

NGĀTI AWA

*and*

**HER MAJESTY THE QUEEN**

in right of New Zealand

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**DEED OF SETTLEMENT TO  
SETTLE NGĀTI AWA  
HISTORICAL CLAIMS**

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27 March 2003

*Handwritten initials/signature*

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I TŪ TE TŪTOHINGA nei i te rā 27 o te marama o Māehe o te tau 2003.

**KI WAENGANUI I A**

- (1) **NGĀTI AWA**
- (2) **TE ARIKINUI TE KUINI** i te tika o Niu Tīreni e te Minita mō te Tari Whakatau Take e pā ana ki te Tiriti o Waitangi.

**WAIATA**

**HE TANGI MŌ MATAHINA**

Kāore hoki e te rangi nei  
Te hua mahara noa i roto rā ki ahau rā,  
Ka noho pani nei.  
I pani ki te whenua,  
I pani ki te tangata,  
Au tangi kau iho i te pō,  
Ka whakatū ki hea te aroha?  
Te tōnga o te rā ki a Rikirangi  
Ko tōku whanaunga ia tērā.  
Ina te ahau, i mihi ki te whenua  
I tangi ki te tangata,  
Ka noho te wairangi nei.  
Āpōpō, ka retireti, kīhai  
Ka tahuri noa.  
Ka rarapa noa kei hea  
He tūnga nō te waewae?  
He aha te pai ki te noho noa iho?  
Te āta rere ai ki Poihākena!  
Kai noho ki konei rongorā ai i te waunga.

*Nā Te Araroa o Ngāi Tamaoiki me Te Pahipoto*

**THIS DEED** is made on the 27 day March 2003

**BETWEEN**

- (1) **NGĀTI AWA**
- (2) **HER MAJESTY THE QUEEN** in right of New Zealand acting by the Minister in Charge of Treaty of Waitangi Negotiations

**WAIATA**

**LAMENT FOR MATAHINA**

This day as I look back  
A thousand thoughts are in my mind,  
Here I live as an orphan  
An orphan upon the land and  
An orphan among the people.  
At night I weep helplessly,  
For where is hospitality to be given?  
When the sun set on Rikirangi (Te Kooti)  
His relative am I  
For did he not greet the land!  
Did he not weep for his people  
Now left to live aimlessly!  
Tomorrow they move on  
With no place to turn back to  
I look about me and ask,  
Where is a place for the feet to stand?  
What is the use of staying here?  
Better by far to flee to Sydney!  
For if I stay I will hear  
The groaning of the people

**By Te Araroa of Ngai Tamaoiki and Te Pahipoto**



**TE KAUPAPA**

E ai ki ngā kōrero a Ngāti Awa:

***Tīwakawaka***

He uri a Tīwakawaka nō Māui. Nā Māui, ka puta ko Te Papa-titirau-maewa, ā, mai i a ia, ka puta ko Tīwakawaka. Ko ngā whenua i te takiwā ki Kākahoroa (Whakatāne), i kitea, i nōhia tuatahitia e ia. Ko tōna waka ko Te Ara-tauwhāiti, ā, ko ōna uri whakaheke i mōhiotia ai ko Ngāti Ngainui. Taketake ake, ko rātou te tangata whenua tuatahi o Kākahoroa.

***Toi-te-huatahi***

Ngahuru mā rua ngā whakatipuranga ka whai, ka tae tātou ki te tipuna nei a Toi-te-huatahi. Ko tōna kāinga ko Kāpū-te-rangi, kei runga ake o Kākahoroa. E whakaachia whānuitia ana, ko Toi te tino tipuna o ngā iwi maha o Te Tai Rāwhiti, tae rawa ki a Ngāti Awa.

***Awanui-a-rangi I, Rauru***

Nā Toi, ka puta ko Rauru ki mua, ko tōna whaea ko Huia-rei; whai muri ko Awanui-ā-rangi I, ko tōna whaea ko Te Kura-i-monoa. Ko ngā uri whakaheke o Awanui-ā-rangi I, ko Ngāti Awa ki Te Moana o Toi-te-huatahi rātou ko Te Āti Awa o Taranaki.

***Tīhori, Kōpura-kai-whiti***

Ka moe a Tīhori i a Kōpura-kai-whiti o Te Mārangaranga, ko ō rāua kāinga ko Taiwhiti-Kāeaea me Taiwhero, he wāhi e tata nei ki Pūtauaki. Ko tōna iwi ko Ngā Maihi, he hapū taketake o Ngāti Awa. I te wā i whakatauhia ai e Tīhori me wehe ia i te rohe mā runga i tōna waka i a Whakapau-karakia, ki te haere ki Te Tai Tokerau, i āraia tōna ara e tērā wāhanga o Ngāti Awa i mahue mai. Kātahi ka tono a Tīhori ki tōna taniwha kia huakina mai he ara mai i te awa o Rangitāiki ki te awa o Tarawera, kia wāhia ake hoki he putanga ki te moana i Te Awa a Te Atua. Ka noho mai tōna whānau, ā, ko ō rātou uri whakaheke ko Ngā Maihi o Matahina me Te Teko.

*Mohi*  
*AA*

***Kauri rāua ko Kahungunu***

He wāhanga nui o Ngāti Awa i noho ki te takiwā o Kaitiāia, o Ahipara, o Te Roto o Tangonge. I reira ētahi ana pupuri kōiwi, nō Ngāti Awa. Kātahi te wā roa e pakanga ana ki a Ngāti Whātua rāua ko Ngā Puhi, ka tīmata tētahi hekenga nui a Ngāti Awa i Te Tai Tokerau. E rua ngā hekenga, ko tētahi nā Tītahi i ārahi mā te Tai Hau-ā-uru, tau rawa atu ki Waitara i Taranaki; ko tētahi tira nā Kauri i ārahi mā te Tai Rāwhiti, ahu rawa atu ki roto o Tauranga. Ko tētahi wāhanga o tēnei hekenga, i haere tonu atu, tae rawa atu ki Kākahoroa, ki reira noho ai ki raro o Te Tini o Awa. Ko ō rātou uri, ko ngā hapū o Ngāti Awa.

***Hoaki rāua ko Taukata***

I tau a Hoaki rāua ko Taukata ki Kākahoroa i te wā e noho ana ko Tama-ki-Hikurangi, te rangatira, i Kāpū-te-rangi. I haere mai te tokorua nei ki te kimi haere i tā rāua tuahine, a Kanioro. Nā rāua te kūmara i hari mai hei kai mā Te Tini o Awa.

***Toroa***

E ai ki ngā kōrero tuku iho a Ngāti Awa, i tau mai te waka Mātaatua ki Kākahoroa (Whakatāne) mai i te kāinga tūturu o Hawaiki. Nā Mātaatua te kūmara i mau mai ki Kākahoroa me tētahi mōkī one mai i Rangiatea, he mea āta waiho ki te māra kai e mōhiotia nei, ko Matirerau. E mōhiotia ana ko ngā tāngata o runga o te waka nei o Mātaatua ngā tīpuna taketake o ngā iwi o te rohe o Mātaatua arā, a Te Whānau a Apanui, a Te Whakatohea, a Ngāi Tūhoe, a Ngāi Te Rangi, a Ngāti Awa me ētahi o ngā iwi o Te Tai Tokerau pēnei i a Ngā Puhi. E whakaaetia ana ko Toroa, te rangatira o runga o te waka o Mātaatua, tētahi o ngā tīpuna nui o Ngāti Awa.

***Awanui-ā-rangi II***

Mai i a Toroa ka puta ko Ruaihona, mai i a Ruaihona ka puta ko Tahinga-o-te-rangi, mai i Tahinga-o-te-rangi ka puta ko Awanui-ā-rangi II. E whakaaetia ana e Ngāti Awa ko Awanui-ā-rangi II, te mokopuna tuarua a Toroa, koia te tīpuna ariki e taea ai e ngā hapū katoa o Ngāti Awa te tātai atu.

Mai i a Awanui-ā-rangi ka heke mai ai ngā tīpuna o ngā hapū o Ngāti Awa pēnei i a Rongo-tangi-awa, Rongo-kārae, Irapeke, Tamatearehe, Taiwhakaea I, Tonumoko, Pūkeko, Ikapuku, Te Rangi-tipu-ki-waho I, Taiwhakaea II, Ira-tūmoana, Manukorihi, Iramoko, Umutahi, Tu-te-ao, Ikapōkai, Awatope, Irawharo, Hikakino, Te Rangi-hou-hiri II, Ruaroa, Tamawera, Nukukaitangata, Tamapahore, Uruhina me te tokomaha atu o ngā tīpuna. Takea mai ai anō hoki ngā hapū o iwi kē i ēnei tīpuna.

*Handwritten signatures and initials in the bottom left corner.*

*Ngāti Awa*

Mai i te ūnga mai o te waka Mātaatua ki uta, ā, tae rawa ki te taenga mai o tauīwi, e noho ana a Ngāti Awa he iwi motuhake, he iwi tūturu i raro i ngā whakahaere o ngā hapū o Ngāti Awa. He wā ka ūhia e Ngāti Awa tōna tino rangatiratanga ki runga i ngā whenua mai i Ōhiwa i te rāwhiti tae atu ki Pongakawa i te uru, haere whaka-te-uta ki Maungawhakamana, ki Pōkohu, ki Matahina, hoki atu ki Ōhiwa. Mō ngā rau tau maha, whakamātautauria ai te rohe o Ngāti Awa i roto i ngā tauwehewehenga, ngā tukitukinga me ngā tautohetohe ki ngā iwi e noho tata ana, ahakoa te mea, i reira ētahi piringa i roto i ngā tau, me te mea anō hoki he whakapapa kotahi, he tīpuna kotahi katoa o rātou.



TE KAUPAPA

conflict and dispute with neighbouring iwi, many of whom shared common historical associations, whakapapa and tipuna with Ngāti Awa.

*MAN*  
*HAW*

## TE TIRITI O WAITANGI/TREATY OF WAITANGI

Nō te rā 16 o te marama o Hune o te tau 1840, i hainahia ai ki Pōhaturoa i Whakatāne e ētahi o ngā rangatira o Ngāti Awa te tuhinga reo Māori anake o Te Tiriti o Waitangi. Ko te nuinga o ēnei rangatira nō Ngāi Tonu me Ngāti Pūkeko, arā ko ētahi o rātou ko Tautari, ko Mōkai, ko Mato, ko Tarawatewate, ko Tūnui, ko Taupiri, ko Haukakawa, ko Piariari, ko Mata-te-hokia, ko Rewa, ko Tūpara me Mōkai II. E mea ana ngā kōrero o Te Tiriti o Waitangi:

On 16 June 1840, certain Ngāti Awa chiefs signed the Maori text only of the Treaty of Waitangi at Pohaturoa in Whakatāne. These chiefs were primarily from Ngai Tonu and Ngāti Pūkeko and included Tautari, Mokai, Mato, Tarawatewate, Tunui, Taupiri, Haukakawa, Piariari, Matatehokia, Rewa, Tupara and Mokai II. The text of the Treaty of Waitangi provided:

### Te Tiriti o Waitangi

*“Ko Wikitoria, te Kuini o Ingarani, i tana mahara atawai ki nga Rangatira me nga hapu o Nu Tirani i tana hiahia hoki kia tohungia ki a ratou o ratou rangatiratanga, me to ratou wenua, a kia mau tonu hoki te Rongo ki a ratou me te Atanoho hoki kua wakaaro ia he mea tika kia tukua mai tetahi Rangatira hei kai wakarite ki nga Tangata maori o Nu Tirani - kia wakaetia e nga Rangatira maori te Kawanatanga o te Kuini ki nga wahikatoa o te Wenua nei me nga Motu - na te mea hoki he tokomaha ke nga tangata o tona Iwi Kua noho ki tenei wenua, a e haere mai nei.*

*Na ko te Kuini e hiahia ana kia wakaritea te Kawanatanga kia kua ai nga kino e puta mai ki te tangata Maori ki te Pakeha e noho ture kore ana.*

*Na, kua pai te Kuini kia tukua a hau a Wiremu Hopihona he Kapitana i te Roiara Nawi hei Kawana mo nga wahi katoa o Nu Tirani e tukua aianei, amua atu ki te Kuini e mea atu ana ia ki nga Rangatira o te wakaminenga o nga hapu o Nu Tirani me era Rangatira atu enei ture ka korerotia nei.*

### Ko te Tuatahi

*Ko nga Rangatira o te Wakaminenga me nga Rangatira katoa hoki ki hai i uru ki taua wakaminenga ka tuku rawa atu ki te Kuini o Ingarani ake tonu atu-te Kawanatanga katoa o o ratou wenua.*

## BACKGROUND TO THIS DEED

*Ko te Tuarua*

*Ko te Kuini o Ingarani ka wakarite ka wakaae ki nga Rangatira ki nga hapu –ki tangata katoa o Nu Tirani te tino rangatiratanga o o ratou wenua o ratou kainga me o ratou taonga katoa. Otiia ko nga Rangatira o te Wakaminenga me nga Rangatira katoa atu ka tuku ki te Kuini te hokonga o era wahi wenua e pai ai te tangata nona te Wenua-ki te ritenga o te utu e wakaritea ai e ratou ko te kai hoko e meatia nei e te Kuini hei kai hoko mona.*

*Ko te Tuatoru*

*Hei wakaritenga mai hoki tenei mo te wakaetanga ki te Kawanatanga o te Kuini-Ka tiakina e te Kuini o Ingarani nga tangata maori katoa o Nu Tirani ka tukua ki a ratou nga tikanga katoa rite tahi ki ana mea ki nga tangata o Ingarani.*

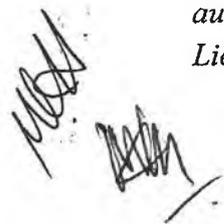
*(Signed) WILLIAM HOBSON  
Consul and Lieutenant-Governor*

*Na ko matou ko nga Rangatira o te Wakaminenga o nga hapu o Nu Tirani ka huihui nei ki Waitangi ko matou hoki ko nga Rangatira o Nu Tirani ka kite nei i te ritenga o enei kupu, ka tangohia ka wakaetia katoatia e matou, koia ka tohungia ai o matou ingoa o matou tohu.*

*Ka meatia tenei ki Waitangi i te ono o nga ra o Pepueri i te tau kotahi mano, e waru rau e wa te kau o to tatou Ariki.*

*Ko nga Rangatira o te wakaminenga.”*

*“HER MAJESTY VICTORIA Queen of the United Kingdom of Great Britain and Ireland regarding with Her Royal Favour the Native Chiefs and Tribes of New Zealand and anxious to protect their just Rights and Property and to secure to them the enjoyment of Peace and Good Order has deemed it necessary in consequence of the great number of Her Majesty's Subjects who have already settled in New Zealand and the rapid extension of Emigration both from Europe and Australia which is still in progress to constitute and appoint a functionary properly authorised to treat with the Aborigines of New Zealand for the recognition of Her Majesty's Sovereign authority over the whole or any part of those Islands - Her Majesty therefore being desirous to establish a settled form of Civil Government with a view to avert the evil consequences which must result from the absence of the necessary Laws and Institutions alike to the native population and to Her subjects has been graciously pleased to empower and to authorise me William Hobson a Captain in Her Majesty's Royal Navy Consul and Lieutenant Governor of such parts of New Zealand as may be or hereafter shall*



*be ceded to Her Majesty to invite the confederated and independent Chiefs of New Zealand to concur in the following Articles and Conditions.*

*Article The First*

*The Chiefs of the Confederation of the United Tribes of New Zealand and the separate and independent Chiefs who have not become members of the Confederation cede to Her Majesty the Queen of England absolutely and without reservation all the rights and powers of Sovereignty which the said Confederation or Individual Chiefs respectively exercise or possess, or may be supposed to exercise or to possess over their respective Territories as the sole Sovereigns thereof.*

*Article The Second*

*Her Majesty the Queen of England confirms and guarantees to the Chiefs and Tribes of New Zealand and to the respective families and individuals thereof the full exclusive and undisturbed possession of their Lands and Estates Forests Fisheries and other properties which they may collectively or individually possess so long as it is their wish and desire to retain the same in their possession; but the Chiefs of the United Tribes and the individual Chiefs yield to Her Majesty the exclusive right of Pre-emption over such lands as the proprietors thereof may be disposed to alienate at such prices as may be agreed upon between the respective Proprietors and persons appointed by Her Majesty to treat with them in that behalf.*

*Article The Third*

*In consideration thereof Her Majesty the Queen of England extends to the Natives of New Zealand Her royal protection and imparts to them all the Rights and Privileges of British Subjects.*

*W. HOBSON Lieutenant Governor.*

*Now therefore We the Chiefs of the Confederation of the United Tribes of New Zealand being assembled in Congress at Victoria in Waitangi and We the Separate and Independent Chiefs of New Zealand claiming authority over the Tribes and Territories which are specified after our respective names, having been made fully to understand the Provisions of the foregoing Treaty, accept and enter into the same in the full spirit and meaning thereof: in witness of which we have attached our signatures or marks at the places and the dates respectively specified.*



BACKGROUND TO THIS DEED

*Done at Waitangi this Sixth day of February in the year of Our Lord One thousand eight hundred and forty."*

*MSH*  
*ASH*

## TE HĪTORI O TE WHAKATAUNGA

Mai i te wā o te raupatu i 1866, kua whakatūria ngā tono paremata a Ngāti Awa ki te Karauna mō āna mahi hē, tae rawa ki te raupatu. Kua hīkina ngā taumahatanga mō ngā takahitanga i te Tiriti o Waitangi e tēnā, e tēnā whakatipuranga o Ngāti Awa i roto i ngā tau, tāne mai, wāhine mai. Whai muri iho o ngā petihana me ngā kawenga kōrero o ngā tau tōmuri o te rau tau 1800, me ērā o te tekau tau 1920, tae rawa ki te tekau tau 1960, ko te nekehanga nui, ko te whakatūnga e ngā kaumātua o Ngāti Awa pēnei i a Eruera Mānuera, i a Hāre Rēneti, i a Aniheta Rātene me Matarena Rēneti, i te Poari o Ngāti Awa i te tau 1980 i Puawairua, te marae o Ngāti Hikakino. I whakatūria te Poari e ngā hapū o Ngāti Awa hei kawē whakamua i ngā kaupapa mō te iwi, pēnei i i te take raupatu (tae rawa ki te muru i ngā whenua, te noho manene o ngā hapū me te riro o te tino rangatiratanga), te whakatū pakari anō o te whareniū Mātātua, te whakahokinga mai o te pāmu teihana o Ngāti Awa me te maunga Pūtauaki ki ngā ringaringa o te iwi. I whakarāpopotonga ngā whāinga matua nei e Aniheta Ratene i roto i tana kōrero mō te Moenga, te Paraikete me te Urunga – ko te Moenga, koia tērā ko ngā whenua o Ngāti Awa i raupatuhia, ko te Paraikete, ko te pāmu teihana tērā o Ngāti Awa, ā, ko te Urunga, koia tērā ko ngā kerēme a Ngāti Awa mō Kawerau.

