

Whanganui Iwi (Whanganui (Kaitoke) Prison and Northern Part of Whanganui Forest) On-account Settlement Bill

Government Bill

Explanatory note

General policy statement

Overview

This Bill gives effect to the deed of on-account settlement in which the Crown and Whanganui Iwi agree to the transfer of assets on account of the settlement of the Whanganui Iwi historical claims.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 provides that the Bill comes into force on the day after the date of Royal assent.

Part 1

Preliminary provisions

Part 1 (clauses 3 to 6) contains preliminary provisions.

Clause 3 states the purpose of the Bill.

Clause 4 defines certain terms used in the Bill.

Clause 5 defines Whanganui Iwi historical claims.

Clause 6 provides that the Bill binds the Crown.

Part 2

Transfer of Wanganui (Kaitoke) Prison and northern part of Wanganui Forest and related matters

Part 2 (clauses 7 to 11) relates to the transfer of the Wanganui (Kaitoke) Prison and the northern part of the Wanganui Forest to the trustees.

Clause 7 provides that on and from the Wanganui Forest transfer date, the northern part of the Wanganui Forest ceases to be Crown forest land and any Crown forestry assets associated with the land cease to be Crown forestry assets.

Clause 8 applies certain provisions of the Ngāti Apa (North Island) Claims Settlement Act **2009** to the transfer of the trustees' interest in the Wanganui (Kaitoke) Prison and the northern part of the Wanganui Forest to the trustees.

Clause 9 provides that certain enactments do not apply to the transfer of the northern part of the Wanganui Forest to the trustees.

Clause 10 provides that certain provisions of the Bill do not apply if the Crown's obligations terminate under clause 3.7 of the deed of on-account settlement.

Clause 11 provides that the chief executive of the Ministry of Justice must make copies of the deed of on-account settlement available for inspection free of charge, and for purchase at a reasonable price, at the head office of the Ministry of Justice in Wellington on any business day. The deed of on-account settlement must also be made available free of charge on an Internet site maintained by or on behalf of the Ministry of Justice.

Hon Christopher Finlayson

**Whanganui Iwi (Wanganui
(Kaitoke) Prison and Northern Part
of Wanganui Forest) On-account
Settlement Bill**

Government Bill

Contents

		Page
	Preamble	2
1	Title	2
2	Commencement	3
Part 1		
Preliminary provisions		
3	Purpose	3
4	Interpretation	3
5	Meaning of Whanganui Iwi historical claims	5
6	Act binds the Crown	5
Part 2		
Transfer of Wanganui (Kaitoke) Prison and northern part of Wanganui Forest and related matters		
7	Northern part of Wanganui Forest ceases to be Crown forest land	5
8	Application of Ngāti Apa (North Island) Claims Settlement Act 2009 to transfers	6
9	Certain enactments do not apply to transfer of northern part of Wanganui Forest	6
10	Termination of obligations	6

**Whanganui Iwi (Wanganui (Kaitoke) Prison
and Northern Part of Wanganui Forest)
On-account Settlement Bill**

Preamble

Access to deed of on-account settlement

11 Access to deed of on-account settlement 6

Preamble

- (1) The Treaty of Waitangi was signed in 1840. The terms of the Treaty of Waitangi in English and Māori are set out in Schedule 1 of the Treaty of Waitangi Act 1975:
- (2) Recitals (3) and (4) of this Preamble present, in summary form, the background to the Deed of On-account Settlement of Historical Claims of Whanganui Iwi in relation to the Whanganui Kaitoke Prison and Part of the Whanganui Forest (the **deed of on-account settlement**) entered into by Whanganui Iwi and the Crown: 5
- (3) The agreement between the Crown and the Southern Whanganui Cluster/Tupoho working party (the **working party**) to enter into an on-account settlement was an outcome of discussions between Ngāti Apa (North Island) and the working party about aspects of the Ngāti Apa (North Island) settlement package as contained in the agreement in principle between Ngāti Apa (North Island) and the Crown (the **agreement in principle**): 10 15
- (4) After Ngāti Apa (North Island) had consulted with neighbouring iwi on the agreement in principle, the Crown and the working party signed the deed of on-account settlement on 31 July 2009. Whanganui Iwi and the Crown agree that the value of the transfer of the assets under the deed of on-account settlement will be taken into account when the Crown makes an offer of redress for the final settlement of the Whanganui Iwi historical claims. 20 25

The Parliament of New Zealand therefore enacts as follows:

1 Title

This Act is the Whanganui Iwi (Wanganui (Kaitoke) Prison and Northern Part of Wanganui Forest) On-account Settlement Act **2009**.

30

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

**Part 1
Preliminary provisions**

5

3 Purpose

The purpose of this Act is to give effect to certain provisions of the deed of on-account settlement of the Whanganui Iwi historical claims.

