office <i>Meeting date: 20 December 2021</i></p>	<p>Some information has been withheld due to it being outside of the scope of this release.</p>
4	<p>Remaining Issues to Enable Initialling of Collective Redress Deed <i>Cabinet minute CAB-21-MIN-0538.01</i> Cabinet Office <i>Meeting date: 20 December 2021</i></p>	<p>Some information has been withheld in accordance with the following sections of the OIA:</p> <ul style="list-style-type: none"> • section 9(2)(h) – maintain legal professional privilege; and • section 9(2)(j) – negotiations sensitive.

IN CONFIDENCE

In Confidence

Offices of the Minister for Treaty of Waitangi Negotiations and the Minister of Conservation

Chair, Cabinet Māori Crown Relations: Te Arawhiti Committee

TARANAKI MAUNGA: REMAINING ISSUES TO ENABLE INITIALLING OF THE COLLECTIVE REDRESS DEED

Proposal

- 1 We seek Cabinet agreement to:
 - 1.1 increase the Crown resourcing offer to support the Taranaki Maunga redress arrangements by [REDACTED] to [REDACTED], which will require new funding of [REDACTED] to be charged against the between-Budget contingency established as part of Budget 2021; s9(2)(j)
 - 1.2 delegate authority to finalise a revised asset holding framework for assets owned by the legal personality; and
 - 1.3 remove the additional descriptor of “Taranaki National Park”, leaving “Te Papa-Kura-o-Taranaki” as the official Crown protected area name for the area currently known as Egmont National Park.
- 2 Resolving these matters will enable the Taranaki Maunga collective redress deed to be initialled in early 2022.

Relation to government priorities

- 3 This proposal aligns with the Government priority of strengthening “the Māori-Crown relationship to ensure that the Crown can grow to be a better Treaty Partner and work in true partnership with Māori” and continuing “to work to settle historic Treaty of Waitangi claims.”

Executive Summary

- 4 The Crown is on track to initial a collective redress deed with Ngā Iwi o Taranaki to provide cultural and Crown apology redress over Egmont National Park/Taranaki Maunga in early 2022.
- 5 Cabinet agreed the substantive redress package in March 2020 [DEV-20-MIN-0054 refers], but negotiations were paused in October 2020 over the level of resourcing offered by the Crown to support the negotiated redress arrangements. Ngā Iwi o Taranaki rejected the Crown’s offer of [REDACTED] and maintained their position that a minimum of [REDACTED] s9(2)(j) is required to contribute to a sufficient capital base to ensure resourcing for the redress arrangements is self-sustaining.

6 Negotiations resumed in April 2021 with a view to resolving outstanding negotiation issues and technical matters while the Crown considered its position regarding the resourcing contribution. We now seek Cabinet agreement to:

s9(2)(j)

6.1 [REDACTED]

6.2 delegate authority to finalise a revised asset holding framework for assets owned by the legal personality; and

6.3 remove the alternative descriptor of “Taranaki National Park”, leaving “Te Papa-Kura-o-Taranaki” as the official Crown protected area name for the park.

7 [REDACTED]

s9(2)(f)(iv)

[REDACTED]

[REDACTED]

[REDACTED]

Background

8 The Egmont National Park (Taranaki Maunga) negotiation is the first of three remaining national park negotiations which the Crown has committed to undertake.¹

9 In March 2017, the Crown and Ngā Iwi o Taranaki (NIOT), representing the eight iwi of Taranaki,² began collective negotiations to develop Crown apology and cultural redress over Taranaki Maunga. The redress package does not include financial and commercial redress, as this was provided to each of the eight iwi of Taranaki through their individual comprehensive settlements.

¹ The others being Tongariro and Whanganui National Parks.

² Ngāa Rauru Kiiitahi, Ngāti Ruanui, Taranaki Iwi, Ngāruahine, Te Atiawa, Ngāti Mutunga, Ngāti Tama and Ngāti Maru.

Previous redress decisions

10 In December 2017, Cabinet authorised the signing of a record of understanding with NIOT, including agreements in principle to:

- 10.1 repeal the Mount Egmont Vesting Act 1978;
- 10.2 recognise a legal personality for Taranaki Maunga, including transferring all Crown land within the boundaries of the national park to the legal personality (Te Kāhui Tupua);
- 10.3 change the official name for the national park and other geographical features within the national park;
- 10.4 the establishment of a 50/50 Crown/iwi joint governance entity (JGE), Te Tōpuni Kōkōrangī, with functions akin to a conservation board, to be the human face of, and act in the name of, the legal personality; and
- 10.5 the ongoing application of the National Parks Act 1980, subject to agreed amendments [CBC-17-MIN-0054 refers].