I te tau 1988, whai muri o tētahi whakahōunga o Te Ture mō Te Tiriti o Waitangi 1975 e taea ai te rongohia o ngā kerēme mai i 1840, i whakatakotoria e Ngāti Awa tana kerēme ki mua i te aroaro o Te Rōpū Whakamana i te Tiriti kia rangahaua ōna whakamau e pā ana ki te Tiriti. I te tau 1988, i runga i tāna kaupapa here ki te tuku i ngā whakahaere ki ngā poari whakahaere iwi, ā, i runga anō hoki i te tono a Ngāti Awa, i whakamanatia Te Ture mō Te Rūnanga o Ngāti Awa 1988 arā, te ture whakatū i te Rūnanga. Ko tētahi wāhi o te ture nei i pā ki te wetewete i ngā whakawhiu ā-ture i mau ki runga i ētahi o te iwi i uru ki ngā nekenekehanga o te tau 1865.

Nō te tau 1990 i whakawhitia ai e te Karauna te pāmu teihana o Ngāti Awa ki Te Rūnanga o Ngāti Awa. I tua atu, i ngā tau 1989 me 1990, tukuna ai e te Karauna ētahi utunga e \$200,000 hui katoa ki Te Rūnanga o Ngāti Awa. I te tau 1994, i whakawhitia ai e te Karauna ki a Ngāti Awa, ko te wāhi mahi a Telecom i Whakatāne, ko tōna wāriu i whakaaetia ai kia \$390,000. Hei tā Ngāti Awa titiro mai rā anō, he wāhanga noa iho ēnei o ngā utu mō ngā kerēme raupatu ki te Karauna.

Nō te rā 4 o te marama o Hūrae o te tau 1994, kātahi anō ka tīmata te take a Ngāti Awa ki mua i te aroaro o Te Rōpū Whakamana i te Tiriti, i te marae o Te Whare o Toroa i Whakatāne. I whakatakotoria e Ngāti Awa tana kerēme i roto i ētahi hui i tū ki te marae o Kokohīnau i Te Teko, ki te marae o Umutahi i Matatā, me te kapinga o āna kōrero i Te Whare o Toroa i te rā 1 o Tīhema o te tau 1995.

## BACKGROUND TO THIS DEED

Nō te marama o Mei o te tau 1995, i whakaputaina e Te Rōpū Whakamana i te Tiriti tētahi whakaaturanga e kī ana, ahakoa kāore anō kia rongohia te Karauna, nā te kaha me te pakari o te kerēme a Ngāti Awa, tērā tonu pea ka nui te paremata me utu e te Karauna ki a ia mō ngā takahitanga a te Karauna i Te Tiriti o Waitangi i roto i ngā tau kua pahure. I whakaputaina tuatahitia te kōrero nei i roto i te whakaaturanga a Te Rōpū Whakamana i te Tiriti i te marama o Noema i te tau 1994.

I whakatakotohia, i kōrerohia tētahi tikanga whakahaere i waenganui i ngā hapū, Te Rūnanga me ngā kai-whiriwhiri i te hui ā-tau o te tau 1996, me ngā hui o muri a Te Rūnanga i roto i taua tau. Whai muri i tērā, i tū anō ngā hui me ngā whitiwhitinga kōrero e whiwhi mana kōkiri ai ngā kai-whiriwhiri. I whakaae te Rūnanga o te Kāwanatanga ki te mana kōkiri i te Ōketopa 1996.

I te rā 21 o te marama o Tihema o te tau 1998, whai muri o tētahi toru tau e kōrerohia ana te kaupapa, ka uru te Karauna rāua ko Ngāti Awa ki tētahi Whakaaetanga Ūpoko. Ko tā te Whakaaetanga Ūpoko nei, he whakatakoto noa i ngā take e mātua whakaaetia ana me uru ki roto i te Tūtohinga Whakatau, me tā rāua whakaae tahi ki te whiriwhiri i runga i te ngākau pono ki te whakatutuki i ngā ritenga o te Tūtohinga Whakatau.

Nō te rā 8 o te marama o Oketopa o te tau 1999 i oti i Te Rōpū Whakamana i te Tiriti tana pūrongo e kīia nei ko “ Te Pūrongo mō te Raupatu a Ngāti Awa.” Ko ngā whāinga matua o te pūrongo i kī, i raro i Te Tiriti o Waitangi, i te hē te mahi raupatu i ngā whenua o Ngāti Awa, ā, e kore e taea te kī i tū tētahi whana e whai take ai te raupatu i ngā whenua, me te mea ko te āhua nei, i tua atu kē te raupatu o ngā whenua o Ngāti Awa i te mana o Te Ture Whakatau Manene ki Niu Tīreni, 1863.

I tua atu, i kite anō Te Rōpū Whakamana i te Tiriti, he takahitanga tēnei o ngā mātāpono o te Tiriti o Waitangi, mēnā kāore i whakahokia mai ngā whenua i runga i te tikanga pai, māraakerake; he whakawhiu anō i a Ngāti Awa mō ana mahi whana tēnei te wehe i a ia mai i ngā whenua ki te taha uru o te rāina raupatu; i hurihia te taitara o ngā whenua ki te tangata takitahi, ā, ko te putanga o tēnei, ko te unuhanga o te mana o te iwi, ko te whakamāmā hoki i te huarahi hoko i te whenua. I tua atu i whakatau Te Rōpū Whakamana i te Tiriti, ko te huarahi e ea ai ngā kerēme a Ngāti Awa, mā te huarahi ki Te Rūnanga o Ngāti Awa. Ahakoa te mea kāore i whakatakotohia e te Karauna ētahi whakaaturanga ki mua i te aroaro o Te Rōpū Whakamana i te Tiriti, me te mea anō ehara i te mea e whakaae ana ia ki te katoa o ngā whāinga o Te Rōpū Whakamana i te Tiriti, e whakaae ana te Karauna i mahi hē ia ki te raupatu i ngā whenua o Ngāti Awa, nā reira he takahitanga tēnā o ngā mātāpono o Te Tiriti o Waitangi.

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Kāore i tau he whakaritenga i waenganui i te Karauna me Ngāti Awa i runga i ngā tāpaetanga o te tau 1998. Nō te tau 2000 whakatakotoria ai e te Karauna tētahi tāpaetanga hōu.

### TE WHAKAHOKINGA MAI O TE WHARENUI A MĀTAATUA

I ngā tau tōmua o te tekau tau 1870, i tahuri te iwi o Ngāti Awa ki te hanga i tētahi whare whakairo ki Whakatāne, ko tōna ingoa ko Mātaatua. I te tīmatanga o te tau 1875 i oti te hanga i te whare. Nō te tau 1879, i tukuna e te Karauna te whare Mātaatua ki tētahi whakaaturanga e kīia nei ko te *Inter Colonial Exhibition* i tū ki Poihākena, i Ahitereiria. Nō te tau 1880 i nekehia te whare ki Poi-piripiri, ki Rānana, ki reira whakaaturia ai. Nō te tau 1924 i whakahokia mai ai a Mātaatua, e aha ai, e uru atu ai ia ki te Whakaaturanga mō te Moana-nui-a-Kiwa i tū ki Ōtepoti. I whakaae te Karauna kia whakaaturia e Te Whare Taonga o Ōtepoti te whare whakairo mō ake tonu. Mai rā anō, kua rapu te iwi kia whakahokia mai te whare ki Whakatāne, me te kī a Ngāti Awa, kāore i tukuna e ia te mana mō Mātaatua ki tētahi atu. Nō te marama o Ākuhata o te tau 1996 i hainahia e Ngāti Awa rāua ko te Karauna tētahi Tūtohinga Whakatau mō te whakahokinga mai o Mātaatua ki a Ngāti Awa. I whai wāhi ki roto i te whakaaetanga nei ko te \$2 miriona hei utu i te whakahoki mai me te whakatū o te whareniui a Mātaatua ki Whakatāne.

### TE WHAKATAU I NGĀ KERĒME

I runga i te whakaae a te Karauna ki mua i te aroaro o Te Rōpū Whakamana i te Tiriti rātou ko Ngāti Awa, i tūkinotia a Ngāti Awa, i wāhia hoki ētahi mātāpono o Te Tiriti o Waitangi i te wā i raupatutia ō rātou whenua, ko te hiahia o te Karauna ki te uru ki tētahi tūtohinga whakatau, e whakatakoto ana he aha ngā mea e ea katoa ai ngā kerēme a Ngāti Awa i roto i ngā tau. Nā reira koia nei a Ngāti Awa, kua roa āna whakatipuranga e tohe ana mō ana kerēme e mea ana, ko tōna hiahia kia uru ki tētahi tūtohinga whakataunga.

**NĀ REIRA**, e whakaae ana a Ngāti Awa rāua ko te Karauna, whai muri i ētahi whitiwhitinga kōrero i whakahaerehia i runga i te ngākau pono, i raro hoki i te wairua mahi tahi, ki te kuhu ki tēnei Tūtohinga.

**I TŪ** hei Tūtohinga i te rā 27 o te marama o Māehe o te tau 2003.

## BACKGROUND TO THE SETTLEMENT

Since the time of the raupatu in 1866, Ngāti Awa has sought redress for its grievances against the Crown including the confiscation of land from Ngāti Awa. The responsibility for seeking redress for breaches of the Treaty of Waitangi has passed through many generations of Ngāti Awa men and women. Following the petitions and representations of the late nineteenth century, the 1920s and up to the 1960s, the next significant effort occurred in 1980 with the establishment of the Ngāti Awa Trust Board at the Ngāti Hikakino marae, Puawairua by the hapū and kaumatua of Ngāti Awa including Eruera Manuera, Hare Reneti, Aniheta Ratene and Matarena Reneti. The hapū of Ngāti Awa established the Trust Board to progress various issues on behalf of the iwi and in particular, to seek redress for the raupatu (including the loss of land, dislocation of hapū and loss of rangatiratanga), the restoration of Mātaatua whareniui, the return of the Ngāti Awa station, and the return of Putauaki. These principal goals of the Trust Board were encapsulated by Aniheta Ratene in the phrase the Bed, the Blanket and the Pillow – the Bed symbolized the lands confiscated from Ngāti Awa, the Blanket represented the Ngāti Awa station and the Pillow embodied the Ngāti Awa claims to Kawerau.

In 1988, following an amendment to the Treaty of Waitangi Act 1975 to allow hearing of claims back to 1840, Ngāti Awa lodged its claim with the Waitangi Tribunal to investigate its Treaty grievances. In 1988 the Crown, in accordance with its policy of devolution to iwi authorities and at the request of Ngāti Awa, enacted Te Runanga o Ngāti Awa Act 1988 establishing the Runanga. This included a statutory pardon for those members of Ngāti Awa involved in the events of 1865.

In 1990 the Crown transferred the Ngāti Awa station to Te Runanga o Ngāti Awa. The Crown also made payments totalling \$200,000 to Te Runanga o Ngāti Awa in 1988 and 1990. In 1994, the Crown transferred the Whakatāne Telecom site at an agreed value of \$390,000 to Ngāti Awa. Ngāti Awa has always regarded these returns as part settlement of its raupatu claims against the Crown.

On 4 July 1994, Ngāti Awa finally began its Waitangi Tribunal case at Te Whare o Toroa Marae in Whakatāne. Ngāti Awa presented its claims at hearings at Kokohinau Marae in Te Teko and Umutahi Marae in Matata, completing the process at Te Whare o Toroa on 1 December 1995.

In May 1995, the Waitangi Tribunal issued a memorandum observing that although the Crown had yet to be heard, Ngāti Awa had demonstrated significant and compelling claims that were likely to require substantial compensation from

## BACKGROUND TO THIS DEED

the Crown to remedy past breaches of the Treaty of Waitangi. This point was previously made by the Waitangi Tribunal in its memorandum in November 1994.

A mandate protocol between the hapū, the Runanga and the negotiators was prepared and discussed at an annual general meeting in 1996 and at subsequent hui of the Runanga during that year. This was followed by further hui and consultations to confirm the mandate of the negotiators. Cabinet recognised the mandate in October 1996.

On 21 December 1998, following three years of discussions and negotiations the Crown and Te Runanga o Ngāti Awa entered into a Heads of Agreement. This recorded on a without prejudice basis the matters which they had agreed in principle should be contained in a Deed of Settlement to effect a settlement of Ngāti Awa's historical claims, and their agreement to negotiate in good faith to settle the terms of the Deed of Settlement.

On 8 October 1999, the Waitangi Tribunal completed its report entitled "The Ngāti Awa Raupatu Report". The principal findings of the Tribunal were that the confiscation of the lands of Ngāti Awa was contrary to the Treaty of Waitangi, that there was no rebellion to justify confiscation, and that confiscation as effected against Ngāti Awa appears to have been beyond the authority of the New Zealand Settlements Act 1863. The Tribunal also found that it was contrary to the principles of the Treaty of Waitangi that the return of lands and reserves was not affected by a fair and open process; that Ngāti Awa's exclusion from the lands to the west of the confiscation line was an additional retribution for their perceived rebellion; that tribal land was converted to individual shareholding and tribal authority was therefore removed and the land was exposed to alienation. The Tribunal also concluded that the claims of Ngāti Awa should be settled by the Crown through Te Runanga o Ngāti Awa. While the Crown did not present evidence to the Tribunal and does not necessarily agree with all the findings made by the Waitangi Tribunal, the Crown had acknowledged that the confiscation against Ngāti Awa constituted an injustice and was therefore in breach of the principles of the Treaty of Waitangi.

In the meantime the Crown and Ngāti Awa were unable to reach agreement on the basis of the 1998 offer. The Crown made a revised settlement offer in 2000.

**RETURN OF MĀTAATUA WHARENUI**

In the early 1870s the people of Ngāti Awa undertook the construction at Whakatāne of a carved meeting-house, Mātaatua. Construction of Mātaatua was completed at the beginning of 1875. In 1879 Mātaatua was sent by the Crown for exhibition at the Inter Colonial Exhibition in Sydney, Australia. In 1880 the house

## BACKGROUND TO THIS DEED

was sent to Melbourne, then to London to be exhibited. Mātaatua returned to New Zealand in 1924 for the South Seas Exhibition in Dunedin. The Crown agreed to allow the University Museum in Otago to exhibit the meeting-house on permanent loan. Ngāti Awa has always maintained that it did not transfer title to Mātaatua and sought the return of the meeting-house to Whakatāne. In August 1996 Ngāti Awa and the Crown signed a Deed of Settlement to return Mātaatua to Ngāti Awa. This agreement included a Crown payment of \$2 million for the costs of transporting and establishing Mātaatua Wharenui at Whakatāne.

**SETTLEMENT OF CLAIMS**

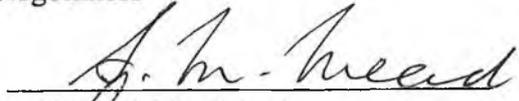
The Crown, having acknowledged before the Waitangi Tribunal that Ngāti Awa has suffered an injustice and breaches of the principles of the Treaty of Waitangi in the confiscation of their land, now wishes to enter into a deed of settlement, recording the matters required to give effect to a settlement of all of Ngāti Awa's historical claims. Ngāti Awa, having sought redress over many generations for its historical claims, also wishes to enter into a deed of settlement.

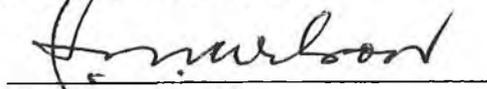
**ACCORDINGLY**, Ngāti Awa and the Crown wish, following extended negotiations conducted in good faith and in a spirit of co-operation and compromise, to enter into this Deed.

