

HOUSE OF REPRESENTATIVES

Supplementary Order Paper

Wednesday, 26 August 1998

NGĀI TAHU CLAIMS SETTLEMENT BILL

Proposed Amendments

SANDRA LEE, in Committee, to move the following amendments:

Clause 9: To omit *subclause 9 (1) (d)* (page 38, lines 14 to 17).

Clause 9A: To insert on page 38, after *clause 9*, the following clause:

9A. Aboriginal title, customary rights, and Treaty of Waitangi rights—Nothing in this Act or in the deed of settlement—

- (a) Extinguishes any aboriginal title or customary rights that Ngāi Tahu may have;
- (b) Diminishes or in any other way affects the Treaty of Waitangi or any articles of the Treaty of Waitangi or the on-going relationship between the Crown and Ngāi Tahu in terms of the Treaty of Waitangi;
- (c) Undermines any rights under the Treaty of Waitangi.

Clause 43A: To insert on page 51, after *clause 43*, the following clause:

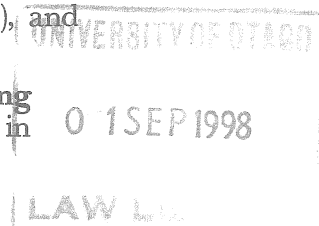
43A. Administration of settlement assets—Notwithstanding Te Runanga o Ngai Tahu Act 1996, commercial settlement property that is transferred vests in Te Rūnanga o Ngāi Tahu or a Ngāi Tahu recipient on trust to be maintained and administered for the benefit of Ngāi Tahu.

Clause 117A: To insert on page 84, after *clause 117*, the following clause:

117A. Administration of mahinga kai and tribal properties—Notwithstanding Te Runanga o Ngai Tahu Act 1996, properties transferred in accordance with this Part vest in Te Rūnanga o Ngāi Tahu or any hapū of Ngāi Tahu on trust to be held, maintained, and administered for the benefit of Ngāi Tahu.

Clause 144: To omit this clause (which appears on page 93), and substitute the following clause:

144. Te Rūnanga o Ngāi Tahu to be administering body—(1) Except as expressly provided in subsections (2) and (3) in



respect of the reserves vested in Te Rūnanga o Ngāi Tahu by this Act, Te Rūnanga o Ngāi Tahu is an administering body under the Reserves Act 1977.

(2) Te Rūnanga o Ngāi Tahu must consult with hapū in regard to the reserves vested in it by this Act and must, in carrying out such consultation,—

(a) Seek the views of such hapū in regard to its function as an administering body under the Reserves Act 1977; and

(b) Have regard to, inter alia, any such views obtained by it.

(3) For the better administering of any reserve vested in Te Rūnanga o Ngāi Tahu by this Act, the Minister of Conservation may, by notice in the *Gazette*, appoint a hapū of Ngāi Tahu to control and manage the reserve for the purpose for which it is classified and in accordance with the appropriate provisions of the Reserves Act 1977 and subject to such additional conditions and restrictions as may be specified in the notice.

Clause 166: To omit *subclauses (2) and (3)* (page 100, all of lines 18 to 24), and substitute the following subclauses:

(2) The Maori Land Court must vest the fee simple estate in the bed of Te Waihora in Te Rūnanga o Ngāi Tahu as Māori freehold land on trust to be held, maintained, and administered by it for the benefit of Ngāi Tahu in accordance with the provisions of this Act.

(3) The Maori Land Court has jurisdiction to make a vesting order pursuant to Part XII of Te Ture Whenua Maori Act 1993 for the purposes of this section.

Clause 167: To omit *subclause (2) (b)* (page 100, all of lines 38 and 39), and substitute the following paragraph and subclause:

(b) The Maori Land Court must vest the fee simple estate in the Selwyn Delta river protection reserve in Te Rūnanga o Ngāi Tahu as Māori freehold land on trust to be held, maintained, and administered by it for the benefit of Ngāi Tahu in accordance with the provisions of this Act.

(2A) The Maori Land Court has jurisdiction to make a vesting order pursuant to Part XII of Te Ture Whenua Maori Act 1993 for the purposes of this section.

Clause 169: To omit this clause (which appears on pages 101 and 102).