11 In March 2020, Cabinet agreed to a comprehensive cultural redress package, to be set out in the collective redress deed, detailing a range of decision-making and consultative roles for the JGE and the iwi collective post-agreement governance entity (PAGE) in relation to the national park [DEV-20-MIN-0054 refers]. Amongst other decisions, Cabinet agreed:

- 11.1 a one-off payment be offered to NIOT of up to [REDACTED] as a Crown contribution towards resourcing the negotiated arrangements; s9(2)(j)
- 11.2 for assets³ to be held by the PAGE in the name of the legal personality, and managed according to an asset holding policy to be developed by the JGE (discussed in more detail below);
- 11.3 to authorise the Minister of Finance, Minister for Treaty of Waitangi Negotiations, and Minister of Revenue to explore income tax exemptions for the JGE and PAGE before initialling the collective redress deed; and
- 11.4 that the official Crown protected area name of Egmont National Park be changed to “Te Papa-Kura-o-Taranaki”, and that an additional descriptor, “Taranaki National Park”, may be used in conjunction with the new official name in certain circumstances for branding or safety purposes.

Crown resourcing is the most significant issue remaining

12 NIOT want a sufficient capital base to ensure resourcing for the redress arrangements is self-sustaining. NIOT have calculated the minimum Crown contribution to enable this is [REDACTED]. NIOT also intend to contribute to

s9(2)(j)

³ Excluding national park land and improvements.

the pūtea themselves and anticipate obtaining funding from third parties to generate a total fund of [REDACTED]. s9(2)(j)

- 13 NIOT have rejected all three of the Crown's previous resourcing offers, including the increased offer of [REDACTED] agreed by Cabinet in August 2020 [CAB-20-MIN-0384 refers]. As a result, the Taranaki Maunga negotiations were paused in October 2020. s9(2)(j)

Re-engagement in negotiations and remaining issues

- 14 When negotiations with NIOT resumed in April 2021, the Minister for Treaty of Waitangi Negotiations directed officials to re-engage on the other outstanding matters while Ministers considered the resourcing issue.
- 15 Since re-engaging, NIOT have accepted the existing Cabinet-approved redress in relation to two of the outstanding matters (the role of the JGE in the release of aquatic species and introduction of biological control organisms within the National Park).
- 16 Additionally, under the authority previously delegated by Cabinet, we have made decisions which resolves one of the other outstanding matters, regarding the role of the JGE in the national park Place section of the Conservation Management Strategy.
- 17 This leaves three remaining issues requiring Cabinet consideration: resourcing, modifications to the asset holding function, and the national park name change.

Increasing the Crown contribution towards resourcing the negotiated arrangements

NIOT resourcing aspirations

- 18 NIOT estimate a total capital base of approximately [REDACTED] is required to support the Taranaki Maunga arrangements in perpetuity, based on the amount of capital to be retained for re-investment, an estimated rate of return on investment and accounting for the impact of inflation. NIOT anticipate this capital fund will cover the following cost categories (**Appendix One** provides further examples of the types of costs under each category):

18.1 *establishing and supporting the PAGE* [REDACTED] s9(2)(j)

18.2 *iwi reconnection to the legal personality* [REDACTED] s9(2)(j)

[REDACTED]

[REDACTED] and

18.3 *the health and wellbeing of the legal personality* [REDACTED] s9(2)(j)

[REDACTED]

s9(2)(j)

[Redacted]

19

[Redacted]

20

[Redacted]

21

[Redacted]

22

However, an increased resourcing offer is justified on the basis that we now have a better understanding of what the likely costs and iwi aspirations are, compared to when the previous offers were made. It is also important to view the resourcing not as redress itself, but as necessary to ensure the success of the joint arrangements for Taranaki Maunga.

23

Whatever amount the Crown agrees, a contribution to resourcing the Taranaki Maunga arrangements will create a precedent for future negotiations over Tongariro and Whanganui National Parks.

[Redacted]

s9(2)(j)

■

[Redacted]

■

[Redacted]

■

[Redacted]

■

[Redacted]

s9(2)(j)

[Redacted]

s9(2)(j)

Proposal – increase the Crown offer by [Redacted]

28 We seek Cabinet approval to increase the Crown offer by [Redacted] to enable the Crown to make a final offer to contribute [Redacted] to resourcing the arrangements.

s9(2)(j)

s9(2)(j)

29 An additional [Redacted] would meet NIOT aspirations and enable the collective redress deed to be initialled. [Redacted]

s9(2)(j)

[Redacted]

30 [Redacted]

The nature and scope of the redress arrangements support the proposed increase

31 The following aspects of the Taranaki Maunga arrangements support the proposed increase:

31.1 although the national park will continue to be administered under the National Parks Act 1980, with the same level of protections of public access and conservation outcomes, the Taranaki Maunga arrangements differ in significant respects, through co-governance mechanisms and recognition of the legal personality;