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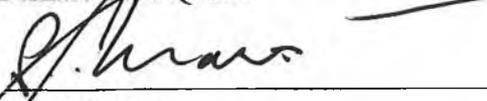
EXECUTED as a Deed on the 27 day of March 2003.

SIGNED for and on behalf of  
NGĀTI AWA by the Mandated  
Negotiators

  
Dr Sidney Moko Mead

  
John Mahiti Wilson

  
Bernard Paul Quinn

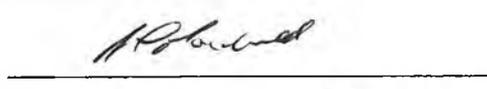
  
Joseph Mason

  
Pouroto Nicholas Hamilton Ngaropo

In the presence of:

  
Name: MATAUKU MAHIKA  
Occupation: SOLICITOR  
Address: WELINGTON

In the presence of:

  
Name: ANDREW MACDONALD  
Occupation: SOLICITOR  
Address: AUCKLAND



In the presence of:

*[Handwritten signature]*

Name: TAMU MALAPETA WEEKS

Occupation: SOLICITOR

Address: WAIKATA TANE

In the presence of:

Name:

Occupation:

Address:

SIGNED for and on behalf of HER MAJESTY THE QUEEN in Right of New Zealand by the Minister in Charge of Treaty of Waitangi Negotiations

)  
)  
) *[Handwritten signature]*  
)  
Honourable Margaret Wilson

In the presence of:

*[Handwritten signature]*

Name: R. HOUWERBERG

Occupation: Manager

Address: Wellington

*[Handwritten scribbles]*

He mea tautoko nā:

Supported by:

A. J. J. J. J.

B. B. B. B. B.

S. S. S. S. S.

T. T. T. T. T.

K. K. K. K. K.

P. P. P. P. P.

L. L. L. L. L.

W. W. W. W. W.

K. K. K. K. K.

S. S. S. S. S.

D. D. D. D. D.

L. L. L. L. L.

M. M. M. M. M.

R. R. R. R. R.

S. S. S. S. S.

R. R. R. R. R.

M. M. M. M. M.

T. T. T. T. T.

H. H. H. H. H.

P. P. P. P. P.

J. J. J. J. J.

*[Handwritten initials]*

Edna Pudaraka

Staniak Mariana Saunders (not here)

Tanline Apouia Chapman (Kiritahi)

Weneta Rame Arangi. Marou Tamara  
ari Ihauara August

Heratamai Kola Kruera

Mihitukapu Chavca Yelopo

Naana Motell Grant - (Davis)

Jaiwhakaripi 1.234 PILE

Dorrie Kao Himone

Chemy Herenaho Waaka - Tangohau Wilson

Kiriati Hiwara Pile

Bedors. NCE 'NUKU'

Kei MERITO

Leite Eparaima

Hi (Leon Hunia)

Iri Timi Peni

Waaka Harawira

ngati te Rangit

Tantoko

Ngati ana

Mariana Moete.

Puha Verbera Harawira Te Rangit

Ngati Ana.

R + K. Umu hauri

Ngati Ana.

Ramai Ana Carroll

Ngati Ana.

GRATHA MAAKA

TUARIKI

Pat MERITO

Ngati Ana

Roberta Merito

Ngati Ana.

Lisa Rakwaku-Merito

Ngati Ana / Tuho

Jacqueline Copeland-Davis

Ngati Ana

Lana Mate

" "

Tania Fankra

Pauline.

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Geoff Buntun  
 Masaea Faulkner  
 Ri Bennett  
 Trace Moana Pile  
 Angela Bionis  
 Lisa Ward  
 Aroha Te Pareake Mead  
 Nohi Belshaw  
 Hinawi Mead  
 Owen H. L.

Ngati Awa.  
 Ngati Awa  
 Te Rangihouhiri  
 Te Rangihouhiri /  
 Te Pahipoto  
 Ngati Awa ki Tanaki Makaurau  
 Te Pahipoto  
 Ngati Awa  
 Te Rauwhero Ngati Awa  
 Ngati Awa.  
 Ngati Awa.

*[Handwritten scribbles]*

Katerina Waiari  
 Harounia HAKOPA CLAUDE KIEPA  
 Yemahi Iteuwh  
 Enia Moti  
 Paikama Ranapia  
 Rangioea Ratahi  
 Charles Tamati Bluet.  
 Hani Hingi -  
 Te Rauatehuna Emera Ruruteh Cameron  
 Leehia Biddle  
 Mary Margaret Moses.  
 Emma Mason  
 W. R. ...  
 John H. ...  
 P. Anderson.







## SCOPE AND NATURE OF SETTLEMENT

## SECTION 1: SCOPE AND NATURE OF SETTLEMENT

## 1.1 INTRODUCTION

## 1.1.1 Mutual agreement to settle the Ngāti Awa Historical Claims

This Section records the mutual agreement of Ngāti Awa and the Crown to settle the Ngāti Awa Historical Claims.

## 1.1.2 Definitions

This Section also sets out definitions of Ngāti Awa, Ngāti Awa Historical Claims, and certain related terms. Those definitions apply in this Deed unless this Deed or the context requires otherwise.

## 1.2 MEANING OF NGĀTI AWA

## 1.2.1 Definition of Ngāti Awa

*Ngāti Awa* is nga uri o nga Hapū o Ngāti Awa and:

- (a) means the collective group composed of individuals referred to in *clause 1.2.1(b)*;
- (b) means:
  - (i) every individual who is descended from a Ngāti Awa Tipuna; or
  - (ii) every individual who is a member of a hapū, group, family or whānau referred to in *clause 1.2.1(c)*; and
- (c) includes:
  - (i) the Hapū of Ngāti Awa; and
  - (ii) any hapū, group, family or whānau, composed of individuals referred to in *clause 1.2.1(b)*.

## 1.2.2 Related definitions

- (a) In this *clause 1.2*, a person is *descended* from another person if the first person is descended from the other person by:
  - (i) birth; and/or

## SCOPE AND NATURE OF SETTLEMENT

- (ii) legal adoption; and/or
  - (iii) Maori customary adoption in accordance with the custom of Ngāti Awa.
- (b) For the purposes of the definition of Ngāti Awa in *clause 1.2.1*, and in this Deed generally, the following terms or expressions have the following meanings:

***Area of Interest*** means the area of interest identified in *Attachment 1.1* as the area which Ngāti Awa identify as its area of interest together with the adjacent waters and Offshore Islands;

***Customary Rights*** means rights according to tikanga Maori (Maori customary values and practices), including the following rights:

- (a) rights to occupy land; and
- (b) rights in relation to the use of:
  - (i) land; and/or
  - (ii) natural or physical resources;

***Hapū of Ngāti Awa*** means:

- (a) the following 22 hapū being:
  - (i) Ngāti Hokopu – Te Whare o Toroa;
  - (ii) Ngāti Hokopu – Te Hokowhitu a Tu Ki Te Rahui;
  - (iii) Ngāti Wharepaia;
  - (iv) Ngāti Pūkeko;
  - (v) Ngāti Rangataua;
  - (vi) Ngai Tamapare;
  - (vii) Te Patuwai;
  - (viii) Ngāti Maumoana;

*[Handwritten signatures]*

## SCOPE AND NATURE OF SETTLEMENT

- (ix) Ngai Taiwhakaea II;
  - (x) Ngāti Hikakino;
  - (xi) Ngai Te Rangihouhiri II;
  - (xii) Te Tawera;
  - (xiii) Nga Maihi;
  - (xiv) Te Pahipoto;
  - (xv) Ngai Tamaoki;
  - (xvi) Ngai Tamawera;
  - (xvii) Tuariki;
  - (xviii) Warahoe;
  - (xix) Ngāti Hamua;
  - (xx) Ngāti Awa ki Tamaki Makaurau;
  - (xxi) Ngāti Awa ki Poneke; and
  - (xxii) Te Kahupake;
- (b) the following tribal identities, which are incorporated into the hapū listed in paragraph (a) of this definition:
- (i) Ngāti Ahi;
  - (ii) Ngāti Hinanoa;
  - (iii) Ngāti Irawharo;
  - (iv) Kahurere;
  - (v) Ngāti Nuku;
  - (vi) Te Patutatahi;



## SCOPE AND NATURE OF SETTLEMENT

(vii) Te Patutahora;

(viii) Ngāti Tapatahi,

*Member of Ngāti Awa* means every individual referred to in *clause 1.2.1(b)*;

*Ngāti Awa Tipuna* means an individual or individuals who:

- (a) exercised Customary Rights by virtue of being descended from:
  - (i) Awanuiarangi II; or
  - (ii) a recognised ancestor of any of the Hapū of Ngāti Awa; and
- (b) exercised the Customary Rights referred to in paragraph (a) of this definition predominantly in relation to the Area of Interest at any time after 6 February 1840;

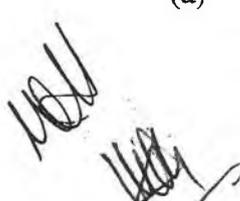
*Representative Entity* means:

- (a) the Ngāti Awa Governance Entity;
- (b) Te Runanga o Ngāti Awa;
- (c) any person (including any trust or trustees) acting for or on behalf of:
  - (i) the iwi, or collective group, referred to in *clause 1.2.1(a)*; and/or
  - (ii) any one or more of the individuals referred to in *clause 1.2.1(b)*; and/or
  - (iii) any one or more of the hapū, groups, families or whānau referred to in *clause 1.2.1(c)*.

### 1.3 MEANING OF NGĀTI AWA HISTORICAL CLAIMS

#### 1.3.1 Definition of Ngāti Awa Historical Claims

*Ngāti Awa Historical Claims*

- (a) Subject to *clause 1.3.2*, means every Claim that Ngāti Awa (or any Representative Entity) had at, or at any time before, the Settlement Date, or may have at any time after the Settlement Date, that:
- 

## SCOPE AND NATURE OF SETTLEMENT

- (i) Is, or is founded on, a right arising:
  - (aa) From Te Tiriti o Waitangi/the Treaty of Waitangi, or the principles of Te Tiriti o Waitangi/the Treaty of Waitangi; or
  - (bb) Under legislation or at common law (including in relation to customary law or aboriginal title); or
  - (cc) From a fiduciary duty; or
  - (dd) Otherwise; and
- (ii) Arises from or relates to acts or omissions before 21 September 1992:
  - (aa) by or on behalf of the Crown; or
  - (bb) by or under legislation;

whether or not the Claim has arisen or been considered, researched, registered, notified or made on or before the Settlement Date; and

- (b) Without limiting *clause 1.3.1(a)*, means every Claim to the Waitangi Tribunal to which *clause 1.3.1(a)* applies, including:
  - (i) The following Claims to the Waitangi Tribunal, being Claims that exclusively relate to Ngāti Awa (or any Representative Entity) which are referred to in the following Wai 46 (Ngāti Awa/Eastern Bay of Plenty) Claims:
    - (aa) General Claim of 11 March 1988;
    - (bb) Amended Claim of 18 July 1989;
    - (cc) Amended Claim of 8 November 1990;
    - (dd) Amended Claim of 16 December 1990;
    - (ee) Consolidated Claim of 8 April 1994; and
    - (ff) Amended Claim of 12 September 2000 (Wai 46 Doc No. 1.3(e)); and

## SCOPE AND NATURE OF SETTLEMENT

- (ii) The following Claims to the Waitangi Tribunal so far as they relate to Ngāti Awa (or any Representative Entity):
- (aa) Wai 12 (Motiti Island);
  - (bb) Wai 23 (Putauaki);
  - (cc) Wai 206 (White Island and Whale Island);
  - (dd) Wai 501 (Tarawera Forest Claim No 2);
  - (ee) Wai 819 (Waiohau Block No 2 and Rangitaiki Block No 38);  
and
  - (ff) Wai 1001 (The Whakatāne Township Flooding claim).

**1.3.2 Exclusions from definition of Ngāti Awa Historical Claims**

The term *Ngāti Awa Historical Claims* does not include the following Claims:

- (a) Wai 411 (Tarawera Forests Claim) as filed with the Waitangi Tribunal on 14 June 1993 and amended by an amended statement of claim dated 26 April 2000;
  - (b) Wai 888 (Whakatāne Sawmill Claim) as filed with the Waitangi Tribunal on 1 February 2001;
  - (c) The Ancillary Claims;
  - (d) Any Claim that a Member of Ngāti Awa, or a hapū, group, family or whānau referred to in *clause 1.2.1(c)* had at, or at any time before, the Settlement Date, or may have at any time after the Settlement Date, that is, or is founded on, a right arising from being descended from an ancestor who is not a Ngāti Awa Tipuna;
  - (e) Any Claim based on descent from a recognised ancestor of Te Tawera to the extent that any Claim is, or is founded on, a right arising from being descended from an ancestor other than Awanuiarangi II; and
  - (f) Any Claim that a Representative Entity may have to the extent that Claim is, or is based on, a Claim referred to in *clause 1.3.2(d)*.
- 

## SCOPE AND NATURE OF SETTLEMENT

**1.4 THE NGĀTI AWA HISTORICAL CLAIMS ARE SETTLED****1.4.1 Settlement**

Ngāti Awa and the Crown agree that this Deed settles the Ngāti Awa Historical Claims from the Settlement Date.

**1.4.2 Release**

From the Settlement Date, Ngāti Awa releases and discharges the Crown from any obligations, liabilities and duties in respect of the Ngāti Awa Historical Claims.

**1.5 RELATIONSHIP TO CERTAIN RIGHTS AND DECISIONS****1.5.1 Deed does not derogate from, or affect, certain matters**

Nothing in this Deed:

- (a) Except as expressly provided in or under this Deed, derogates from any rights or powers that Ngāti Awa or the Crown might have arising:
  - (i) From Te Tiriti o Waitangi/the Treaty of Waitangi, or the principles of Te Tiriti o Waitangi/the Treaty of Waitangi;
  - (ii) Under legislation, or at common law (including in relation to customary law and aboriginal title);
  - (iii) From a fiduciary duty; or
  - (iv) Otherwise;
- (b) Including agreements on the part of Ngāti Awa, is intended to affect any decision, proposal or report of the Treaty of Waitangi Fisheries Commission:
  - (i) Under the Maori Fisheries Act 1989; or
  - (ii) In respect of the Deed of Settlement between Maori and the Crown dated 23 September 1992 or the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992.

**1.5.2 Clause 1.5.1 does not affect Settlement**

*Clause 1.5.1 does not limit clauses 1.1.1, 1.4.1 or 1.4.2.*

## SCOPE AND NATURE OF SETTLEMENT

**1.6 ABORIGINAL TITLE AND CUSTOMARY RIGHTS NOT AFFECTED BY SETTLEMENT**

Ngāti Awa and the Crown acknowledge that:

- (a) Nothing in this Deed extinguishes or limits any aboriginal title or customary rights that Ngāti Awa may have, or constitutes or implies any acknowledgment or acceptance by the Crown that such title or rights exist either generally or in any particular case, but this clause does not limit *clause 1.1.1 or clause 1.4*; and
- (b) The Settlement:
  - (i) Is not intended:
    - (aa) To prevent any Member of Ngāti Awa or Representative Entity from pursuing Claims against the Crown (including Claims based on aboriginal title or customary rights) if such Claims do not come within the definition of Ngāti Awa Historical Claims; or
    - (bb) To prevent the Crown from disputing the Claims described in (aa) above or the existence of aboriginal title or customary rights; but
  - (ii) Is intended to prevent any Member of Ngāti Awa or Representative Entity from pursuing Claims against the Crown (including Claims based on aboriginal title or customary rights) if such Claims come within the definition of Ngāti Awa Historical Claims, such Claims having been settled in accordance with *clauses 1.1.1 and 1.4*.

**1.7 ACKNOWLEDGMENTS BY NGĀTI AWA CONCERNING THE SETTLEMENT**

Ngāti Awa acknowledges that:

- (a) The Crown has acted honourably and reasonably in negotiating the Settlement;
- (b) The Settlement will be final;



## SCOPE AND NATURE OF SETTLEMENT

- (c) The Settlement, and the rights and obligations on the part of Ngāti Awa under this Deed, will be binding upon Ngāti Awa and any Representative Entity;
- (d) It is intended that the Settlement and the rights on the part of Ngāti Awa and the Ngāti Awa Governance Entity under this Deed:
- (i) Will be for the benefit of Ngāti Awa; and
  - (ii) May be for the benefit of particular individuals, or any particular hapū, group of individuals, family, whānau or marae if the Ngāti Awa Governance Entity so determines in accordance with its relevant governance procedures; and
- (e) The Settlement Legislation will, with effect from the Settlement Date, provide that:
- (i) The Courts, the Waitangi Tribunal, and any other judicial body or tribunal will not have jurisdiction (including, without limitation, the jurisdiction to inquire, or further inquire into, or to make any finding or recommendation) in respect of:
    - (aa) The Ngāti Awa Historical Claims;
    - (bb) This Deed;
    - (cc) The redress provided to Ngāti Awa or to the Ngāti Awa Governance Entity under this Deed; and
    - (dd) The Settlement Legislation;(but not for the removal of that jurisdiction in respect of the implementation or interpretation of this Deed or the Settlement Legislation); and
  - (ii) Certain statutory protections be removed in accordance with *Section 11*.