Clause 181: To omit *subclauses (2) and (3)* (page 106, all of lines 18 to 25), and substitute the following subclauses:

(2) The Maori Land Court must vest the fee simple estate in the bed of Muriwai (Coopers Lagoon) in Te Rūnanga o Ngāi Tahu as Māori freehold land on trust to be held, maintained, and administered by it for the benefit of Ngāi Tahu in accordance with the provisions of this Act.

(3) The Maori Land Court has jurisdiction to make a vesting order pursuant to Part XII of Te Ture Whenua Maori Act 1993 for the purposes of this section.

Clause 183: To omit this clause (which appears on pages 106 and 107).

Clause 189: To omit this clause (which appears on page 109), and substitute the following clause:

189. Vesting of bed of Lake Mahināpua in Te Rūnanga o Ngāi Tahu—(1) The Maori Land Court must vest the fee

simple estate in the bed of Lake Mahināpua in Te Rūnanga o Ngāi Tahu as Māori freehold land on trust to be held, maintained, and administered by it for the benefit of Poutini Ngāi Tahu in accordance with the provisions of this Act.

(2) The Maori Land Court has jurisdiction to make a vesting order pursuant to Part XII of Te Ture Whenua Maori Act 1993 for the purposes of this section.

Clause 191: To omit this clause (which appears on page 110).

Clause 247: To omit *subclauses (2), (3), and (4)* (page 133, all of lines 7 to 21), and substitute the following subclauses:

(2) Where the Crown decides to transfer an estate in fee simple in accordance with **subsection (1)**, the Maori Land Court must vest the entitlement land in Te Rūnanga o Ngāi Tahu as Māori freehold land on trust to be held, maintained, and administered by it for the benefit of Ngāi Tahu.

(3) The Maori Land Court has jurisdiction to make vesting orders pursuant to Part XII of Te Ture Whenua Maori Act 1993 for the purposes of this section.

Clause 389 (2): To omit from line 9 on page 192 the words “Māwhera Incorporation”, and substitute the words “ancillary claims trustees”.

Clause 390 (2): To omit from line 18 on page 192 the words “Māwhera Incorporation”, and substitute the words “ancillary claims trustees”.

Clause 391 (2): To omit from line 27 on page 192 the words “Māwhera Incorporation”, and substitute the words “ancillary claims trustees”.

Clause 392 (2): To omit from line 34 on page 192 the words “Māwhera Incorporation”, and substitute the words “ancillary claims trustees”.

Clause 418: To omit this clause (which appears on pages 198 and 199), and substitute the following clause:

418. Vesting of the Taiaroa Head site (No. 1) in the beneficiaries—(1) As soon as practicable after the date on which the period for filing objections under clause 14 of the deed of settlement expires, the ancillary claims trustees must make formal application to the Maori Land Court as an interested person under section 134 of Te Ture Whenua Maori Act 1993 to vest Taiaroa Head site (No. 1), including any land reserved from the disposition of that site as a marginal strip pursuant to Part IVA of the Conservation Act 1987, in the beneficiaries as Māori freehold land.

(2) The Maori Land Court must vest the site in accordance with **subsection (1)**, with effect on the 25th business day after the establishment and naming of the joint management body pursuant to clause 14.27.12 of the deed of settlement.

Clause 420: To omit this clause (which appears on pages 199 and 200), and substitute the following clause:

420. Decisions of successors to Korako Karetai—The successors to Korako Karetai must make a decision at the meeting held pursuant to clause 14.27.6 of the deed of settlement in accordance with the procedures set out in Te

Ture Whenua Maori Act 1993 and the Maori Assembled Owners Regulations 1995 to adopt any 1 option from each of the list of options set out in clause 14.27.7 of the deed of settlement.

Clause 421: To omit this clause (which appears on page 200).

Clause 422: To omit this clause (which appears on pages 200 and 201), and substitute the following clause:

422. Establishment of joint management body—(1) The Minister in Charge of Treaty of Waitangi Negotiations must hold meetings with the representatives of the successors to Korako Karetai, the Dunedin City Council, and the Minister of Conservation to assist and facilitate negotiations between those parties in order that an agreement may be reached between them for the establishment of the joint management body and for a name for that body.