31.2 providing resourcing to support iwi, through the PAGE, to fulfil their statutory functions in the national park will in turn enable the Crown to uphold its statutory responsibilities;

31.3 although they are not statutory functions, NIOT aspirations for iwi reconnection to the Maunga and the health and wellbeing of the legal personality also underpin the future success of the agreement;

31.4 [Redacted]

s9(2)(i)

31.5 the negotiated arrangements will require the co-ordination of eight iwi through the PAGE; and

[Redacted]

s9(2)(j)



Allocation of funding across resourcing categories

- 37 In approving the previous resourcing offers, Cabinet also authorised the Minister for Treaty of Waitangi Negotiations, in consultation with the Minister of Finance and the Minister of Conservation, to make any final decisions about the allocation of the Crown contribution between the three categories proposed by NIOT at paragraph 18, prior to initialling the collective redress deed [DEV-20-MIN-0054 and CAB-20-MIN-0384 refer].
- 38 Should you agree to increase the Crown contribution, as recommended by this paper, we seek your approval to renew this delegated authority in relation to the new amount.
- 39 The allocation of resourcing across different categories will be a matter for further discussion and agreement with NIOT. For example, NIOT may want to have some of the funding for the health and wellbeing of the Maunga provided directly to the legal personality, under the asset holding arrangements. There may be a distinction between those payments and those made to the PAGE for a similar purpose, or to the PAGE for its costs of participating in the redress arrangements. The proposed delegation also provides flexibility to consider the final structure of the asset holding function (see below).

Potential early release of resourcing

- 40 Should NIOT accept the Crown's revised resourcing offer, we anticipate NIOT may seek the early release of a portion of the funding before the enactment of the collective redress legislation, akin to an on-account transfer in standard Treaty settlements. This could assist with upfront establishment costs of the PAGE, the nomination process for the JGE, and establishing the asset holding function.
- 41 We seek your authorisation to delegate decisions to the Minister for Treaty of Waitangi Negotiations and the Minister of Finance, in consultation with the Minister of Conservation, on the amount and timing of any early release of Crown resourcing, should this be requested by NIOT. In keeping with the Crown's approach to on-account transfers of Treaty settlements, any consideration of the scale and timing of an early release of resourcing will need to balance the risks and opportunities for NIOT and the Crown.

PROACTIVELY RELEASED BY THE MINISTER FOR TREATY OF WAITANGI NEGOTIATIONS AND THE MINISTER OF CONSERVATION

Update on asset holding function

- 42 NIOT's aspirations include private individuals or entities gifting assets to the legal personality for it to own. Those assets would then be used to support the health and wellbeing of the Maunga generally (not tied to the national park). To enable this aspiration, Cabinet previously agreed that the legal personality may own such assets, and these would be managed through the PAGE on behalf of the legal personality (paragraphs 11.2 and 11.3 refer). This arrangement will not apply to assets within the national park that are being retained by the Crown, nor the national park land that will be owned by the legal personality.
- 43 Cabinet [DEV-20-MIN-0054 refers] agreed to this redress subject to there being no liability or accountability to the Crown or the JGE arising from the management of these assets. As a result, the PAGE was to undertake this role. We have been working with NIOT to finalise the trust structure for the PAGE to ensure the proposed asset holding function does not impede the PAGE's primary purpose, being to receive, manage, hold and administer assets on behalf of and for the benefit of the members of NIOT. NIOT have identified potential conflicts and risks with PAGE trustees having dual lines of liability and accountability which have not been fully resolved.
- 44 Officials have therefore been working with NIOT to find a workable solution for implementing Cabinet's decision whilst addressing these concerns, and have developed the following approach for the asset holding framework:
- 44.1 the asset holding function to be undertaken by a limited liability company (Asset Management Company);
 - 44.2 the legal personality to be the sole shareholder; and
 - 44.3 the Asset Management Company's purposes would be prescribed in legislation (and required to be included in the company's constitution) to manage assets to generate income or resources that can contribute to activities that recognise, protect and promote the health and wellbeing of the legal personality in a manner consistent with the Maunga Values and the legal personality status.
- 45 An unresolved issue is who is to exercise shareholder functions on behalf of the legal personality. If the shareholder functions are carried out by the PAGE, the framework will remain consistent with the broad intent of Cabinet's previous decisions (which provided for the PAGE to undertake the asset holding function for assets owned by the legal personality). However, if the JGE is empowered to exercise those functions, it would depart from the intent of Cabinet on that point. Consideration will be given to how the shareholder representative role sits with the Cabinet-agreed parameter of no liability or accountability to the Crown or the JGE arising from the management of the assets.
- 46 There are a number of other elements of this potential framework still to be finalised, including:

- 46.1 the development process for the asset holding policy; and
- 46.2 the application of company dissolution rules, independence of directors and clarification of directors' duties for the Asset Management Company, should that be the agreed approach.
- 47 To enable the collective redress deed to be initialled in the first half of 2022, we seek Cabinet authorisation to delegate decisions to the Minister for Treaty of Waitangi Negotiations, Minister of Conservation, and other relevant Ministers to finalise the details of the asset holding arrangements before initialling the collective redress deed, including providing for the PAGE or the JGE to carry out the shareholding function if determined to be the most appropriate entity.