## 1.8 ACKNOWLEDGMENTS BY NGĀTI AWA AND THE CROWN CONCERNING THE SETTLEMENT

Ngāti Awa and the Crown acknowledge that:

## SCOPE AND NATURE OF SETTLEMENT

- (a) The Settlement represents the result of extended negotiations conducted in good faith and in a spirit of co-operation and compromise;
- (b) There is difficulty in assessing redress for the loss and prejudice suffered by Ngāti Awa;
- (c) It is not possible to fully compensate Ngāti Awa for all loss and prejudice suffered;
- (d) This forgoing by Ngāti Awa of compensation is recognised by the Crown as a contribution to the development of New Zealand;
- (e) That the decision of Ngāti Awa in relation to the Settlement is a decision that Ngāti Awa take for themselves alone and does not purport to affect the position of other tribes;

and that, taking all matters into consideration (some of which are specified in this *clause 1.8*), the Settlement is fair in the circumstances.

## 1.9 SETTLEMENT TO IMPROVE THE ONGOING RELATIONSHIP

The Settlement is intended to improve the ongoing relationship between Ngāti Awa and the Crown in terms of Te Tiriti o Waitangi/the Treaty of Waitangi.

### 1.10 REDRESS FROM CROWN

#### 1.10.1 Summary of redress

The redress provided or to be provided by the Crown includes:

- (a) The acknowledgements and apology by the Crown given under *Section 3*;
- (b) Cultural redress as specified in *Sections 4 and 5*, including:
  - (i) The vesting in the Ngāti Awa Governance Entity of the fee simple estate in the following properties, subject to the Reserves Act 1977:
    - (aa) Kāpūterangi Historic Reserve;
    - (bb) Te Paripari Pā Historic Reserve;
    - (cc) Te Toangapoto Recreation Reserve, being part of the Western Whakatāne Recreation Reserve;

## SCOPE AND NATURE OF SETTLEMENT

- (dd) Te Ihukatia Recreation Reserve, being part of the Port Ōhope Recreation Reserve;
- (ee) Whakapaukorero, being part of the Matata Scenic Reserve;
- (ii) The vesting in the Ngāti Awa Governance Entity of the fee simple estate in Otitapu Pā, being part of the Mangaone Scenic Reserve, subject to a protected private land agreement;
- (iii) The vesting in the Ngāti Awa Governance Entity of the fee simple estate in Former Matahina A4 Block;
- (iv) The making of a \$1 million gift in respect of the Mātaatua complex;
- (v) A Statutory Acknowledgement of Ngāti Awa's special association with the Statutory Areas, being:
  - (aa) Koohi Point (Kohi Point);
  - (bb) Mokorua Scenic Reserve;
  - (cc) Ōhope Scenic Reserve;
  - (dd) Moutohora (Whale) Island Wildlife Management Reserve;
  - (ee) Part Ōhiwa Harbour;
  - (ff) Uretara Island;
  - (gg) parts of the Whakatāne, Rangitaiki and Tarawera Rivers;
  - (hh) Te Kaokaoroa Historic Reserve; and
  - (ii) Former Matahina A5 Block;
- (vi) Entering into Deeds of Recognition over Uretara Island and parts of the Whakatāne, Rangitaiki and Tarawera Rivers;
- (vii) The establishment of:
  - (aa) a Joint Advisory Committee to advise:

## SCOPE AND NATURE OF SETTLEMENT

- the Minister of Conservation and the Director-General of Conservation in respect of Te Awa a Te Atua, and the Matata Scenic Reserve (less Whakapaukorero); and
  - the Ngāti Awa Governance Entity in respect of Whakapaukorero; and
- (bb) a Joint Management Committee to advise the Minister of Conservation and others, and carry out certain delegated powers and functions, in respect of the Moutohora (Whale) Island Wildlife Management Reserve, Ōhope Scenic Reserve, and Tauwhare Pā Scenic Reserve;
- (viii) The appointment of the Ngāti Awa Governance Entity as an advisory committee to provide advice to the Minister of Conservation and the Minister of Fisheries in relation to their respective roles of managing, conserving and utilising fish, aquatic life and seaweed in the relevant Protocol Area;
- (ix) The granting of renewable Nohoanga Entitlements over the Nohoanga Sites, being situated near Te Awa a Te Atua within the Matata Wildlife Refuge Reserve, Port Ōhope Recreation Reserve, Ohineteraraku Scenic Reserve and Thornton Lagoon Wildlife Management Reserve;
- (x) Provision for the issue of Protocols by the Minister of Conservation, the Minister of Fisheries, and the Minister for Arts, Culture and Heritage which set out how the relevant Department/Ministry will exercise or perform its functions, powers and duties in relation to specified matters, interact with Ngāti Awa, and provide for Ngāti Awa's input into certain decision-making processes;
- (xi) Provisions to recognise rights to extract Hangi Stones from Moutohora (Whale) Island Wildlife Management Reserve;
- (xii) Noting of sites considered by Ngāti Awa to be waahi tapu;
- (xiii) Provision for certain new place names and changes to certain place names;
- (xiv) Provision for consultation in relation to any future review of local government administration of Offshore Islands;



## SCOPE AND NATURE OF SETTLEMENT

- (xv) Provision reflecting that the Crown has written to the current owner of Putauaki in respect of the matters specified in *Section 5.12* and to Environment Bay of Plenty in respect of the matters specified in *Section 5.13*;
  - (xvi) Provision for the Ngāti Awa Governance Entity to express to the Ministry for the Environment the views of Ngāti Awa on how the Treaty of Waitangi provisions and other relevant provisions of the Resource Management Act 1991 are being addressed in the Area of Interest and for the Ministry for the Environment to monitor the performance of local government in implementing those provisions;
  - (xvii) The granting to the Ngāti Awa Governance Entity of preferential rights if the Minister of Conservation offers, by public tender, authorisations under section 161 of the Resource Management Act 1991 in a specified part of the Coastal Marine Area; and
  - (xviii) Provision to the effect that the Whakatāne Airport Land will vest in the Ngāti Awa Governance Entity, and not the Crown, if the reservation of that land as a reserve is ever revoked;
- (c) Financial and commercial redress comprising:
- (i) \$42,390,000, represented by:
    - (aa) payment of the Cash Settlement Amount on the Settlement Date;
    - (bb) the transfer of Commercial Redress Properties;
    - (cc) the lessor's interest in Ōhope Beach Holiday Park;
  - (ii) a payment of \$590,000 to the Ngāti Awa Governance Entity under *section 7*.
- (d) The establishment of a statutory regime for the Ngāti Awa Governance Entity to hold land in the name of Ngāti Awa's eponymous ancestor, Awanuiarangi II as specified in *Section 9*; and
- (e) The granting of a right of first refusal in favour of the Ngāti Awa Governance Entity over RFR Properties in the RFR Area as specified in *Section 10*.

## SCOPE AND NATURE OF SETTLEMENT

**1.10.2 General description only**

*Clause 1.10.1* contains a general description of the redress to be provided pursuant to this Deed and is not intended to modify or affect the interpretation of the specific provisions of this Deed. If there is any discrepancy between *clause 1.10.1* and the provisions elsewhere in this Deed, those provisions elsewhere in this Deed shall prevail.

**1.10.3 Defined terms**

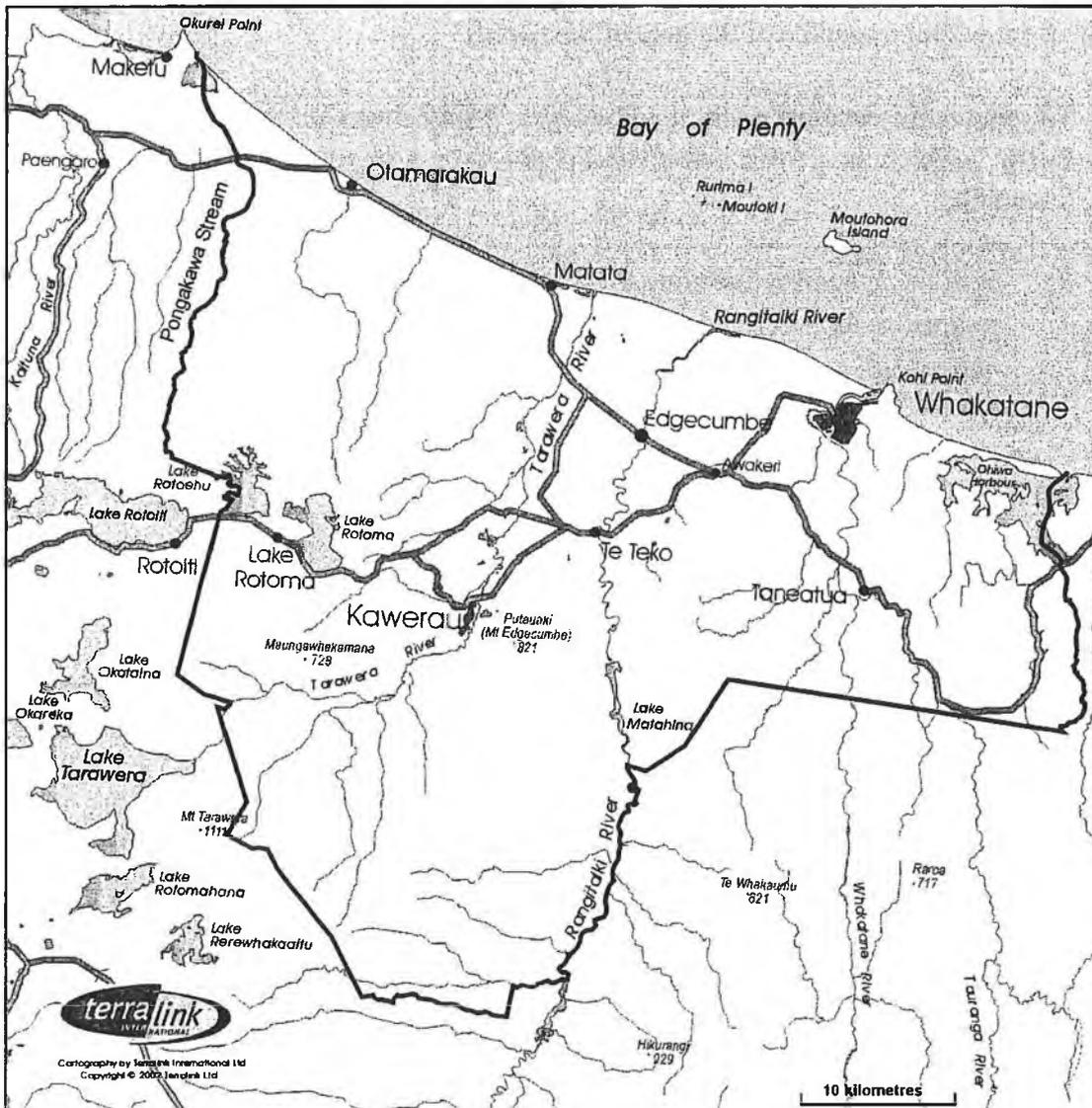
Words and phrases appearing in *clause 1.10.1* with capitalised initial letters and which are not defined in this Section or *Section 15* are defined in the Section or clause of this Deed in which the substantive provisions, which are summarised in *clause 1.10.1* appear, and are intended to have the same meaning in *clause 1.10.1* as they have in the Section or clause in which they are defined.



**ATTACHMENT 1.1**

**AREA OF INTEREST**

*(clause 1.2.2, Definition of Area of Interest)*



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## SECTION 2: AUTHORITY TO ACT FOR NGĀTI AWA

### 2.1 THE NGĀTI AWA GOVERNANCE ENTITY

#### 2.1.1 Establishment of the Ngāti Awa Governance Entity

Ngāti Awa agree, as soon as reasonably practicable after the date of this Deed, and in any event within 6 months of the date of this Deed:

- (a) To procure the establishment of a body (the “*Ngāti Awa Governance Entity*”) which the Crown has advised Ngāti Awa in writing that the Crown is satisfied:
  - (i) Will be an appropriate body to which the Crown will provide the redress under this Deed (other than the acknowledgements and apology given under *Section 3* which are given to Ngāti Awa generally);
  - (ii) Will have a structure that provides for:
    - (aa) Representation of Ngāti Awa;
    - (bb) Transparent decision-making, and dispute resolution, processes; and
    - (cc) Accountability to Ngāti Awa; and
  - (iii) Has been ratified by Ngāti Awa (by a ratification process agreed in writing by Ngāti Awa and the Crown) as an appropriate body to receive the redress referred to in *clause 2.1.1(a)(i)* and to assume the Undertaking of Te Runanga o Ngāti Awa in accordance with *Schedule 2.2*; and
- (b) To procure the execution by the Ngāti Awa Governance Entity of a Deed of Covenant in the form set out in *Schedule 2.1*.

#### 2.1.2 Redress to be provided to the Ngāti Awa Governance Entity

Ngāti Awa agree that the Crown will provide the redress under this Deed (other than the acknowledgements and apology given under *Section 3* which are given to Ngāti Awa generally) to the Ngāti Awa Governance Entity on the terms set out in this Deed.



### 2.1.3 Perpetuities Act 1964

The Settlement Legislation will provide that, if the Ngāti Awa Governance Entity is a trust, the rule against perpetuities and any relevant provisions of the Perpetuities Act 1964 will not prescribe or restrict the period:

- (a) During which the Ngāti Awa Governance Entity may exist in law; or
- (b) During which the Ngāti Awa Governance Entity may deal with property.

### 2.1.4 Not conditional

*Clause 12.1.1* (which provides that this Deed is conditional) does not apply to *clause 2.1.1*.

## 2.2 RATIFICATION OF SETTLEMENT AND MANDATE TO SIGN DEED

### 2.2.1 Definition

In this *clause 2.2.1 Eligible Member of Ngāti Awa* means a Member of Ngāti Awa registered on the register of Members of Ngāti Awa maintained by Te Runanga o Ngāti Awa and aged 18 years or over as at 20 December 2002.

### 2.2.2 Confirmation by Ngāti Awa

Ngāti Awa confirm that:

- (a) This Deed was ratified by Ngāti Awa by a majority of 87% of the valid votes cast in a postal ballot of the Eligible Members of Ngāti Awa; and
- (b) Each Mandated Negotiator has a mandate from Ngāti Awa to sign this Deed on behalf of Ngāti Awa by virtue of the ratification of the settlement as set out in *clause 2.2.2(a)*.

### 2.2.2 Confirmation by Crown

The Crown confirms that it is satisfied with:

- (a) The ratification of this Deed by Ngāti Awa; and
- (b) The mandate to the Mandated Negotiators from Ngāti Awa to sign this Deed on behalf of Ngāti Awa.

## 2.3 APPOINTMENT OF AGENT FOR NGĀTI AWA

### 2.3.1 Ngāti Awa agent to agree ratification processes

Ngāti Awa appoints Te Runanga o Ngāti Awa as the agent for Ngāti Awa to agree with the Crown a process for the establishment and ratification of a body which is satisfactory to the Crown under *clause 2.1.1*.

### 2.3.2 Ngāti Awa agent for other matters under this Deed

Te Runanga o Ngāti Awa may (in addition to the powers under *clause 2.3.1*) take any of the following action on behalf of Ngāti Awa under this Deed (until the Ngāti Awa Governance Entity signs the Deed of Covenant under *clause 2.1.1*):

- (a) Give and receive any notice or other communication;
- (b) Exercise any right or power;
- (c) Waive any provision; and
- (d) Agree to any amendment.

### 2.3.3 Ngāti Awa Governance Entity to replace agent

Upon execution by the Ngāti Awa Governance Entity of the Deed of Covenant in accordance with the provisions of *clause 2.1.1*:

- (a) The appointment of any agent for Ngāti Awa under *clause 2.3.1* terminates; and
- (b) All powers under *clause 2.3.2* may be exercised by the Ngāti Awa Governance Entity.

## 2.4 REPEAL OF TE RUNANGA O NGĀTI AWA ACT 1988

The Settlement Legislation will repeal all sections of the Te Runanga o Ngāti Awa Act 1988 other than section 11 of that Act.

## 2.5 STATUTORY RECOGNITION OF NGĀTI AWA GOVERNANCE ENTITY

The Crown recognises, and the Settlement Legislation will state, that:

- (a) The Ngāti Awa Governance Entity is the appropriate body to receive, in accordance with the Settlement Legislation, the redress under the Settlement Legislation;

- (b) The Ngāti Awa Governance Entity is a body that represents Ngāti Awa; and
- (c) To avoid doubt, *clause 2.5(b)* does not limit the Crown's rights, functions, and obligations to other representative entities.

## 2.6 TRANSFER OF UNDERTAKING OF TE RUNANGA O NGĀTI AWA

- (a) The Settlement Legislation will provide that on the Settlement Date:
  - (i) The Undertaking of Te Runanga o Ngāti Awa vest in the Ngāti Awa Governance Entity subject to all charges and other liabilities;
  - (ii) Te Runanga o Ngāti Awa is taken to be dissolved; and
  - (iii) Every person holding office as a member of Te Runanga o Ngāti Awa ceases to hold that office; and
- (b) To give effect to *clause 2.6(a)*, the Settlement Legislation will address the matters described in *Schedule 2.2*.