4 Interpretation

10

In this Act, unless the context otherwise requires,—

business day means the period from 9 am to 5 pm on any day of the week other than—

- (a) Saturday, Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's birthday, and Labour Day; and
- (b) a day in the period commencing with 25 December in any year and ending with the close of 15 January in the following year; and
- (c) the day observed as the anniversary of the province of Wellington

20

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

Crown forestry assets means the meaning given to it in section 2(1) of the Crown Forest Assets Act 1989

25

deed of on-account settlement means the deed of on-account settlement of historical claims of Whanganui Iwi in relation to the Whanganui Kaitoke Prison and part of the Whanganui Forest between the working party on behalf of Whanganui Iwi, the trustees of the Pakaitore Trust, and the Crown dated 31 July 2009 and as amended from time to time

30

Ngāti Apa agreement in principle means the agreement in principle between Ngāti Apa (North Island) and the Crown dated 12 July 2007

**Whanganui Iwi (Wanganui (Kaitoke) Prison
and Northern Part of Wanganui Forest)
On-account Settlement Bill**

Part 1 cl 4

Ngāti Apa (North Island) has the same meaning given to it in **section 11** of the Ngāti Apa (North Island) Claims Settlement Act **2009**

Ngāti Apa (North Island) Deed of Settlement means the deed of settlement of historical claims between Ngāti Apa (North Island) and the Crown dated 8 October 2008 and as amended from time to time

northern part of the Wanganui Forest means the site described as northern part of the Wanganui Forest (including trees) or northern part of the Wanganui Forest (excluding trees) as applicable in Part 4 of the Schedule of the deed of on-account settlement

Pakaitore Trust means the whenua tōpū trust established by an order of the Maori Land Court dated 28 February 2007 as amended by order of the Maori Land Court dated 21 July 2009

trustees means the trustees of the Pakaitore Trust in their capacity as trustees of the Pakaitore Trust

trustees' interest in the Wanganui (Kaitoke) Prison means an undivided half share in the fee simple estate in the Wanganui (Kaitoke) Prison

Wanganui Forest transfer date means the later of—

- (a) 30 business days after the date on which the working party gives notice in accordance with clause 3.3.2 of the deed of on-account settlement that it elects that the trustees acquire the northern part of the Wanganui Forest; or
- (b) the actual deferred selection settlement date for the Ngāti Apa Wanganui Forest under the Ngāti Apa (North Island) Deed of Settlement

Wanganui (Kaitoke) Prison means the site described as Whanganui Prison in Part 4 of the Schedule of the deed of on-account settlement

Whanganui Iwi—

- (a) means ngā uri o Te Awa Tupua o Whanganui; and
- (b) includes all descendants of the Tupuna Rohe o Whanganui

working party means the working party of representatives of the Southern Whanganui Cluster and Te Runanga o Tupoho

formed to engage with Ngāti Apa (North Island) on the redress set out in the Ngāti Apa (North Island) agreement in principle.

5 Meaning of Whanganui Iwi historical claims

In this Act, **Whanganui Iwi historical claims** means every claim (whether or not the claim has arisen or been considered, researched, registered, notified, or made by or on the date on which the deed of on-account settlement becomes unconditional under clause 6.1 of that deed) that Whanganui Iwi had at, or at any time before, that date, or may have at any time after that date, and that—

- (a) is, or is founded on, a right arising—
 - (i) from the Treaty of Waitangi or its principles; or
 - (ii) under legislation; or
 - (iii) at common law (including aboriginal title or customary law); or
 - (iv) from fiduciary duty; or
 - (v) otherwise; and
- (b) arises from, or relates to, acts or omissions before 21 September 1992—
 - (i) by, or on behalf of, the Crown; or
 - (ii) by or under legislation; but
- (c) does not include claims relating to the Whanganui River.

6 Act binds the Crown

This Act binds the Crown.

Part 2

**Transfer of Wanganui (Kaitoke) Prison
and northern part of Wanganui Forest
and related matters**

7 Northern part of Wanganui Forest ceases to be Crown forest land

On and from the Wanganui Forest transfer date, the northern part of the Wanganui Forest ceases to be Crown forest land and any Crown forestry assets associated with that land cease to be Crown forestry assets.

- 8 Application of Ngāti Apa (North Island) Claims Settlement Act 2009 to transfers**
- (1) **Subpart 1 of Part 3** of the Ngāti Apa (North Island) Claims Settlement Act **2009** (which relates to the transfer of commercial redress properties) applies with any necessary modifications to the transfer of the trustees' interest in the Wanganui (Kaitoke) Prison and the transfer of the northern part of the Wanganui Forest to the trustees, in order to give effect to Parts 2 and 3 respectively of the deed of on-account settlement. 5
- (2) **Subpart 4 of Part 3** of the Ngāti Apa (North Island) Claims Settlement Act **2009** (which relates to access to protected sites) applies with any necessary modifications to the transfer of the northern part of the Wanganui Forest to the trustees, in order to give effect to Part 3 of the deed of on-account settlement. 10 15
- 9 Certain enactments do not apply to transfer of northern part of Wanganui Forest**
- (1) On and from the Wanganui Forest transfer date, nothing in the enactments listed in **subsection (2)** applies—
- (a) to the northern part of the Wanganui Forest; or 20
- (b) for the benefit of Whanganui Iwi.
- (2) The enactments are—
- (a) sections 8A to 8HJ of the Treaty of Waitangi Act 1975;
- (b) Part 3 of the Crown Forest Assets Act 1989.
- 10 Termination of obligations** 25
- Sections 7 and 8(2)** do not apply in respect of the northern part of the Wanganui Forest if the Crown's obligations terminate under clause 3.7 of the deed of on-account settlement.
- Access to deed of on-account settlement*
- 11 Access to deed of on-account settlement** 30
- The chief executive of the Ministry of Justice must make copies of the deed of on-account settlement available—
- (a) for inspection free of charge, and for purchase at a reasonable price, at the head office of the Ministry of Justice in Wellington on any business day; and 35

**Whanganui Iwi (Wanganui (Kaitoke) Prison
and Northern Part of Wanganui Forest)
On-account Settlement Bill**

Part 2 cl 11

- (b) free of charge on an Internet site maintained by, or on behalf of, the Ministry of Justice.
-