Tax status

- 48 Cabinet previously authorised the Minister for Treaty of Waitangi Negotiations, Minister of Revenue and Minister of Finance to explore income tax exemptions for the JGE and PAGE [MCR-220-MIN-0010 and DEV-20-MIN-0054 refer].
- 49 The proposed asset holding framework is in line with the tax exemptions provided to other legal personalities (Te Urewera and Te Awa Tupua), therefore, it is likely there is sufficient justification for a tax exemption for an Asset Management Company, should that be the agreed approach, when exercising the asset holding function on behalf of Te Kāhui Tupua.
- 50 We seek Cabinet authorisation to delegate decisions to the Minister for Treaty of Waitangi Negotiations, the Minister of Revenue and the Minister of Finance for a possible tax exemption for the legal personality to be exercised by an Asset Management Company or alternative vehicle (including any need to designate a responsible Minister to receive reports relating to any special tax status), and to be involved in any agreed company dissolution arrangements, before initialling the collective redress deed.

Refinement of national park name change

- 51 NIOT have indicated their discomfort with the use of "Taranaki National Park" as an additional descriptor, as this could detract from the agreed official Crown protected area name of "Te Papa-Kura-o-Taranaki". NIOT is concerned that the public, third parties, and Crown officials will default to using "Taranaki National Park" instead of the official name.

Proposal to remove the "Taranaki National Park" descriptor

- 52 Alongside the creation of the proposed legal person, the new name for the national park is likely to be the most visible aspect of the entire arrangement within the region and nationally. Meeting NIOT aspirations is also likely to be instrumental in securing the support of the claimant community for the package as a whole.

- 53 We have reconsidered the use of the “Taranaki National Park” descriptor, and agree that the concerns previously identified by officials relating to health and safety, and having a commonly understood name for tourism purposes, could be mitigated through ways other than having a prescribed descriptor for the park. For example, the requirement to use the Te Papa-Kura-o-Taranaki official name does not prevent the complementary use of the status/descriptor of “national park” in signage or online content. NIOT support this approach.

- 54 We propose removing the need for the complementary descriptor of “Taranaki National Park” and to instead only have the agreed official Crown protected area name of “Te Papa-Kura-o-Taranaki”. Although Cabinet specifically approved the inclusion of the “Taranaki National Park” term in the redress package, it has not been in the public domain and is therefore unlikely to generate negative publicity. Te Papa-Kura-o-Taranaki, however, has already been used by the media, and to help publicise the new official name, officials will draft a communication strategy prior to initialling the collective redress deed.

Financial Implications

[REDACTED] s9(2)(h)

- [REDACTED]

- [REDACTED]

- [REDACTED]

PROACTIVELY RELEASED BY THE MINISTER FOR TREATY OF WAITANGI NEGOTIATIONS AND THE MINISTER OF CONSERVATION

s9(2)(h)

[Redacted]

[Redacted]

[Redacted]

s9(2)(j)

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Legislative Implications

63 Legislation is required to implement aspects of the redress. A draft collective redress bill will be attached to the collective redress deed. Once the collective redress deed is signed, we will seek Cabinet approval to introduce the collective redress bill to the House.

Impact Analysis

Regulatory Impact Statement

64 The Treasury's Regulatory Impact Analysis team has determined that this proposal to seek decisions to conclude negotiations with Ngā Iwi o Taranaki over Egmont National Park (Taranaki Maunga) redress 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.

Population Implications

65 The proposals outlined in this paper will provide cultural and Crown apology redress over Taranaki Maunga to members of the eight iwi of Taranaki. According to the 2013 census, the combined population of NIOT is approximately 45,000. The redress will promote the wellbeing of NIOT by recognising the status of Te Kāhui Tupua, providing them with a co-governance role over the Maunga, and through opportunities to reconnect with their tūpuna.

Human Rights

66 The proposals outlined in this paper do not raise any issues of inconsistency with the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993.

Consultation

67 In preparing this paper, Office for Māori Crown Relations – Te Arawhiti (Te Arawhiti) and DOC have consulted, and incorporated the views of the following Crown agencies and other entities: The Treasury, Crown Law Office, Inland Revenue, Te Puni Kōkiri, and Parliamentary Counsel Office.