## 2.7 NGĀTI AWA GOVERNANCE ENTITY TO BE RENAMED TE RUNANGA O NGĀTI AWA

The parties acknowledge that, on Settlement Date, the name of the Ngāti Awa Governance Entity will change to "Te Runanga o Ngāti Awa" in accordance with the governance procedures of the Ngāti Awa Governance Entity.

**TE WĀHANGA 3: TE TĀHŪ KŌRERO, NGĀ WHAKAAETANGA  
A TE KARAUNA, ME TANA WHAKAPĀHA**

**3.1 TE TĀHŪ KŌRERO**

- A. E whai take ana te kupu whakapāha a te Karauna ki a Ngāti Awa i runga i te tāhū kōrero ka whai.

**Te Rohe o Ngāti Awa**

- B. E whakapono ana a Ngāti Awa, i mua o te tau 1866, koia te tangata whenua, ā, nōna te tino rangatiratanga e hora ana i ētahi wā, ki runga i ngā whenua ka whai nei: ngā moutere o Motiti, o Rurima, o Mou-tohorā, Te Paepae o Aotea, Whakaari, a Ohakana rāua ko Uretara (he moutere ēnei kei te whanga o Ōhiwa), ngā wai mai i te wahapū o Waihī ki Ōhiwa; te whenua, ngā ngahere, ngā roto, ngā awa me ngā repo, mai i te wahapū o Waihī ki te raki, ā ka whai haere i te takutai tae rawa ki Ōhiwa, mai i te wahapū o Waihī anō, ka huri whaka-te-hau-ā-uru ki te awa o Pongakawa, ki te moutere o Rotoehu (tae rawa ki te papa o te roto o Rotoehu me te ngahere o Rotoehu), ā, mai i Rotoehu ki Te Haehaenga, tae atu ki te roto o Rotomā ki ngā whenua o Pokohu, o Tuararangaia me Matahina ki te tonga, ā, atu i reira ki te Whanga o Ōhiwa.
- C. Ko ētahi o ngā wāhi nui i whakahuahuatia ai i roto i ngā tāhū kōrero mō Ngāti Awa ko: ngā maunga e kōrerohia nei ko Pūtauaki ki Kawerau, ko Whakapau-kōrero ki Matatā me Maunga Whakamana ki Te Haehaenga, me te hiwi e kīia nei ko Te Tiringa ki Awakeri, tae rawa hoki ki Te Rae o Kōhī ki Whakatāne; ngā awa o Whakatāne, Ōrini, Rangitāiki, Tarawera, Wai-tahanui me ngā wai o Waikōwhewhe rāua ko Pongakawa; te repo o Rangitāiki; ngā ngahere i Rotoehu, i Matahina, i Kiwi-nui, i Ō-mata-roa, i Tarawera me Manawa-hē; ngā roto o Rotoehu, Rotomā, Kawerau, Te Tahuna, One-rahi, Roto-iti Paku, Onepū me Roto-roa; ngā waiariki i Kawerau, Awakeri, Mou-tohorā me Whakaari; ngā whanga i Ōhiwa me Whakatāne; ngā wahapū i Waihī, i Te Awa a Te Atua i Matatā, me Whakatāne.
- D. I pupuritia ngā whenua me ngā rawa o Ngāti Awa i raro i ngā tikanga Māori, arā, ka noho hei mea tino nui rawa te kaitiakitanga ohu a-hapū, a-iwi. I mua o te raupatu, i mau tonu ngā rangatira o Ngāti Awa ki tō rātou rangatiratanga, ā, iti noa iho nei ngā whenua o roto i te rohe o Ngāti Awa i hokona.
- E. I tua atu, ko te whakapae a Ngāti Awa, i te tau 1865 e noho motuhake ana rātou, i te hua ngā painga o ngā mahi kaupakihi. Ka mutu, i roto rātou i ngā mahi whitiwhiti taonga, tauhokohoko hoki. I te whakatipu, i te hoko rātou i ngā rawa pēnei i te poaka, i te harakeke, i ngā hua whenua, i te wīti, i te papa rākau me te

rīwai, ā, i roto anō hoki rātou i te whānuitanga o ngā kaupapa tauhokohoko pēnei i te mira wīti me te whakahaere kaupuke. I te haere tonu ngā mahi whitiwhiti taonga a Ngāti Awa me ētahi atu iwi mō ngā taonga pēnei i te kōkōwai, te tīti me te nuinga atu o ngā rawa o te moana.

### **Te Ture Whakatau Manene ki Niu Tīreni 1863**

- F. Nō te tau 1863 i whakamanatia e te Karauna ētahi hanganga ture whakahirahira e toru arā, te Ture Tāmi i te Mahi Whana, te Ture Pūtea Taurewa o Niu Tīreni me te Ture Whakatau Manene ki Niu Tīreni. I āheitia e te ture whakamutunga te raupatu i ngā whenua Māori e tirohia ana e te Karauna “nā tētahi iwi, nā tētahi wāhanga o tētahi iwi, nā tētahi rahinga mai i tētahi iwi rānei” i mahi hara ki te mana o te Kuini. Ko te mea nui, i whakamanatia te ture “ki te tiaki, ki te whakamaru tūturu i ngā tāngata pai o ngā iwi e rua, kia ārai atu i ngā mahi whana, kia pupuri hoki ki te mana o Te Arikini Te Kuini i roto i te Ture me te Māriretanga puta noa i te whenua”. Hei whakatutuki i ēnei whāinga whānui e rua, i mea te Karauna ki te whakatū tāngata noho ki ngā rohe mā te hoko i ngā whenua raupatu ki te hunga whai. Ko te titiro a te Karauna mā ngā moni hua i ēnei hokonga whenua e ea ai ngā utu a te Karauna mō ana pakanga ki te Māori.
- G. I te āwangawanga te Tari Koroni o Piritana mō te whānui me te whakamahi i te Ture Whakatau Manene ki Niu Tīreni 1863, e mea ana ia, “ka taea ngā mahi tūkinu nui”. I te tīmatanga, i te wā e whakaarohia ana te raupatu whenua, i whakatūpatohia e te Hēkeretari Koroni te Kāwana Tianara, kia aro nui ki ngā whenua o ngā tāngata me ngā iwi harakore, ā, kia hāngai hoki te whiunga ki te hara. Nō muri mai, i a ia ka noho ki te āta whakaaro mō te hanganga ture raupatu whenua, i te āwangawanga tonu te Tari Koroni o Piritana mō te whakamahi i te Ture me tōna roanga, engari i whakaaetia kia tū tonu nā te mea ko te mana whakamutunga rawa mō te raupatu ko te Kāwana. I tohungia e te Hēkeretari Koroni te Kāwana kia kua ia e whakaae kia raupatuhia he whenua mēnā kāore i te “tika, i te ngāwari”.

### **Te Kaokaoroa**

- H. E ai ki ngā kōrero tuku iho a Ngāti Awa, i te tau 1864, i uru atu ētahi o ngā hapū o Ngāti Awa pēnei i a Te Patu-tātahi, a Ngāti Hikakino me Ngāi Te Rangihouhiri II, me ētahi o Te Tāwera ki tētahi ope taua o ngā iwi o Mātaatua me ētahi atu iwi, ā, e mōhiotia nei ko Te Ope Taua o Te Tai Rāwhiti. E mea ana te ope nei ki te hou atu ki te rohe o Waikato ki te tautoko i ngā iwi o Waikato e ātete ana i te whakaeke pokanoa o ō rātou whenua e ngā ope taua o te Karauna me ngā tāngata whai. I āraitia e Te Arawa te haere a te ope taua o Te Tai Rāwhiti nei mā te rohe o Rotorua. I tono ētahi o ngā iwi o Te Arawa ki te Karauna ki te tautoko i tā rātou mahi, ā, tautokona noa mai e te Karauna. I te marama o Pepuere o te tau 1864 i tū

tētahi pakanga i waenganui i tētahi wāhanga o te ope taua o Te Tai Rāwhiti me ētahi o te iwi o Te Arawa, ki Roto-iti; mate atu ētahi ki reira. Hāunga tērā, he wāhanga o te ope nei i pakaru atu ki roto ki te rohe o Waikato, rokohina atu ko Ōrākau.

- I. I Maketū, i te marama o Āperira o te tau 1864, ka ngana te ope taua o Te Tai Rāwhiti ki te pakaru atu mā te wahapū o Waihi. Nā ētahi o te iwi o Te Arawa, tāpae atu ko ngā waka taua me ngā hōia a te Karauna te ope taua o Te Tai Rāwhiti i whiu. Ko te whawhai nui o Te Kaokaoroa te whawhai i parekura atu ai a Ngāti Awa, me kī, ko ana kārangatanga hapū a Ngāti Hikakino me Ngāi Te Rangihouhiri II, tae rawa atu ki ētahi o ngā hapū me ngā iwi haumi. I hinga atu ki te pakanga nei ētahi o ngā rangatira nui o Ngāti Awa.

### James Te Mautaranui Fulloon

- J. Nō te tōmuritanga o te tau 1864, i tau atu a Kereopa, a Horomona me Pātara, ētahi poropiti o te whakapono Pai Mārire, ki te rohe o Whakatāne, ā, nā rātou ētahi o te iwi o Ngāti Awa i whakawai ki te uru ki te whakapono o Pai Mārire. I te marama o Maehe o te tau 1865 ka kōhurutia a Rev. Carl Volkner, he mihingare e noho ana ki Ōpōtiki, e ētahi o ngā Māori o taua takiwā kua taka ki te whakapono Pai Mārire. Nō te rā 6 o te marama o Maehe o te tau 1865 ka whakaputaina e ngā rangatira o Ngāti Awa ō rātou tino whakahē mō te patunga o Volkner; hāunga tērā, kāore rātou ngā rangatira o Ngāti Awa i whakaae kia haere te Karauna mā te rohe o Ngāti Awa i a ia ka rapu mō te hunga nā rātou a Volkner i patu. Kore rawa i whakamanatia e te Kāwanatanga te haere a tētahi o ōna ope taua mā te rohe o Ngāti Awa ki te rapu i te hunga nā rātou a Volkner i patu.
- K. Nō te marama o Pepuere o te tau 1865, whai muri i ētahi rūnanga, ka hui ētahi rangatira o Ngāti Awa ki Whakatāne, i reira ka whakatakotoria ai e rātou tētahi aukati o tō rātou rohe, kia kua tētahi noa atu e uru mai. Nāwai ā, i te marama o Hūrae i te tau 1865, whai muri i ētahi hui ki Tauaroa me Matatā, ka whakatakotoria ai tētahi atu aukati anō e te poropiti Pai Mārire e Horomona, me ētahi o ngā rangatira o Ngāti Awa tautoko i a ia. Mai i Whangaparāoa i te rāwhiti tae atu ki Taranaki i te uru te aukati nei. I te rā 19, te rā 20 rānei o Hūrae i tau ai ki Whakatāne a *Maruiwi*, tētahi kaupuke hokohoko nō Te Arawa. I hopukina te kaupuke, mō tōna takahi i te aukati a ngā Pai Mārire. Nō te rā 22 o te marama o Hūrae o te tau 1865 i tau atu ai te kaupuke *Kate* ki Whakatāne. Ko ngā tāngata i runga i te kaupuke, ko James Fulloon, he āpiha nā te Karauna, me ētahi atu. I patua i runga i te kaupuke, a Fulloon, he uri nō Ngāti Awa, me ētahi kaumoana tokotoru, e ērā o Ngāti Awa i tautoko i te Pai Mārire. Kātahi ka tahuri a Wepiha Apanui o te poro o Ngāti Awa ki Whakatāne ki te whakarite mō te tanu i tōna uri, a Hēmi (James) Fulloon. He maha ngā kōrero he aha i patua ai a Fulloon; e ai ki a

Ngāti Awa i patua ia mō tana takahi i te aukati. Nā ēnei nekenekēhanga i korikori ake ngā hapū o Ngāti Awa.

### Te Whakamana

L. Nō te rā 2 o te marama o Ākuhata o te tau 1865 i Maketū ka whakaputaina e T.H. Smith, te Kōmihana Kāwanatanga tana whakamana hopu tāngata mō te mau here i te hunga e whakapaetia ana nā rātou a Fulloon me ētahi atu i patu.

M. Ko ngā tāngata i te rārangi o te whakamana ko:

Te Hura Te Taiwhakaripi	Haki Waihou
Te Pitoiwi Te Putarera	Te Hemara Tukairangi
Hakaraia Tohora	Ture Te Matutaera
Te Aka o Tau Te Hura	Paraharaha
Te Metera Te Tii	Raniera Te Werotokotoko
Hepeta Te Tai	Haki Tukino
Korimana	Eria Te Hakona
Horomona Poropiti	Heahea Te Pakihiwi
Utuku Te Rangi	Hohepa Te Ra
Te Meihana Te Tawa	Tawhaki
Te Wetini	Raureti
Tamati o Ngāti Hoko	Hunia Marupo
Mohi Te Paohi	Panapa Rangirewaia
Turiri	Hakopa Tupika
Hawera Te Hihira	Petera Moki
Te Hekara	Pakiuru
	Hohua Karipipi

N. Nō te marama o Ākuhata o te tau 1865, i whakakotahihia tētahi ope taua a te Karauna e rima rau nei te tokomaha, he mea emi i ētahi o ngā hapū, iwi e noho tata ana ki a Ngāti Awa ka mutu, kua roa kē hoki e pakanga ana ki a Ngāti Awa mai rā anō; ko ētahi o te ope nei i roto i ngā riri o Te Kaokaoroa. Ko te kaingārahu o te ope taua nei a te Karauna ko Meiha William Mair, Te Kaiwhakawā. I kuhu atu te ope taua nei ki te rohe o Ngāti Awa ki te whakatutuki i te whakamana mau here. Nō te pokapū o te marama o Ākuhata whakamāramahia ai ki te rangatira o Ngāti Awa, a Te Hura Te Taiwhakaripi, he aha te kaupapa a te taua. I tū ētahi whakapāpā i waenganui i te taua a te Karauna me Ngāti Awa, ko te otinga atu i mate ētahi tāngata. I murua ngā kau, ngā hoiho

me ētahi atu o ngā rawa a Ngāti Awa, i wāwāhia ngā kāinga, wharenuī, pātaka, waka hoki o Ngāti Awa. I whakaekea ngā pā o Ngāti Awa i Whakatāne, i Matatā me Te Teko, te wāhi i rere ai a Te Hura me ana tāngata.

- O. Nō te rā 2 o te marama o Hepetema o te tau 1865 i whakaputaina e te Karauna tētahi Pānuitanga Rongomau e kī ana kua mutu te pakanga i tīmata rā i Oakura, takiwā o Taranaki i te tau e 1863. Ko tā te Pānuitanga Rongomau i whakamārama ai, e kore e whiua e te Karauna ērā i mau pū ki te Karauna i ngā raruraru o mua, hāunga ērā nā rātou a Fulloon i patu, kāore rātou i kuhuna ki raro i te tikanga o te pānuitanga nei. Ko ngā kupu o te pānuitanga i kī pēnei, ki te kore e tae ngā tāngata nā rātou a Fulloon i kōhuru ki te aroaro o te Kāwana, ka murua e te Karauna ngā whenua o ngā iwi nā rātou i manaaki te hunga kōhuru. I tua atu, i tonono te pānui kia āwhinatia e te Māori te mahi aukati i ngā tutūnga puehu, ā, i takoto anō te hiahia ki te kōrerorero me ngā Rangatira nui, me pēhea e rongohia ai te reo o te Māori i roto i te Rūnanga Nui, e aha ai, e whai wāhi ai e te Māori ki te hanga ture hei whai māna.
- P. Nō te marama o Hepetema o te tau 1865 ka whakaputaina e te Kāwana tētahi Pānuitanga Ture Taua mō ngā rohe o Whakatāne me Ōpōtiki, e taea ai te hopu i te hunga e whakapaetia ana nā rātou a Fulloon i kōhuru, e taea ai hoki te whakawā i a rātou mā te Whakawā Taua. Ko te tikanga, ka mau te Ture Taua ki runga i ngā rohe nei ā, tae noa ki te wā hīkina ai, ka mutu, ko tā te pānuitanga e mea ana, ka āhei ngā tāngata a te Karauna te tū anō nei he ope taua. Nō te rā e 5 o Hepetema o te tau 1865 pānuitia ai ēnei pānuitanga e rua ki te Kāhiti o Niu Tirenī. Hāunga tērā, kāore i te marama nōnahea mōhio ai a Ngāti Awa mō ēnei pānuitanga.

### Te Kupenga

- Q. Kia tae ki te wāhanga tōmuri o te marama o Hepetema o te tau 1865, kua nui ake ngā korikoringa a ngā hōia o te Karauna. Ko te otinga atu, e toru rā e whawhai ana i te pā o Te Kupenga, takiwā ki Te Teko. Nāwai rā, ā, nō te rā 20 o te marama o Oketopa o te tau 1865, ka mutu i Te Kupenga te whawhai o ngā hapū o Ngāti Awa i raro i te ārahitanga o Te Hura Taiwhakaripi. Ko ētahi o ngā hapū i roto i te whawhai nei ko Te Tāwera, Warahoe, Ngāi Te Rangihouhiri II, Te Patu-tātahi, Ngāti Hikakino me ētahi atu. Kō atu i te 30 ngā tāne, tae noa ki te nuinga o ērā i te rārangi ingoa o te whakamana me ētahi atu, i mauheretia, i kawea hoki ki Ōpōtiki, kia whakawātia e te Kōti Taua i te marama o Nōema o te tau 1865, mō te patunga o Fulloon, mō ētahi atu whakapae. I whakatau te Kōti Taua he tokomaha rātou i hara, ā, ko te hunga nei i whiua kia whakamatea.

