

5 December 2018

Attorney-General

Te Rohe o Rongokako Joint Redress Bill (PCO 20372) — Consistency with the New Zealand Bill of Rights Act 1990
Our Ref: ATT395/287

1. We have considered the Te Rohe o Rongokako Joint Redress Bill (“the Bill”) for consistency with the New Zealand Bill of Rights Act 1990 (“the Bill of Rights Act”). The Bill appears consistent.
2. The Bill gives effect to the joint redress provided for in the deeds of settlement that settle the historical claims of Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua and Rangitāne o Wairarapa and Rangitāne o Tamaki-nui-ā-Rua.¹
3. The Bill provides for joint cultural redress, including:²
 - 3.1 cultural redress that does not involve the vesting of land, namely:
 - 3.1.1 an overlay classification applying to an area of land; and
 - 3.1.2 providing for the management of customary fishing in Wairarapa Moana and the Ruamahanga River catchment (by regulation); and
 - 3.2 cultural redress requiring the vesting of the fee simple estate in certain properties, either jointly in joint redress trustees or in a tipuna to be jointly managed by a joint management board.
4. The Bill also provides for other joint redress with the establishment of the Wairarapa Moana Statutory Board to administer the Wairarapa Moana reserves.³

Whether s 19 at issue

5. By conferring assets and rights on Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua and Rangitāne o Wairarapa and Rangitāne o Tamaki-nui-ā-Rua that are not conferred on others, the Bill does not *prima facie* limit the right to freedom from discrimination affirmed by s 19 of the Bill of Rights Act. Discrimination arises only if there is a difference in treatment on the basis of one of the prohibited grounds of

¹ Te Rohe o Rongokako Joint Redress Bill, cl. 3.

² Te Rohe o Rongokako Joint Redress Bill, Part 2.

³ Te Rohe o Rongokako Joint Redress Bill, Part 3.

discrimination between those in comparable circumstances. In the context of this Bill, which follows the settlement of claims brought by Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua, Rangitāne o Wairarapa and Rangitāne o Tamaki-nui-ā-Rua, no other persons or groups who are not party to the joint redress now provided are in comparable circumstances. Excluding others from those entitlements does not give rise to any differential treatment for the purpose of s 19.

Review of this advice

6. This advice has been reviewed in accordance with Crown Law protocol by Helen Carrad, Crown Counsel.

Debra Harris

Debra Harris
Crown Counsel

Noted

David Parker

Hon David Parker
Attorney-General
7 / 12 / 2018