68 The Department of the Prime Minister and Cabinet was informed.

Communications

69 Te Arawhiti, DOC, and NIOT will jointly develop a communications strategy to ensure interested parties are informed of the content of the collective redress deed at the time it is initialled. The key components agreed by Cabinet will be included in communications material.

70 Te Arawhiti will make the collective redress deed available to the media and public on its website.

Proactive Release

71 We intend to defer the proactive release of this paper until after the collective redress deed has been initialled, as all of the content will remain negotiations sensitive until that time.

Next steps

72 If Cabinet approves the proposals in this paper, we intend to initial the collective redress deed with NIOT in early 2022.

Recommendations

The Minister for Treaty of Waitangi Negotiations and the Minister of Conservation recommend that the Committee:

Background

1 **note** that negotiations with Ngā Iwi o Taranaki over Egmont National Park (Taranaki Maunga) were paused in October 2020, because the Crown's offer

[REDACTED]
[REDACTED] s9(2)(j)

2 **note** Ngā Iwi o Taranaki and the Crown re-engaged in negotiations in April 2021, with the aim of resolving outstanding negotiation matters and technical issues while the Crown considered the matter of resourcing further;

3 **note** that resourcing, the asset holding function, and the national park name redress are the only remaining matters requiring Cabinet decisions before a collective redress deed can be initialled;

Increasing the Crown contribution towards resourcing the negotiated arrangements

4 **note** that an increase in the Crown resourcing offer may be warranted on the basis of:

4.1 a better understanding of iwi aspirations and the estimated costs of supporting the negotiated arrangements;

4.2 the nature and scope of the redress arrangements, including the statutory functions to be fulfilled by iwi and the contribution provided for comparable redress arrangements such as Te Awa Tupua; and

[REDACTED]
[REDACTED]
[REDACTED] s9(2)(i)

[REDACTED]
[REDACTED] s9(2)(i)

[REDACTED]
[REDACTED]

7 **authorise** the Minister for Treaty of Waitangi Negotiations, in consultation with the Minister of Finance and the Minister of Conservation, to make any final decisions about the allocation of the Crown contribution components prior to initialling the collective redress deed;

8 **authorise** the Minister for Treaty of Waitangi Negotiations and the Minister of Finance, in consultation with the Minister of Conservation, to make decisions on any early release of Crown resourcing should this be requested

by Ngā Iwi o Taranaki, consistent with the Crown's approach to on-account transfers in Treaty settlements;

Asset holding function

9 **note** Cabinet has previously agreed to assets owned by the legal personality being able to be governed and managed by the post-agreement governance entity [MCR-220-MIN-0010 and DEV-20-MIN-0054];

10 **note** there are potential conflicts and risks that arise from the post agreement governance entity having dual lines of accountability to both the legal personality and its iwi beneficiaries;

11 **note** officials have discussed a proposal with Ngā Iwi o Taranaki to modify the asset holding framework so that a limited liability company (Asset Management Company) would be empowered under legislation, as an agent, to acquire, manage, arrange for the management of, dispose of, apply, and expend assets owned by the legal personality, who would be the sole shareholder of the company;

12 **note** that there are still a number of matters to be finalised for the asset holding framework, including who would carry out the shareholder functions on behalf of the legal personality;

13 **authorise** the Minister for Treaty of Waitangi Negotiations, the Minister of Conservation, and other relevant Ministers to finalise the details of the asset holding framework (other than tax and dissolution arrangements) before initialling the collective redress deed, including providing for the post-agreement governance entity or the joint governance entity to carry out the shareholding function if determined to be the most appropriate entity;

14 **authorise** the Minister for Treaty of Waitangi Negotiations, the Minister of Revenue and the Minister of Finance to approve a possible tax exemption for the legal personality exercised by an Asset Management Company or alternative vehicle (including any need to designate a responsible Minister to receive reports relating to any special tax status) and to be involved in any agreed dissolution arrangements, before initialling the collective redress deed;

Refinement of national park name change

15 **note** Cabinet has previously agreed that an unofficial name, Taranaki National Park, may be used in conjunction with the new official name for Egmont National Park of Te-Papa-Kura-o-Taranaki in certain circumstances for branding or safety purposes [DEV-20-MIN-0054 refers];

16 **agree** to recommend that Cabinet rescind the decision referred to in recommendation 15, leaving "Te Papa-Kura-o-Taranaki" as the official Crown protected area name;

Financial implications

s9(2)(h)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

20 **approve** the following changes to appropriations to provide for the decision at recommendation 5 above, with a corresponding impact on the operating balance and net core Crown debt:

Vote Te Arawhiti	\$m – increase/(decrease)				
	2021/22	2022/23	2023/24	2024/25	2025/26 & Outyears
Minister for Treaty of Waitangi Negotiations					
Non-Departmental Other Expense: Specific Redress	[REDACTED]		-	-	-

s9(2)(j)