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**Ngā Whakawātanga**

- R. Nō te rā 23 o te marama o Tīhema o te tau 1865 ka whakatakoto whakaaro a James Prendergast, te Rōia Matua mō ngā whakawātanga mā te kōti taua, i ngā mauhere i kawea ki Ōpōtiki. E ai ki a Prendergast “ehara i te mea tika i raro i te ture” te ture taua. Nāwai ā, ka tonu te Kāwana kia kawea ngā mau here o Ngāti Awa ki Tāmaki-makau-rau, ki reira whakawātia anō, ki mua tonu i te aroaro o te Kōti Matua, mō te kōhuru me ētahi atu whakawhiu. Kotahi te rōia i tū mō te hunga e 35 o Ngāti Awa.
- S. E whai ake nei ko te rārangi ingoa o rātou o ngā tāngata i whakawhiua mō te tāhae waka me te kōhuru i a Fulloon me kaumoana Ned i runga i te waka *Kate*: Mikaere Kirimangu, Hekara, Himone-te-Auru, Paraharaha, Hoani Poururu, Hoani Hupe, Utuku-te-Rangi, Te Aka o Tau-te-Hura, Hunia Marupo, Haki Waihou, Haki Tukino, Tamati o Ngāti Hoko, Tio Wahu, Hawera-te-Hihira, Heahea te Pakihiwi, Raniera te Werotokotoko. I unuhia ngā whakapae i runga i te tokotoru o ngā tāngata nei mō te tāhae waka, engari katoa rātou i whakaaetia e te kōti he tangata hara mō te mahi kōhuru. Tekau atu anō ngā tāngata i kīia e te kōti nā rātou i awhi te hunga nā rātou ngā mahi kōhuru. Ko ēnei tāngata ko Te Hura Te Tai, Te Pitoiwi Te Putarera, Hepeta Te Tai, Horomona Poropiti, Mohi te Paohi, Te Hemara, Hakaraia Tohora, Te Uwhi Te Haraki, Kereama Toitoi me Ture Te Matutaera. I tua atu, tokoono ngā tāngata i whakawhiua mō te whiwhi rawa i tāhaetia i te *Kate*. Kia tae ki te rā 23 o te marama o Maehe o te tau 1866, ko te hunga katoa i tū ki mua o te aroaro o te Kōti i whakataungia e te Kōti i hara, ā, i whiua kia whakamatea, kia mauhereheretia rānei. Nō te rā 17 o Mei o te tau 1866 whakamatea ai a Mikaere Kirimangu rāua ko Horomona Poropiti (o Taranaki) mō te kōhuru i a Fulloon. Tuangahuru mā tahi o rātou i whiua kia whakamatea i hurihia kia mauheretia mō ake tonu atu, ā, ko te toenga o ngā tāngata nei i whakahaua e te Kōti kia whakamatea, i takahurihia e te Kōti kia mauheretia ētahi o rātou mō ngā tau e whā, piki atu ki te tekau mā whā tau. Ko ērā i hara mō te whiwhi rawa i tāhaetia, i whiua kia mauheretia mō ngā tau e toru. No ngā tau 1867 me 1868 i wetekina te hara i runga i ētahi o ngā tāngata nei, engari ko te nuinga i mauheretia ā, eke noa te wā i whakaritea mō rātou. Tokotoru rātou i mate i te wā e mauheretia ana rātou arā, ko Tamati o Ngāti Hoko (rā 1 o Ākuhata o te tau 1866), a Hepeta Te Tai (rā 26 o Nōema o te tau 1866), a Paraharaha (rā 18 o Tīhema o te tau 1866). Kāore i karakiahia, i poroporoakihia rānei ēnei tāngata i mate ki roto i te whare herehere. Rite ana ngā tono a ngā whakatipuranga i roto i ngā tau kia whakahokia ngā kōiwi o ō rātou whanaunga ki a rātou; nō te tau e 1988 tutuki ai ā rātou tonu.
- T. Hei tā Ngāti Awa, tokomaha tonu ērā i tukuna, kāore i hiahia hoki ki ō rātou kāinga i Whakatāne me Matatā nā te whakamā i runga i tō rātou mauheretanga me te rironga atu o ō rātou whenua. I noho rātou i te taha i a Te Kooti, i Te Rohe

Pōtae, i raro i te maru o Ngāti Maniapoto. Ko te nuinga i mate, i takoto ki waho kē o te rohe o Ngāti Awa, engari nā runga i te mahi a Te Kooti me āna tāngata, nō te tau 1885 hahua ai rātou, ka tanumia ki te Urupā o Ohuirere, takiwā ki Whakatāne.

### **Te Raupatu Whenua**

U. Nā runga i te mana o ngā Tono ā-Kaunihera i tukuna i te rā 17 o te marama o Hānuere me te rā 1 o te marama o Hepetema o te tau 1866, whai muri mai hoki o tā te Karauna i kī, i hara ngā iwi o Te Moana o Toi, āhua e 448,000 eka te rahi o ngā whenua i pānuitia ai kia raupatuhia i raro i te Ture Whakatau Manene ki Niu Tīreni, 1863. Kāore te Ture i kōrero mō te utu, engari ko te whiu tonu ia tōna whāinga.

V. Ko te ripa tauārai o ngā whenua i raupatutia, ko:

*“Ngā whenua katoa pōkaitia ai e te ripa tauārai, mai i te pūwaha o te awa o Wai-tahanui, haere whaka-te-tonga mō tētahi 20 maero; kātahi ka hāngai te haere ki te tihī o (Mt Edgecombe) Putanaki [sic], mai i reira ka rere whaka-te-rāwhiti ki tētahi wāhi 11 maero ki te taha tonga o te pūwaha o te whanga o Ōhiwa, ā, tōtika ana te haere ki te rāwhiti mō tētahi 25 maero; kātahi ka ripa atu ki te pūwaha o te awa o Araparapara [sic], huri haere i te takutai ā, kia tau atu ki te tīmatanga i Wai-tahanui.”*

I roto i te whenua pōkaitia ai i raro i te maru o te tono, āwhiwhi e 245,000 eka te rahi o ngā whenua o Ngāti Awa i raupatutia i te tau 1866. He mahi pokanoa tēnei mahi, nō te mea nui rawa atu ngā whenua i raupatutia, ki tērā rahi o te whenua e ea ai ngā kaupapa i raro i te Ture Whakatau Manene ki Niu Tīreni.

W. I pā ki ngā hapū katoa o Ngāti Awa te raupatunga o ngā whenua, tae rawa ki te hunga kāore rawa i ātete ki te Karauna. Ko te otinga atu o tēnei, me haere rā anō ngā hapū o Ngāti Awa ki mua i te aroaro o te Kōti Utunga me ētahi atu wāhi, rapu ai kia whakahokia mai ō rātou whenua.

### **Ngā Whakaritenga a Wilson me te Kōti Utunga**

X. Nō te marama o Pēpuere o te tau 1866, i mua o te noho a te Kōti Utunga, ka whakaingoatia e te Karauna tana kai-kōmihana hira, a John A Wilson ki te whakarite i te toha o ngā whenua i raupatutia i Te Moana o Toi. I uru atu a Wilson ki ētahi kōrerorero me ētahi o ngā hapū mō te whakahokinga mai o ētahi whenua. I whiwhia ētahi o ngā iwi o Te Arawa me ētahi atu ki ētahi toha mō ā rātou kawē ā-riri ā, ko ngā toha nei, mai i ngā rohenga whenua o te taha hau-ā-uru o te awa o Tarawera, ka taea te kī ka taka i roto i ngā toha nei, ko te nuinga o ngā

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whenua e kīia ana e Ngāti Awa ko ōna rohe o te taha hau-ā-uru (he whenua ēnei e kerēmehia ana e ētahi atu iwi). Kia taka ki te tau 1885, kua hokona kē e te Karauna te nuinga o te whenua nei. Ko te whakaritenga a Wilson, kia whakahokia ā-whenua rāhui nei te e 77,000 eka ki ngā tāngata takitahi o Ngāti Awa. Koianeī tēnei tētahi wāhanga o te 245,000 eka i murua tuatahitia i te tau 1866.

- Y. I whakahaerehia ngā mahi a Wilson i raro i ngā wāhanga o Te Ture Whakatau Manene ki Niu Tīreni, 1863, tae rawa ki ana whakahōunga. E whai mana ai āna whakaritenga, i whakamanatia ai e te Karauna ētahi atu hanganga ture pēnei i Te Ture Whenua Raupatu 1867, Te Ture Hoko Whenua i Richmond 1870, Te Ture Whakamana Toha Whenua i Whakatāne 1878, Te Ture Kerēme Whenua Maori me Te Ture Whakamana Taitara o te tau 1894.
- Z. Nā Te Ture Whakatau Manene ki Niu Tīreni 1863, ka whakatūria ai Te Kōti Utunga ki te aha, ki te utu i ngā tāngata i raupatuhia ō rātou whenua, ahakoa te mea kāore rātou i te “hara”. Nō te marama o Maehe o te tau 1867 i tūmata ai ngā hui a te Kōti i te rohe. Ko ngā Kaiwhakawā ko William Mair rāua ko Thomas Smith, ko rāua tonu ētahi o ngā kaiārahi i ngā ope taua a te Karauna i mua tonu o te raupatu. He maha ngā wā, whakamanahia ai e te Kōti ngā whakaritenga a Wilson, anō nei he whakataunga i waho ake o te kōti.
- AA. Ko ērā tāngata o Ngāti Awa kāore i te pīrangi whakatau kerēme me Wilson, i whakatakoto kerēme kē me te Kōti; waihoki, ko ērā te hunga kāore i āhei ki te haere ā-tinana ki te Kōti ki te whai i ā rātou kerēme, tae tonu ki ērā te hunga i mauheretia i te tau 1866, i taka ki waho o ēnei whakaritenga. Hei ētahi wā, nā te tōmuri o te tae o ngā pānui, me te tawhiti ki te haere ki ngā nōhanga a te Kōti, tae rawa ki ērā nōhanga i waho atu i te rohe o Ngāti Awa, kāore te hunga whai pānga e tae ake.
- BB. Ahakoa te mau i herea ngā kai-tono Māori ki ngā whakahaere o Te Kōti Utunga kei whiua ki waho, nō te tau 1886 puta ai te whakamana tōmuri a te Paremata e mea ana, kei te tika katoa ngā mahi a te Kōti, ahakoa te mea tērā kāore i tutuki ētahi o ngā whakaritenga ā-ture.
- CC. Nō muri mai ka āraitia e te hātepe utunga a Ngāti Awa ngā rohenga whenua ka taka ki roto i te rāina raupatu me ērā whenua i te taha uru o te rohe o Ngāti Awa arā, ngā rohenga whenua o Matatā 31, 39 me 63. Hui katoa e 50,000 eka te rahi o te whenua nei, ā, ka taka te nuinga o te rohe whaka-te-uru e kerēmehia ana e Ngāti Awa ki roto. Mō te take o Matata Lot 63, he nui ngā kōrero i whakatakotoria e ngā kaiwhakaatu o Ngāti Awa ki mua i te aroaro o te Kōti, ā, i tautokongia aua kōrero e ētahi o ngā iwi o Te Arawa. Ahakoa tēnei, i whiwhia e te kōti aua whenua ki iwi kē ki hapū kē, ki ētahi i whawhai mō te Karauna. Kāore he huarahi hoki atu ki te pīra i ngā whakatau a te kōti.

DD. Nā te tikanga utunga kātahi ka pōuri rawa atu te iwi o Ngāti Awa mō ngā mahi raupatu whenua. Kāore i te tino mōhiotia ko wai te hunga e āhei ana ki te tono utunga i te Kōti. Hei ētahi wā tekau tau e tāria ana kātahi anō ka whiwhi rātou ki te pūtea Kāwanatanga mō te whenua i whakahokia. I whiwhi ētahi hapū ki ngā whenua o hapū kē, ka mutu, ka mate ngā hapū o Ngāti Awa ki Whakatāne ki te tiaki i ngā tāngata o hapū kē ki runga ki ō rātou whenua, tae rawa ki ērā mai i te rohe o Matatā i uru ki roto i ngā pakanga o ngā tau 1864 me 1865. He nui tonu te whenua poupou, koraha i whakaritea e Wilson hei whakahoki. Ina whakahokia ngā whenua mā ngā whakaritenga a Wilson, mā ngā tikanga a te Kōti Utunga rānei, ka whakahokia kē ki te tangata takitahi, āpā te hapū, te iwi rānei. Kāore i whai wāhi ki ngā toha nei ngā tikanga tūturu mō te whenua, ā, mōrearea te noho a te whenua, kei hokona.

EE. I ngā tau whai muri mai, kāore i aronuitia ngā pānga a Ngāti Awa ki ngā rohenga whenua i te taha hau-ā-uru o te raina raupatu, i roto i ngā toha a Te Kōti Whenua Māori. Hei tā Ngāti Awa, nā runga i ngā nekenekehanga o roto i ngā tau mai i te 1865 ki te 1867, tae rawa ki ngā whakataunga a Te Kōti Utunga i taua wā, i raru ai a Ngāti Awa i roto i ngā kēhi o muri mai a Te Kōti Whenua Māori e pā ana ki ngā rohenga whenua nei.

#### **Ngā Mahi o Ngā Ture Whenua Māori, Ngā Hoko me ētahi atu Wehewehenga o muri iho**

FF. Whakatūria ai te Kōti Whenua Māori i raro i ngā Ture Whenua Māori o ngā tau 1862 me 1865, ki te rapu ko wai te hunga nō rātou ngā whenua “e ai ki te Tikanga Māori”, ki te takahuri hoki i te mana tūturu mō te whenua, kia noho ko ngā taitara a te Karauna ki runga i te whenua. I whakatahangia hoki te tika a te Karauna ki te hoko tuatahi i ngā whenua o te Māori, e aha ai, e taea ai e te Māori te rīhi, te hoko rānei i ōna whenua, kāore he nui o ngā here. Kāore i nui ngā whakawhiwhiti kōrero i waenganui i te Karauna me te Māori i mua o te whakamanatanga o te ture nei, kāore hoki ia i āta kōrero ki a Ngāti Awa; he pērā te āhua o ēnei mea i te tekau tau 1860. I tēnei wā, kāore he waha kōrero mō te Māori i roto i te Paremata. Nā reira ko tō Ngāti Awa whakaaro, he mea uhi kē e tētahi atu tēnei tikanga tiaki whenua ki runga i a rātou.

GG. I te tekau tau o 1870, i whakahaua ngā āpiha hoko whenua ki te hoko whenua i te rohe o Rangitaiki, ā, hei ētahi wā, ka whakarite rīhi, ka whakawhiwhi whenua rātou i mua o te haria o te whenua ki mua i te aroaro o Te Kōti Whenua Māori kia āta rangahauatia te taitara. I ngā tekau tau 1870, 1880 me 1890, whakatakotohia ai e Ngāti Awa ana kerēme ki ētahi whenua i te taha tonga o te rāina raupatu. Kāore i tautokona e te Kōti ā rātou tono mō ngā rohenga whenua i Ruātoki me Kaingaroa. I roto i tēnei wā, whakawhiwhia ai ētahi hapū o Ngāti Awa ki ētahi pānga whenua i ngā rohenga whenua o Pokohu, Pūtauaki, Matahina, Waiohau me Tuarāngaia.

I te nuinga o te wā, i tukuna e te Kōti ētahi wāhanga o ngā rohenga whenua nei ki iwi kē, ahakoa te mea hei tā Ngāti Awa, no rātou ake te whenua. No muri kē, mā te hanganga ture, ka whakahaua e te Kōti kia whakarongohia anō ngā kōrero mō ētahi o ngā rohenga whenua. Ko te otinga atu o tēnei, i riro atu ētahi o ngā whenua i tukuna tuatahitia ki a Ngāti Awa i Pokohū me Matahina.

HH. No muri o tētahi rangahau taitara i te tau 1881, whakawhiwhia a Ngāti Awa ki te e 79,000 eka i roto i te rohenga o Matahina. Nō te tau 1884 rongohia anō ngā kōrero, ā, ko te hua o tērā, i whakaitia te korahi o te rohenga ki te e 74,300 eka. E 8,500 eka o tēnei rahi i tangohia e te Karauna e ea ai ngā utu rūri. I whakawhiwhia e Te Kōti Whenua Māori ngā pānga ki ngā tāngata takitahi, ā, ahakoa i pupuritā ngā whenua mō tētahi wā i runga i ngā okeoke a Ngāti Awa kia pupuria, kia tae ki te rau tau e 20, kua mārō kē te haere o te wehewehe whenua ki ngā tāngata takitahi. Ko te hua o tēnei, i noho kongakonga noa ngā whenua, i maha ngā hokohoko whenua i te wāhanga tōmuri o te rau tau e 19 me te wāhanga tōmua o te rau tau e 20. Kia taka ki te tau 1980, e 240 eka anake te rahi o te pānga whenua o Ngāti Awa ki roto i Matahina A1D1. He mate nui ki te iwi o Ngāti Awa tēnei te rironga atu o te rohenga nei, ā, kei roto i te waiata *Tangi mō Matahina* e whakaata ana te mamae.

