

House of Representatives
Supplementary Order Paper

Thursday, 16 February 2012

**Ngāti Manawa and Ngāti Whare Claims Settlement
Bill**

Proposed amendments

Hon Christopher Finlayson, in Committee, to move the following amendments:

Clause 13

Replace *clause 13* (pages 55 and 56) with:

- 13 Settlement of historical claims final**
- (1) The historical claims are settled.
 - (2) The settlement of the historical claims is final and, on and from the settlement date, the Crown is released and discharged from all obligations and liabilities in respect of those claims.
 - (3) **Subsections (1) and (2)** do not—
 - (a) limit the deed of settlement; or
 - (b) affect any rights that Ngāti Manawa may have.
 - (4) The rights referred to in **subsection (3)(b)**—
 - (a) are rights that arise—
 - (i) from the Treaty of Waitangi or its principles; or
 - (ii) under legislation; or
 - (iii) at common law (including common law relating to aboriginal title or customary law); or
 - (iv) from a fiduciary duty; or
 - (v) otherwise; but
 - (b) are not rights that give rise to historical claims.
 - (5) Despite any other enactment or rule of law, on and from the settlement date, the courts, the Waitangi Tribunal, or any other judicial bodies or tribunals do not have jurisdiction (including the jurisdiction to inquire into, or make a finding or recommendation) in respect of—
 - (a) any or all of the historical claims; or

- (b) the deed of settlement; or
 - (c) the redress provided under the deed of settlement or under **this Part**; or
 - (d) **this Part**.
- (6) **Subsection (5)** does not exclude the jurisdiction of the courts, the Waitangi Tribunal, or any other judicial bodies or tribunals in respect of the interpretation or implementation of the deed of settlement or **this Part**.
- (7) Despite **subsection (5)(a)**, the Waitangi Tribunal—
- (a) may complete its inquiry into, and make findings on, Te Urewera claims (Wai 894), including claims settled by **this Part**; but
 - (b) must not make recommendations in relation to any of the claims settled by **this Part**.

Clause 107

In *clause 107*, replace “Government (Members’ Interests)” (page 97) with “Authorities (Members’ Interests)”.

Clause 127

In *clause 127*, replace “functions” (page 106) with “function, power, or duty”.

Clause 143

Replace *clause 143* (pages 141 to 142) with:

143 Settlement of historical claims final

- (1) The historical claims are settled.
- (2) The settlement of the historical claims is final and, on and from the settlement date, the Crown is released and discharged from all obligations and liabilities in respect of those claims.
- (3) **Subsections (1) and (2)** do not—
 - (a) limit the deed of settlement; or
 - (b) affect any rights that Ngāti Whare may have.
- (4) The rights referred to in **subsection (3)(b)**—
 - (a) are rights that arise—
 - (i) from the Treaty of Waitangi or its principles; or
 - (ii) under legislation; or
 - (iii) at common law (including common law relating to aboriginal title or customary law); or
 - (iv) from a fiduciary duty; or
 - (v) otherwise; but
 - (b) are not rights that give rise to historical claims.
- (5) Despite any other enactment or rule of law, on and from the settlement date, the courts, the Waitangi Tribunal, or any other judicial bodies or tribunals do not have jurisdiction (including the jurisdiction to inquire into, or make a finding or recommendation) in respect of—

- (a) any or all of the historical claims; or
 - (b) the deed of settlement; or
 - (c) the redress provided under the deed of settlement or under **this Part**; or
 - (d) **this Part**.
- (6) **Subsection (5)** does not exclude the jurisdiction of the courts, the Waitangi Tribunal, or any other judicial bodies and tribunals in respect of the interpretation or implementation of the deed of settlement or **this Part**.
- (7) Despite **subsection (5)(a)**, the Waitangi Tribunal—
- (a) may complete its inquiry into, and make findings on, Te Urewera claims (Wai 894), including claims settled by **this Part**; but
 - (b) must not make recommendations in relation to any of the claims settled by **this Part**.

Clause 241

In *clause 241*, replace “Government (Members’ Interests)” (page 186) with “Authorities (Members’ Interests)”.

Clause 261

In *clause 261*, replace “functions” (page 196) with “function, power, or duty”.

Schedule 6, Part 1

In *Schedule 6, Part 1*, item relating to Tauranga-o-Reti site, in the second column, replace “4.997” (page 220) with “4.9997”.

Explanatory note

This Supplementary Order Paper makes changes to the clauses in each Part that express the extent of the settlement and exclude the settlement of historical claims from the jurisdiction of the courts, Waitangi Tribunal, and other judicial bodies. The changes clarify the intent of the provisions of the deeds of settlement in respect of those matters, as well as the extent to which the jurisdiction of the Waitangi Tribunal is preserved.

The Supplementary Order Paper also amends *clauses 107 and 241* to correct the name of a statute, amends *clauses 127 and 261* to reflect the wording of the Resource Management Act 1991, and corrects the legal description of the Tauranga-o-Reti site.