21 **agree** that the expenses incurred under recommendation 5 above be charged against the between-Budget operating contingency established as part of Budget 2021;

22 **agree** that the proposed changes to appropriations for 2021/22 above be included in the 2021/21 Supplementary Estimates and that, in the interim, the increases be met from Imprest Supply;

Next steps

23 **note** Cabinet has previously authorised the Minister for Treaty of Waitangi and Minister of Conservation, with the agreement of relevant Ministers, to finalise or vary the redress consistent with the intent of Cabinet’s decisions, prior to initialling the collective redress deed [DEV-20-MIN-0054 refers]; and

24 **note** that, should you approve the proposals in this paper, the Minister for Treaty of Waitangi and Minister of Conservation intend to initial the collective redress deed with Ngā Iwi o Taranaki in early 2022.

Authorised for lodgement

Hon Andrew Little
Minister for Treaty of Waitangi Negotiations

Hon Kiritapu Allan
Minister of Conservation

Appendix One: Examples of expenditure to support the Taranaki Maunga redress arrangements

Establishing and supporting the Post-Agreement Governance Entity (PAGE)
Appointment of four members to the joint governance entity (JGE)
Fees for members of the JGE
Developing the national park management plan, including appointing a lead planner to work alongside DOC
Reviewing and approving the national park management plan (alongside the Minister of Conservation)
Developing and approving a cultural materials plan
Exercising shareholder role for assets owned by the legal personality
Participation in joint decision-making for concessions involving interests in land
Appointing a member to the Taranaki/Whanganui Conservation Board
Maintaining relationship agreements (DOC, MBIE)
Fees for the PAGE trustees/chair
Administration
Office rent
Cultural advice
Accounting and audit
Insurance
Other professional advice

Iwi reconnection to Te Kāhui Tupua
Annual hikoi
Pou whenua (x8)
Changes to signage and collateral to reflect name changes
Interpretation
Cultural redesign of Dawson Falls visitor centre and other facilities
Establishment of whare wānanga site

Health and wellbeing of Te Kāhui Tupua (including the area outside the park)
Pest eradication
Habitat protection and enhancement
Soil conservation
Freshwater management
Building environmental capability amongst iwi at an operational level (e.g. conservation management training)
Increasing the profile of Te Kāhui Tupua



Cabinet Māori Crown Relations - Te Arawhiti 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.

Taranaki Maunga: Remaining Issues to Enable Initialling of Collective Redress Deed

Portfolios Treaty of Waitangi Negotiations / Conservation

On 14 December 2021, the Cabinet Māori Crown Relations - Te Arawhiti Committee:

Background

1 **noted** that negotiations with Ngā Iwi o Taranaki over Egmont National Park (Taranaki Maunga) were paused in October 2020, because the Crown's offer to contribute

[REDACTED]

s9(2)(j)

2 **noted** that Ngā Iwi o Taranaki and the Crown re-engaged in negotiations in April 2021, with the aim of resolving outstanding negotiation matters and technical issues while the Crown considered the matter of resourcing further;

3 **noted** that resourcing, the asset holding function, and the national park name redress are the only remaining matters requiring Cabinet decisions before a collective redress deed can be initialled;

Increasing the Crown contribution towards resourcing the negotiated arrangements

4 **noted** that an increase in the Crown resourcing offer may be warranted on the basis of:

4.1 a better understanding of iwi aspirations and the estimated costs of supporting the negotiated arrangements;

4.2 the nature and scope of the redress arrangements, including the statutory functions to be fulfilled by iwi and the contribution provided for comparable redress arrangements such as Te Awa Tupua; and

[REDACTED]

s9(2)(j)

[REDACTED]

[REDACTED]

- 7 **authorised** the Minister for Treaty of Waitangi Negotiations, in consultation with the Minister of Finance and the Minister of Conservation, to make any final decisions about the allocation of the Crown contribution components prior to initialling the collective redress deed;
- 8 **authorised** the Minister for Treaty of Waitangi Negotiations and the Minister of Finance, in consultation with the Minister of Conservation, to make decisions on any early release of Crown resourcing should this be requested by Ngā Iwi o Taranaki, consistent with the Crown's approach to on-account transfers in Treaty settlements;