II. Ko Pūtauaki te tipuna maunga o ngā tāngata katoa o Ngāti Awa. I tauwehea a Pūtauaki e te rāina raupatu, nāwai ā nō te tau 1867, ka tukuna ai te taha whaka-te-raki o te maunga e Te Kōti Utunga ki a Te Pahipoto rāua ko Ngā Maihi. Ko te wāhanga whaka-te-tonga o te maunga i roto kē i te rohenga whenua e kiia nei ko Pūtauaki. I te tau 1879 i tū tētahi whakaritenga – me āna tikanga - i waenganui i ngā āpiha hoko a te Karauna me ētahi o Ngāti Awa kia hokona te rohenga whenua, engari nō te tau 1881 kātahi anō te rohenga whenua nei ka rangahaua e Te Kōti Whenua Māori. I tukuna e te Kōti te whenua ki a Ngāti Awa, ā ka tono te iwi kia rāhui motuhaketia te whenua. Waihoki, i te hipanga o ngā rā e tekau, i runga hoki i te tono a ētahi rangatira tokorua o Ngāti Awa, arā, a Rangitūkehu rāua ko Penetito, i wehea e te Kōti te rohenga whenua ki ngā wāhanga e toru. Ko te rohenga whenua nui rawa atu, i tukuna ki ētahi tāngata takitahi e 15, ā, hokona wawetia e rātou ki te Karauna. Kāore e tino maha ngā rā whai muri, e 27 ngā tāne, wāhine, tamariki hoki i petihana ki te Minita mō Ngā Take Māori mō te mahi tauwehe i te rohenga whenua nei. Nō muri kē ka tono te hunga nā rātou te whenua i hoko ki te Karauna, kia whakahokia tēnei me ētahi atu rohenga whenua, ā, ko te utu mō tēnei, ko te moni i homaihia mō te hoko i te whenua i te tuatahi, engari kāore te Karauna i whakaae. Ko te iti noa o te rohenga whenua i mahue mai, tae rawa ki te maunga, i tukuna ki ētahi tāngata takitahi mai i Ngāti Awa me ētahi atu iwi. Nā ēnei mahi whaka-takitahi i te mana whenua, ka ngaro noa i te iwi ēnei whenua. He whakamau nui tā Ngāti Awa, mō te rironga atu o Pūtauaki mā ngā tikanga rerekē i ngā rau tau tekau mā iwa, rua tekau hoki.

- JJ. I tua atu, kua riro ētahi whenua o Ngāti Awa pēnei i ngā rohenga whenua i Rangitāiki, Poroporo-Rewatu, Matahina, Whakatāne me Matata mā ngā hanganga ture mahi tūmatanui o te rau tau rua tekau. He wāhi tapu, he urupā, he papakāinga i runga i ētahi o ngā whenua i riro.
- KK. Mai i te tau 1867, kua rapu a Ngāti Awa i te tika, mō ngā hē i mahia ki te iwi e te Karauna. He maha ngā petihana a Ngāti Awa ki te Karauna mō ngā raupatu, ngā mauheretanga, me te rironga atu o ngā whenua i roto i te wā roa. I tae te kaupapa a Ngāti Awa ki mua i te aroaro o te Kōmihana Sim i te tau 1925, ā, kāore i tautokongia e te Kōmihana te kaupapa whānui a Ngāti Awa. Hāunga tērā, i kite te Kōmihana, paku noa iho te whenua i tohaina ki a Ngāi Te Rangihouhiri II rāua ko Ngāti Hikakino. Nō muri mai ka tangohia ai tētahi wāhanga o te whenua nei i raro i Te Ture Mahi Tūmatanui, ā, i te mutunga, i toe mai ki ngā hapū nei ko ētahi whenua fītōhea anake, e kore e puta he oranga. I tūtohu te Kōmihana ki te toha i ētahi whenua i Matatā, engari kāore tēnei tūtohu i puāwai.
- LL. I runga i ngā tūtohinga o te Kōmihana Sim, whiwhi ai ētahi atu iwi ki ētahi utunga ā-tau mai i te Karauna, ā, whakatūria ai ētahi Poari mō ētahi iwi raupatu, hāunga anō a Ngāti Awa.

### 3.2 NGĀ WHAKAAETANGA A TE KARAUNA

- A. E whakaae ana te Karauna, mai i te tau 1867, kua whai a Ngāti Awa i te tika mō ana whakamau ki te Karauna e mea ana, ahakoa ētahi mahi pai āna i te rau tau rua tekau, kāore i tōtika te mahi a te Karauna ki te whakatika i ngā whakamau a Ngāti Awa. Nā reira e whakaae ana te Karauna i konei ki te tika o ngā kerēme wā roa a Ngāti Awa, ā, e whai iho nei te roanga atu o te whakaaetanga.
- B. E whakaae ana te Karauna:
- (a) i mate ētahi o Ngāti Awa, i wāwāhia ngā rawa o Ngāti Awa i te wā e rapu ana te ope taua a te Karauna i te hunga nā rātou a Fulloon i kōhuru;
  - (b) mō te pōuri i tau ki runga i a Ngāti Awa e pā ana ki te hopukanga, te whakawāhanga, te mauhereheretanga me te whakamatanga o ngā kai-ārahi o ngā hapū o Ngāti Awa;
  - (c) mō te mea i tanumia ngā tūpāpaku o Ngāti Awa i mate ki roto i te whare herehere i runga i te tikanga kore, i roto tonu i ngā poupou o te whare herehere, ā, kia taka ki te tau 1988, kātahi anō ka whakahokia rātou ki roto i ngā ringaringa o ō rātou whanaunga;

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- (d) mō te pā mai o te kino ki runga ki te anga hapori, te mana me te rangatiratanga o aua hapū i riro ō rātou whenua, ō rātou rangatira.

## C. E whakaae ana te Karauna:

- (a) i hē te uta i ngā kupu “tangata hara” ki runga i te iwi o Ngāti Awa, ka mutu e kore e taea te kī i te whana rātou;
- (b) i tangohia ngā whenua me ngā rawa o Ngāti Awa, i tangohia anō hoki ko te rangatiratanga o te iwi ki runga i aua mea;
- (c) nā runga i te raupatu o ngā whenua o Ngāti Awa, i tino kaha te paheketanga o te oranga, te ōhanga me te whanaketanga o te iwi, ā, tāpae atu ko te rironga atu o ngā wāhi tapu, me te āheinga ki ngā rawa me ngā tuwheratanga ki te whanaketanga;
- (d) i hē tana raupatu i ngā whenua o Ngāti Awa, he mahi mōrikarika, he takahitanga hoki i te Tiriti o Waitangi me ōna mātāpono, ā, kīia ai e Ngāti Awa “he mahi pokanoa” tēnei.

## D. E whakaae ana te Karauna:

- (a) nā te raupatu, i puta ko te whakatoihara, ā, nā ngā tūpuhitanga o Te Kōti Utunga kātahi ka hē rawa atu;
- (b) i tukuna e Te Kōti Utunga ngā whenua ki ngā tāngata takitahi, āpa te iwi, te hapū rānei, waihoki, ehara tēnei i te whai i ngā tikanga tūturu mō te tiaki whenua. He mea uta kē ēnei tikanga ki runga i a Ngāti Awa, kāore i whāia ko ngā whakaaro ake o te iwi;
- (c) he maha ngā wā, ko tā Te Kōti Utunga he whakamana noa i ngā whakaritenga o mua noa atu a tētahi āpiha Karauna e pā ana ki te tuku haere i te whenua i tēnei takiwā;
- (d) he mahi pokanoa noa iho te raupatu haere i ngā whenua, nā te kore whakahoki ōna i ngā whenua katoa ki ērā i noho ki a ia;
- (e) nā te hē o te hātepe utunga arā, te nekehanga o ngā hapū o Ngāti Awa, mai i ngā whenua kua roa kē e nōhia ana e rātou, ki ērā whenua o hapū kē, i kaha ake ai te raruraru i waenganui i ngā hapū;

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- (f) i tohaina ētahi o ngā whenua o Ngāti Awa, tae rawa ki ōna wāhi tapu, ki ētahi atu iwi, me te mea, rite tonu te wehea mai o aua whenua whai muri tata iho o te whiwhinga;
- (g) nā ēnei mahi i ngoikore haere ngā tikanga tangata mai rā anō, tae rawa ki te mana me te rangatiratanga o Ngāti Awa. Kāore i tutuki e te Karauna tōna kawenga ki te ārai i a Ngāti Awa i ngā hua kino o ēnei mahi, he takahitanga tēnei o Te Tiriti o Waitangi me ōna mātāpono.

## E. E whakaae ana te Karauna:

- (a) whai muri iho o te takahanga o ngā taitara whenua ki raro i ngā ture whenua Māori, i topea anō ngā pānga whenua o Ngāti Awa, me kī ngā whenua i whakahokia mai i muri o te raupatu, me ērā whenua i waho atu o ngā whenua i raupatutia, mā:
- (i) te tango whenua hei utu mō ngā mahi rūri whenua;
- (ii) ngā hoko whenua a te Karauna, me ētahi atu momo hoko whenua;
- (b) nā te whakamahia me te whakapā o ngā ture whenua Māori, arā, te tuku whenua ki ngā tāngata takitahi o Ngāti Awa, āpā ki te iwi, te hapū rānei, i noho wātea te whenua ki ngā mahi tauwehe, wāwāhi, hoko hoki. Nā tēnei mahi i kaha ake te paheketanga o ngā tikanga a Ngāti Awa, he tikanga i takea mai i te kotahitanga ā-hapū, ā-iwi hoki mō te tiaki i te whenua. Kāore i āta tiakina aua hanga e te Karauna. Ko te otinga atu, ko te paheketanga o Ngāti Awa, me te takahitanga o Te Tiriti o Waitangi me ōna mātāpono.

## F. E whakaae ana te Karauna:

- (a) i riro anō i a ia ētahi whenua o Ngāti Awa mā ngā ture hanga tūmatanui, e aha ai, e taea ai e ia te tango whenua ki te kore e taea he whakaritenga.

## G. E whakaae ana te Karauna:

- (a) ki te hui katoahia ngā mahi me ngā mea kāore i mahia e te Karauna, me kī tana kore tiaki i ngā pānga a Ngāti Awa i roto i ngā whenua e hiahia ana ia ki te pupuri, kua kite tātou, i tata te noho a Ngāti Awa hei iwi whenua kore. He takahitanga o Te Tiriti o Waitangi me ōna mātāpono te mahi a te Karauna i tana kore ngana kia rahi te whenua ka noho kei ngā ringaringa o Ngāti Awa e ea ai ōna wawata mō ēnei rā, mō ngā rā kei te tū.

## H. E whakaae ana te Karauna:

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- (a) he wāhi nui ngā whenua me ngā rawa i tangohia i a Ngāti Awa, i roto i te orange me te whanaketanga o tēnei whenua, i te wā e noho whenua kore ana, e kore e āhei ana a Ngāti Awa ki ngā painga mai i aua whenua me aua rawa. Nā tēnei kore mana, kua raruraru a Ngāti Awa me tana whanaketanga taha ōhanga, taha hapori, taha tikanga hoki. Kua raruraru hoki a Ngāti Awa i te kore tarea e ia te uhi i tōna mana ki runga i ōna taonga, i ōna wāhi tapu, me te whakapūmau i ngā hononga wairua ki aua whenua tuku iho;
- (b) E aronui ana, e mihi ana te Karauna ki te wāhi ki a Ngāti Awa i roto i ngā whawhai mō te whenua nei, i roto hoki i ngā pakanga o Niu Tīreni ki tāwāhi;
- (c) E whakaaturia ana e ngā kupu o te waiata a Ngāti Awa e whai iho nei, ngā mamaetanga me ngā taumahatanga i pā mai i ngā mahi a te Karauna:

Ka noho pani nei.

I pani ki te whenua,

I pani ki te tangata.

Au tangi kau iho i te pō,

Ka whakatū ki hea te aroha?

### 3.3 TE WHAKAPĀHA A TE KARAUNA

Ka tuku whakapāha ōkawa te Karauna ki a Ngāti Awa, e pēnei ana.

- A. E aro nui ana te Karauna ki ngā tono me ngā akiakinga a ngā tīpuna o Ngāti Awa i a rātou i rapu i te utu, i te tika, me te whakaea i roto i ngā tau e 130 kua pahure, mō ngā mahi a te Karauna, ā, i konei ka tuku whakapāha te Karauna ki a rātou, ki ō rātou uri me ngā uri o ngā hapū o Ngāti Awa whānui.
- B. E tino pōuri ana, e whakapāha noa ana te Karauna mō ana takatakahi i Te Tiriti o Waitangi me ōna mātāpono, i whakahuatia i runga ake nei.
- C. E tino pōuri ana, e whakapāha noa ana te Karauna mō tana raupatu i ngā whenua o Ngāti Awa, he mahi mōrikarika.
- D. Ko te mea nui, e tino pōuri ana, e tino whakapāha ana te Karauna mō tana raupatu i ngā whenua o Ngāti Awa, tae rawa ki ngā putanga o ana mahi i tau ki runga i ngā whakatipuranga, ko te otinga atu o aua mahi, kua noho āhua whenua kore a Ngāti

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Awa, kua turakina ngā hanganga taha hāpori, taha tikanga tuku iho, kua takahia te tino rangatiratanga o ngā hapū o Ngāti Awa.

- E. E tino pōuri ana, e tino whakapāha ana te Karauna i te mea kua kotahi rau tau e mau ana te kōrero ki runga i a Ngāti Awa iwi, he “tangata hara” rātou; nā ēnei āhuatanga te mana o te iwi i hahau.
- F. E tino pōuri ana, e tino whakapāha ana te Karauna mō ngā rerekētanga me ngā paheketanga i pā kino mai ki te ora, ki te taha ōhanga me te pakari o te tū a Ngāti Awa hei iwi.
- G. E tino pōuri ana, e tino whakapāha ana te Karauna i tana kore aro atu ki te mana me te rangatiratanga o Ngāti Awa.
- H. Na reira, i runga i ngā kupu o te whakapāha nei, e rapu ana te Karauna kia ea ēnei mahi hē āna, kia tīmata ngā mahi whakaora; i tua atu, ko tōna hiahia, ki te hanga whakapakari i tētahi hononga e takea mai ana i runga i te wairua whakawhirinaki, tētahi ki tētahi, me te wairua mahi tahi me Ngāti Awa.



### SECTION 3: HISTORICAL ACCOUNT, CROWN ACKNOWLEDGEMENTS AND APOLOGY

#### 3.1 HISTORICAL ACCOUNT

- A. The apology from the Crown to Ngāti Awa is based on the following historical account.

##### **Rohe of Ngāti Awa**

- B. Ngāti Awa claim that prior to 1866 they exercised tino rangatiratanga as tangata whenua from time to time over their rohe including: the islands of Motiti, the Rurima group, Moutohora (Whale Island), Paepae o Aotea (Volkner Rocks), Whakaari (White Island), Ohakana and Uretara (both the latter two islands being situated in Ōhiwa Harbour); the seas from Waihi Estuary near Maketu to Ōhiwa Harbour; the land, forests, lakes, rivers and swamps bounded to the north by the coastline from Waihi Estuary to Ōhiwa, to the west from the Waihi Estuary along the Pongakawa River to Lake Rotoehu (including the lake itself and the Rotoehu Forest), from Lake Rotoehu to Te Haehaenga, and including Lake Rotoma to the Pokohu, Tuararangaia and Matahina lands to the south and from there to Ōhiwa Harbour.
- C. Places of historical and cultural significance to Ngāti Awa include: the mountains called Putauaki at Kawerau (Mt Edgecumbe), Whakapaukorero at Matata and Maunga Whakamana at Te Haehaenga, the hill called Te Tiringa at Awakeri and Koohi Point at Whakatāne; the rivers Whakatāne, Orini, Rangitaiki, Tarawera, Waitahanui and the Waikowhewhe and Pongakawa Streams; the Rangitaiki swamp and wetlands; the forests at Rotoehu, Matahina, Kiwinui, Omataroa, Tarawera and Manawahe; the lakes Rotoehu, Rotoma, Kawerau, Te Tahuna, Roto-Onerahi, Rotoiti Paku, Onepu and Rotoroa; the thermal areas at Kawerau, Awakeri, Moutohora and Whakaari; the harbours at Ōhiwa and Whakatāne; and the estuaries at Waihi, Te Awa a Te Atua at Matata and Whakatāne.
- D. Ngāti Awa land and resources were held in customary tenure where tribal and hapū collective custodianship remained paramount. In the exercise of their rangatiratanga the chiefs of Ngāti Awa ensured that very little land within the Ngāti Awa rohe was permanently alienated prior to the confiscation.
- E. Further, Ngāti Awa claim that in 1865, they were essentially autonomous, economically prosperous and actively engaged in trade and commerce. They produced and sold commodities such as pigs, flax, vegetables, wheat, timber and potatoes and were involved in a range of commercial activities including flour milling, and merchant shipping. Ngāti Awa also used commodities such as red

ochre, mutton-birds and the resources of the sea for customary trade with other iwi.