(2) If the parties are unable to reach an agreement within 4 years of the settlement date, the Minister in Charge of Treaty of Waitangi Negotiations must give notice to each of the parties stating that, as the parties have been unable to reach an agreement, the Crown will proceed to take the steps set out in clause 14.27.11 of the deed of settlement.

Clause 430 (1) (a): To omit from line 10 on page 204 the expression “**section 422**”, and substitute the expression “**section 418**”.

Clause 447: To insert in line 15 on page 213, after the word “jurisdiction”, the words “, after 2 years from the settlement date,”.

To add to *clause 447 (4)*, after the word “Act” (at line 25, page 213), the words “but excludes the Waitangi Tribunal, on and from the settlement date, from inquiring or further inquiring into, or making any finding, or recommendation in respect of, any or all of the Ngāi Tahu claims except those claims referred to in **section 9 (l) (d)**”.

To add the following subclause:

(6) The removal of the jurisdiction of the courts, the Waitangi Tribunal, and other tribunals by virtue of **subsection (3)** does not prevent any Ngāi Tahu claimant from pursuing claims against the Crown based on aboriginal title or customary rights which do not come within the definition of Ngāi Tahu claims.

Clause 448: Proposed section 6 (9) (a) of the Treaty of Waitangi Act 1975: To insert at line 38 on page 213, after the expression “Ngāi Tahu Claims Settlement Act 1998”, the words “, except those claims referred to in **section 9 (l) (d)** of that Act”.

New PART 16A: To insert on page 216, before *PART 17*, the following Part:

PART 16A

NON-DEROGATION FROM NGĀI TAHU RIGHTS

454A. Non-derogation from Ngāi Tahu rights—Except as expressly provided in this Act, nothing in this Act derogates from any rights that Ngāi Tahu, any hapū of Ngāi Tahu, or any member of Ngāi Tahu Whanui have under any enactment or rule of law or the Treaty of Waitangi.

454B. Non-assignment—(1) Te Rūnanga o Ngāi Tahu must not transfer or assign any rights or obligations under this Act or the deed of settlement other than to a company wholly owned

by Te Rūnanga o Ngāi Tahu, or to any member of Ngāi Tahu, or to whanau or hapū of Ngāi Tahu, or to the Ngāi Tahu Charitable Trust, or a company wholly owned by the Ngāi Tahu Charitable Trust.

(2) Such transfer or assignment of rights or obligations as is permitted by **subsection (1)** is subject to the obligations on Te Rūnanga o Ngāi Tahu under this Act and the deed of settlement.

(3) Te Rūnanga o Ngāi Tahu remains liable for the performance of obligations on it under this Act and the deed of settlement notwithstanding the transfer or assignment of rights or obligations as is permitted by **subsection (1)**.

454C. Amendments to Ngai Tahu (Pounamu Vesting Act) 1997—(1) Section 3 of the Ngai Tahu (Pounamu Vesting) Act 1997 is amended by omitting the words “and becomes the property of Te Runanga o Ngai Tahu”, and substituting the words “Te Runanga o Ngai Tahu on trust to be held, maintained, and administered by it for the benefit of Ngai Tahu”.

(2) Section 3 of the Ngai Tahu (Pounamu Vesting) Act 1997 is further amended by adding the following subsections:

“(2) **Subsection (1)** does not apply to pounamu within the catchment area of the Arahura River, which pounamu vests in the Mawhera Incorporation on trust to be held, maintained, and administered by it for the benefit of Poutini Ngai Tahu.

“(3) The Mawhera Incorporation must consult with Poutini Ngai Tahu in carrying out its functions under **subsection (2)** and must, in carrying out such consultation,—

“(a) Seek the views of Poutini Ngai Tahu in regard to administration of pounamu; and

“(b) Have regard to, inter alia, any such views obtained by it.”

454D. Denunciation—(1) Any affected party of Ngāi Tahu may denounce the settlement in whole or in part at any time by written notification to the Minister in Charge of Treaty of Waitangi Negotiations.

(2) Denunciation takes effect 1 month after the receipt of the notification by the Minister in Charge of Treaty of Waitangi Negotiations.