Asset holding function

- 9 **noted** that in March 2020, the Cabinet Economic Development Committee (DEV) agreed to assets owned by the legal personality being able to be governed and managed by the post-agreement governance entity [DEV-20-MIN-0054];
- 10 **noted** that there are potential conflicts and risks that arise from the post agreement governance entity having dual lines of accountability to both the legal personality and its iwi beneficiaries;
- 11 **noted** that officials have discussed a proposal with Ngā Iwi o Taranaki to modify the asset holding framework so that a limited liability company (Asset Management Company) would be empowered under legislation, as an agent, to acquire, manage, arrange for the management of, dispose of, apply, and expend assets owned by the legal personality, who would be the sole shareholder of the company;
- 12 **noted** that there are still a number of matters to be finalised for the asset holding framework, including who would carry out the shareholder functions on behalf of the legal personality;
- 13 **authorised** the Minister for Treaty of Waitangi Negotiations, the Minister of Conservation, and other relevant Ministers to finalise the details of the asset holding framework (other than tax and dissolution arrangements) before initialling the collective redress deed, including providing for the post-agreement governance entity or the joint governance entity to carry out the shareholding function if determined to be the most appropriate entity;
- 14 **authorised** the Minister for Treaty of Waitangi Negotiations, the Minister of Revenue, and the Minister of Finance to approve a possible tax exemption for the legal personality exercised by an Asset Management Company or alternative vehicle (including any need to designate a responsible Minister to receive reports relating to any special tax status) and to be involved in any agreed dissolution arrangements, before initialling the collective redress deed;

Refinement of national park name change

- 15 **noted** that in March 2020, DEV agreed that an unofficial name, Taranaki National Park, may be used in conjunction with the new official name for Egmont National Park of Te-Papa-Kura-o-Taranaki in certain circumstances for branding or safety purposes [DEV-20-MIN-0054];
- 16 **agreed** to recommend that Cabinet rescind the decision referred to in paragraph 15, leaving "Te Papa-Kura-o-Taranaki" as the official Crown protected area name;

Financial implications

s9(2)(h)

17 [REDACTED]

[REDACTED]

[REDACTED]

s9(2)(j)

20 **approved** the following changes to appropriations to provide for the decision at paragraph 5 above, with a corresponding impact on the operating balance and net core Crown debt:

Vote Te Arawhiti Minister for Treaty of Waitangi Negotiations	\$m – increase/(decrease)				
	2021/22	2022/23	2023/24	2024/25	2025/26 & Outyears
Non-Departmental Other Expense: Specific Redress	[REDACTED]				

s9(2)(j)

21 **agreed** that the expenses incurred under paragraph 5 above be charged against the between-Budget operating contingency established as part of Budget 2021;

22 **agreed** that the proposed changes to appropriations for 2021/22 above be included in the 2021/21 Supplementary Estimates and that, in the interim, the increases be met from Imprest Supply;

Next steps

23 **noted** that in March 2020, DEV authorised the Minister for Treaty of Waitangi and the Minister of Conservation, with the agreement of relevant Ministers, to finalise or vary the redress consistent with the intent of Cabinet’s decisions, prior to initialling the collective redress deed [DEV-20-MIN-0054];

24 **noted** that the Minister for Treaty of Waitangi and the Minister of Conservation intend to initial the collective redress deed with Ngā Iwi o Taranaki in early 2022.

Gerrard Carter
Committee Secretary

Present:

- Hon Grant Robertson
- Hon Kelvin Davis (Chair)
- Hon Andrew Little
- Hon Stuart Nash
- Hon Peeni Henare
- Hon Willie Jackson
- Hon Kiri Allan
- Hon Meka Whaitiri (part of item)

Officials present from:

- Office of the Prime Minister
- Officials Committee for CMR



Cabinet

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.

Report of the Cabinet Māori Crown Relations: Te Arawhiti Committee: Period Ended 17 December 2021

On 20 December 2021, Cabinet made the following decisions on the work of the Cabinet Māori Crown Relations: Te Arawhiti Committee for the period ended 17 December 2021:

[REDACTED]	[REDACTED]	[REDACTED]	out of scope
[REDACTED]	[REDACTED]	[REDACTED]	
[REDACTED]	[REDACTED]	[REDACTED]	
[REDACTED]	[REDACTED]	[REDACTED]	
[REDACTED]	[REDACTED]	[REDACTED]	

MCR-21-MIN-0020 **Taranaki Maunga: Remaining Issues to Enable Initialling of Collective Redress Deed**
Portfolios: Treaty of Waitangi Negotiations / Conservation

Separate minute:
CAB-21-MIN-0538.01

Michael Webster
Secretary of the Cabinet

PROACTIVELY RELEASED BY THE MINISTER FOR TREATY OF WAITANGI NEGOTIATIONS AND THE MINISTER OF CONSERVATION



Cabinet

Minute of Decision

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Taranaki Maunga: Remaining Issues to Enable Initialling of Collective Redress Deed

Portfolios Treaty of Waitangi Negotiations / Conservation

On 20 December 2021, following reference from the Cabinet Māori Crown Relations: Te Arawhiti Committee, Cabinet:

Background

1 **noted** that negotiations with Ngā Iwi o Taranaki over Egmont National Park (Taranaki Maunga) were paused in October 2020, because the Crown’s offer to contribute [REDACTED] s9(2)(j)

2 **noted** that Ngā Iwi o Taranaki and the Crown re-engaged in negotiations in April 2021, with the aim of resolving outstanding negotiation matters and technical issues while the Crown considered the matter of resourcing further;

3 **noted** that resourcing, the asset holding function, and the national park name redress are the only remaining matters requiring Cabinet decisions before a collective redress deed can be initialled; s9(2)(j)

[REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

PROACTIVELY RELEASED BY THE MINISTER FOR TREATY OF WAITANGI NEGOTIATIONS AND THE MINISTER OF CONSERVATION

- 7 **authorised** the Minister for Treaty of Waitangi Negotiations, in consultation with the Minister of Finance and the Minister of Conservation, to make any final decisions about the allocation of the Crown contribution components prior to initialling the collective redress deed;
- 8 **authorised** the Minister for Treaty of Waitangi Negotiations and the Minister of Finance, in consultation with the Minister of Conservation, to make decisions on any early release of Crown resourcing should this be requested by Ngā Iwi o Taranaki, consistent with the Crown's approach to on-account transfers in Treaty settlements;

Asset holding function

- 9 **noted** that in March 2020, the Cabinet Economic Development Committee (DEV) agreed to assets owned by the legal personality being able to be governed and managed by the post-agreement governance entity [DEV-20-MIN-0054];
- 10 **noted** that there are potential conflicts and risks that arise from the post agreement governance entity having dual lines of accountability to both the legal personality and its iwi beneficiaries;
- 11 **noted** that officials have discussed a proposal with Ngā Iwi o Taranaki to modify the asset holding framework so that a limited liability company (Asset Management Company) would be empowered under legislation, as an agent, to acquire, manage, arrange for the management of, dispose of, apply, and expend assets owned by the legal personality, who would be the sole shareholder of the company;
- 12 **noted** that there are still a number of matters to be finalised for the asset holding framework, including who would carry out the shareholder functions on behalf of the legal personality;
- 13 **authorised** the Minister for Treaty of Waitangi Negotiations, the Minister of Conservation, and other relevant Ministers to finalise the details of the asset holding framework (other than tax and dissolution arrangements) before initialling the collective redress deed, including providing for the post-agreement governance entity or the joint governance entity to carry out the shareholding function if determined to be the most appropriate entity;
- 14 **authorised** the Minister for Treaty of Waitangi Negotiations, the Minister of Revenue, and the Minister of Finance to approve a possible tax exemption for the legal personality exercised by an Asset Management Company or alternative vehicle (including any need to designate a responsible Minister to receive reports relating to any special tax status) and to be involved in any agreed dissolution arrangements, before initialling the collective redress deed;

Refinement of national park name change

- 15 **noted** that in March 2020, DEV agreed that an unofficial name, Taranaki National Park, may be used in conjunction with the new official name for Egmont National Park of Te-Papa-Kura-o-Taranaki in certain circumstances for branding or safety purposes [DEV-20-MIN-0054];
- 16 **rescinded** the decision referred to in paragraph 15, leaving "Te Papa-Kura-o-Taranaki" as the official Crown protected area name;

Financial implications

s9(2)(h)

17 [Redacted]
[Redacted]
[Redacted]

18 [Redacted]
[Redacted]

19 [Redacted]
[Redacted] s9(2)(j)

20 **approved** the following changes to appropriations to provide for the decision at paragraph 5 above, with a corresponding impact on the operating balance and net core Crown debt:

Vote Te Arawhiti Minister for Treaty of Waitangi Negotiations	\$m – increase/(decrease)				
	2021/22	2022/23	2023/24	2024/25	2025/26 & Outyears
Non-Departmental Other Expense: Specific Redress	[Redacted]				

s9(2)(j)

21 **agreed** that the expenses incurred under paragraph 5 above be charged against the between-Budget operating contingency established as part of Budget 2021;

22 **agreed** that the changes to appropriations for 2021/22 above be included in the 2021/22 Supplementary Estimates and that, in the interim, the increases be met from Imprest Supply;

Next steps

23 **noted** that in March 2020, DEV authorised the Minister for Treaty of Waitangi Negotiations and the Minister of Conservation, with the agreement of relevant Ministers, to finalise or vary the redress consistent with the intent of Cabinet’s decisions, prior to initialling the collective redress deed [DEV-20-MIN-0054];

24 **noted** that the Minister for Treaty of Waitangi Negotiations and the Minister of Conservation intend to initial the collective redress deed with Ngā Iwi o Taranaki in early 2022.

Michael Webster
Secretary of the Cabinet

Secretary’s Note: This minute replaces MCR-21-MIN-0020. Cabinet agreed to the rescinding recommendation in paragraph 16.

PROACTIVELY RELEASED BY THE MINISTER FOR TREATY OF WAITANGI NEGOTIATIONS AND THE MINISTER OF CONSERVATION