### **New Zealand Settlements Act 1863**

- F. In 1863, the Crown enacted three important pieces of legislation, the Suppression of Rebellion Act, the New Zealand Loan Act and the New Zealand Settlements Act, the last of which provided for the confiscation of Maori land whenever the Governor in Council was satisfied that “any native tribe, or section of tribe or any considerable number thereof”, had been engaged in rebellion against the authority of the Queen. More particularly, the Act was passed into law to provide “permanent protection and security of the well-disposed inhabitants of both races for the prevention of future insurrection or rebellion and for the establishment and maintenance of Her Majesty’s authority in Law and Order throughout the Colony”. In order to achieve those two broad ends, the Crown proposed introducing settlers into the regions by confiscating land and allotting or selling it to military and other settlers. The returns from the sales of land to settlers were also intended to recoup the Crown’s costs of the wars against Maori.
- G. The British Colonial Office had misgivings about the scope and application of the New Zealand Settlements Act 1863, considering it “capable of great abuse”. When initially considering the proposal to confiscate lands the Colonial Secretary cautioned the Governor to respect the lands of innocent people and tribes and to apportion the measure of punishment to the degree of guilt. When it later considered the confiscation legislation the British Colonial Office continued to express serious reservations about the use of the Act and its duration but allowed it to remain in operation because final authority for any confiscation remained with the Governor. The Colonial Secretary instructed the Governor to withhold his consent to any confiscation which was not “just and moderate”.

### **Te Kaokaoroa**

- H. In 1864, according to the traditions of Ngāti Awa, certain hapū of Ngāti Awa including Te Patutatahi, Ngāti Hikakino, Ngai Te Rangihouhiri II, and some members of Te Tawera and others joined a combined force of various Mātaatua and related iwi which came to be known as the Tai Rawhiti force. This force was destined for the Waikato region to lend assistance to the Waikato tribes who were resisting the unjust invasion of their lands by Crown and colonial forces. It was prevented from travelling through the Rotorua region by a Te Arawa prohibition on armed parties moving through its territory. A number of Te Arawa iwi had sought, and gained, Crown support in this undertaking. A Tai Rawhiti party fought against various Te Arawa iwi in February 1864 at Rotoiti which resulted in
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loss of life. However, part of this group did proceed to Orakau, in the Waikato region.

- I. The Tai Rawhiti force made a second attempt to break through at the Waihi estuary, Maketu, in April 1864. Certain Te Arawa iwi, supported by Crown warships and military personnel, repulsed the force. The fighting culminated in the battle of Te Kaokaoroa where Ngāti Awa, particularly Ngāti Hikakino and Ngai Te Rangihouhiri II, and allied hapū and iwi suffered numerous casualties. Several key chiefs of Ngāti Awa were among those lost.

### **James Te Mautaranui Fulloon**

- J. In late 1864, Kereopa, Horomona and Patara, prophets of Pai Marire arrived in the Whakatāne region and persuaded a number of Ngāti Awa to join Pai Marire. In March 1865, the Reverend Carl Volkner, a missionary living in Opotiki, was killed by local Maori some of whom were influenced by Pai Marire. On 6 March 1865, Ngāti Awa chiefs at Whakatāne expressed strong disapproval of the killing, but also stated that the Crown should not come through their territory while apprehending those responsible for killing Volkner. No military force was authorised by the Government to pursue Volkner's killers through Ngāti Awa territory.
- K. In February 1865, after a series of runanga, certain chiefs of Ngāti Awa, met at Whakatāne and resolved to place an aukati (customary prohibitive measure) about their territory to prevent encroachment into their rohe. Then in July 1865, following a series of hui at Tauaroa and Matata, the Pai Marire prophet Horomona and certain Ngāti Awa chiefs who supported him declared a second aukati. This aukati ran from Cape Runaway in the east to Taranaki in the west. On 19 or 20 July 1865, the *Maruiwi*, a Te Arawa trading vessel, arrived at Whakatāne. The vessel was seized for breaching the Pai Marire aukati and its crew was held at Whakatāne. On 22 July 1865, the *Kate* carrying Crown official James Fulloon, and others, arrived at Whakatāne. Fulloon, of Ngāti Awa descent, and three of the crew were killed on board by Ngāti Awa supporters of Pai Marire. Wepiha Apanui of the Whakatāne section of Ngāti Awa then arranged for the burial of his first cousin Hemi (James) Fulloon. There are various explanations for Fulloon's death; Ngāti Awa attribute Fulloon's death to his breach of the aukati. These events evoked various reactions among the hapū of Ngāti Awa.

**The Warrant**

- L. On 2 August 1865, T. H. Smith, as Civil Commissioner at Maketu, issued a warrant for the arrests of those persons alleged to have been responsible for killing Fulloon and others.
- M. The people who were subject to the warrant were:

Te Hura Te Taiwhakaripi	Haki Waihou
Te Pitoiwi Te Putarera	Te Hemara Tukairangi
Hakaraia Tohora	Ture Te Matutaera
Te Aka o Tau Te Hura	Paraharaha
Te Metera Te Tii	Raniera Te Werotokotoko
Hepeta Te Tai	Haki Tukino
Korimana	Eria Te Hakona
Horomona Poropiti	Heahea Te Pakihiwi
Utuku Te Rangi	Hohepa Te Ra
Te Meihana Te Tawa	Tawhaki
Te Wetini	Raureti
Tamati o Ngāti Hoko	Hunia Marupo
Mohi Te Paohi	Panapa Rangirewaia
Turiri	Hakopa Tupika
Hawera Te Hihira	Petera Moki
Te Hekara	Pakiuru
	Hohua Karipipi

- N. In August 1865, a Crown force of some 500 men was formed. It was drawn primarily from certain neighbouring iwi and hapū, many of whom were the traditional foes of Ngāti Awa and who had been involved in the battle at Te Kaokaoroa. The Crown force, under the command of Major William Mair, Resident Magistrate, entered the rohe of Ngāti Awa to execute the arrest warrant. The purpose of this expedition was explained to Te Hura Te Taiwhakaripi, a Ngāti Awa chief, in mid-August. The Crown force was involved in skirmishes with Ngāti Awa in which some people were killed. Cattle, horses and other Ngāti Awa property were seized and kainga, wharenuī, pataka and waka were destroyed. This force laid siege to Ngāti Awa pā at Whakatāne, Matata and Te Teko to which Te Hura and his force had retreated.

- O. On 2 September 1865, the Crown issued a Proclamation of Peace declaring that the war, which had begun at Oakura in Taranaki in 1863, was at an end. The Proclamation of Peace stated that those who had been in arms against the Crown would not be prosecuted for past offences, but excluded those responsible for the killing of Fulloon. The Proclamation stated that if those responsible for the killing of Fulloon were not given up to the Governor then the Crown would take parts of the lands of those tribes who concealed the murderers. It also called for Maori assistance in stopping all future acts of violence and declared an intention to consult with the great Chiefs about the best means for Maori to be represented in the General Assembly so that they could help make the laws they were called on to obey.
- P. On 4 September 1865 the Governor issued a Proclamation of Martial Law in the areas of Whakatāne and Opotiki to enable the capture of those accused of the murder of Fulloon and others through the use of military force and to enable them to be tried by Court-Martial. Martial Law was to operate in the areas from that time until duly revoked and the proclamation implied that the Crown forces could act as a military force. Both these proclamations appeared in the New Zealand Gazette on 5 September 1865. It is unclear, however, when Ngāti Awa became aware of these proclamations.

### **Te Kupenga**

- Q. There was an increase in Crown military activity at the end of September. This culminated in three days of fighting at Te Kupenga Pā, Te Teko. Eventually, on 20 October 1865, those Ngāti Awa hapū under the leadership of Te Hura Te Taiwhakaripi surrendered at Te Kupenga. They included Te Tawera, Warahoe, Ngai Te Rangihouhiri II, Te Patutatahi, Ngāti Hikakino and others. Over 30 men, including most of those Ngāti Awa named in the warrant and some others, were placed under arrest and transported to Opotiki for trial by Courts-Martial in November 1865 for the killing of Fulloon and other charges. The Courts-Martial found many of the accused guilty and sentenced them to death.

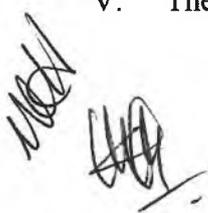
### **Trials**

- R. On 23 December 1865 James Prendergast, the Attorney-General, provided an opinion on the trial by court-martial of the prisoners taken at Opotiki. Prendergast determined that martial law was "in no way recognised by the law". As a consequence the Governor then ordered that the Ngāti Awa accused be transported to Auckland to be tried again, this time before the Supreme Court for murder and other charges. The 35 Ngāti Awa accused were all represented by a single legal counsel.
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- S. The following men were charged with piracy and the murders of Fulloon and seaman Ned on board the *Kate*: Mikaere Kirimangu, Hekara, Himone-te-Auru, Paraharaha, Hoani Poururu, Hoani Hupe, Utuku-te-Rangi, Te Aka o Tau-te-Hura, Hunia Marupo, Haki Waihou, Haki Tukino, Tamati o Ngāti Hoko, Tio Wahu, Hawera-te-Hihira, Heahea te Pakihiwi, Raniera te Werotokotoko. Three of these men were found innocent on the piracy charge but all were found guilty of murder. Ten other men were charged with being accessories before the fact to the murders. They were Te Hura Te Tai, Te Pitoiwi Te Putarera, Hepeta Te Tai, Horomona Poropiti, Mohi Te Paohi, Te Hemara, Hakaraia Tohora, Te Uwhi Te Haraki, Kereama Toitoti, and Ture Te Matutaera. Six men were also charged with receiving stolen goods from the *Kate*. By 23 March 1866, all those tried before the Court were found guilty on at least one charge and were sentenced to execution or imprisonment. Mikaere Kirimangu and Horomona Poropiti (Taranaki) were executed for the murder of Fulloon on 17 May 1866. Eleven of the men sentenced to death had their sentences commuted to life imprisonment and the other death sentences were commuted to between four and fourteen years penal servitude. Those charged with receiving stolen goods were sentenced to three years' hard labour. In 1867 and 1868 pardons were issued to some of these men but most served out their terms. Three men died while in prison, namely Tamati o Ngāti Hoko (1 August 1866), Hepeta Te Tai (26 November 1866) and Paraharaha (18 December 1866). Those who died in prison were interred without ceremony in the prison grounds. After regular requests over the generations their remains were released for reinterment with their families in 1988.
- T. Ngāti Awa say that many of those who were eventually released were unable to return to their homes in Whakatāne and Matata because of the shame they felt as a consequence of their imprisonment and the confiscation. They lived in the King Country with Te Kooti Rikirangi under the protection of Ngāti Maniapoto. Most of them died and were buried outside of the rohe of Ngāti Awa but were eventually exhumed and reinterred at Ohuirehe Urupa near Whakatāne by Te Kooti Rikirangi and his followers in 1885.

**Confiscation**

- U. By Orders in Council on 17 January and 1 September 1866, approximately 448,000 acres of land was proclaimed to be confiscated under the New Zealand Settlements Act 1863 as a consequence of Bay of Plenty tribes being deemed by the Crown to have been in rebellion. The Act did not mention punishment but was punitive in nature.
- V. The boundaries of the confiscated area were:
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*"All that land bounded by a line commencing at the mouth of the Waitahanui River, Bay of Plenty, and running due south for a distance of 20 miles; then to the summit of (Mt Edgecombe) Putanaki [sic], thence by a straight line in an easterly direction to a point 11 miles due south from the entrance to the Ohiwa Harbour, thence by a line running due east for 25 miles; thence by a line to the mouth of the Aparapara [sic] River and thence following the coastline to the point of commencement at Waitahanui".*

Within the area covered by the proclamation Ngāti Awa had approximately 245,000 acres of its land confiscated in 1866. This was indiscriminate in that the lands taken greatly exceeded the minimum necessary for achieving the purposes of the New Zealand Settlements Act.

- W. The confiscation of land affected all Ngāti Awa hapū, including many hapū who had never been engaged in any conflict with the Crown. The result was that all of the hapū of Ngāti Awa then had to go through the Compensation Court and other processes to seek the return of their land.

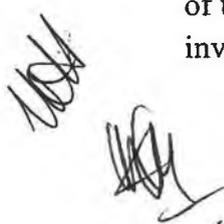
#### **Wilson's Arrangements and the Compensation Court**

- X. In February 1866, prior to the sitting of the Compensation Court, the Crown appointed a special commissioner, John A Wilson, to deal with the allocation of confiscated lands in the Bay of Plenty. Wilson was involved in making arrangements with various hapū for the return of land. Military awards for services rendered were made to certain Te Arawa iwi and other tribes from the 87,000 acre blocks west of the Tarawera River, which included the bulk of the area Ngāti Awa claim as their western rohe (other iwi also claim an interest in this area). By 1885 the Crown had purchased most of this land. Wilson's arrangements provided for the return of approximately 77,000 acres awarded to Ngāti Awa individuals in the form of reserves. This land was part of the 245,000 acres originally confiscated from the iwi in 1866.
- Y. Wilson's activities were carried out under the provisions of the New Zealand Settlements Act 1863 and its amendments. In order to validate his arrangements the Crown then enacted further legislation including the Confiscated Lands Act 1867, the Richmond Land Sales Act 1870, the Whakatāne Grants Validation Act 1878, and the Native Land Claims and Boundaries Adjustments and Titles Empowering Act 1894.
- Z. The Compensation Court was established by the New Zealand Settlements Act 1863 to compensate anyone who had suffered land confiscation when they had not been in "rebellion". The Court began its hearings in the region in March 1867. The presiding judges were William Mair and Thomas Smith, both of whom

*new*  
*AM*

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played important roles in either leading or directing the Crown's expeditionary force prior to confiscation. In many cases, the Court validated Wilson's arrangements as out of court settlements.

- AA. Those Ngāti Awa not wishing to settle with Wilson filed claims with the Court but those who could not attend the Court to pursue their claims, especially those who had been imprisoned in 1866, were inevitably excluded. In several cases non-attendance at court hearings was due to inadequate notice, the inability of claimants to attend and hearings being held outside of the rohe of Ngāti Awa.
- BB. Although Maori claimants were required to comply with Compensation Court processes or be excluded, in 1866 Parliament retrospectively declared the Court's own actions and proceedings to be valid and beyond judicial scrutiny, even if statutory requirements had not been met.
- CC. Ngāti Awa were subsequently excluded by the compensation process from those blocks falling within the confiscation line and the western part of the Ngāti Awa rohe, namely Matata Lots 31, 39 and 63. These lands comprised an area in excess of 50,000 acres and made up the bulk of the western rohe claimed by Ngāti Awa. In the case of Matata Lot 63 Ngāti Awa witnesses gave a large amount of evidence and were supported by members of certain Te Arawa iwi. Despite this, the court awarded this lot to another iwi who had given military service to the Crown. There was no provision for appeal from the decisions of the Court.
- DD. The compensation process and its outcomes added to the upheaval and distress of the people of Ngāti Awa about the confiscation. There was uncertainty about who was entitled to claim compensation from the Court. It often took up to 10 years before a Crown grant was issued for the land returned. Some hapū received land that was previously occupied by other hapū and the Whakatāne section of Ngāti Awa also had to accept members of other hapū onto their lands, including those from the Matata region who had been more directly involved in the battles of 1864 and 1865. A large proportion of the land that Wilson had arranged for return was mountainous, barren country. Once land was restored either through Wilson's arrangements or the Compensation Court process, it was returned to individuals rather than to the hapū and iwi. The awards did not reflect customary forms of land tenure and the land became more susceptible to sale.
- EE. In future years Ngāti Awa's interests in the blocks to the west of the confiscation line were not recognised in the awards of the Native Land Court. Ngāti Awa consider that because of the events of 1865 to 1867, including the determinations of the Compensation Court, they were prejudiced in later Native Land Court cases involving these blocks.
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### The Operations of the Native Land Laws, Subsequent Purchases and Other Alienations

- FF. The Native Land Court was established under the Native Land Acts of 1862 and 1865 to determine the owners of Maori land “according to Native Custom” and to convert customary title into title derived from the Crown. The Crown’s pre-emptive right of land purchase was also set aside, enabling Maori to lease and sell their lands with few restrictions. As was often the case in the 1860s there was limited consultation concerning this legislation, and the Crown did not specifically consult Ngāti Awa. Maori had no direct representation in Parliament at this time. Ngāti Awa therefore considers that this change in the land tenure system was imposed on them.
- GG. In the 1870s Crown land purchase agents were instructed to purchase land in the Rangitaiki area and sometimes negotiated leases and deeds of transfer prior to the land being taken to the Native Land Court for title investigation. During the 1870s, 1880s and 1890s Ngāti Awa made claims to lands south of the confiscation line. Their claims to Ruatoki and Kaingaroa blocks were not upheld by the Court. The Native Land Court awarded Ngāti Awa hapū interests in the Pokohu, Putauaki, Matahina, Waiohau and Tuararangaia blocks over this period. In most cases the Court also awarded parts of these land blocks, regarded by Ngāti Awa as theirs, to other iwi. The Crown later ordered re-hearings into some of the blocks by way of legislation. As a result, Ngāti Awa lost some of the land they had originally been awarded at Pokohu and Matahina.
- HH. The Court awarded Ngāti Awa approximately 79,000 acres in the Matahina block after a title investigation hearing in 1881. A rehearing was held in 1884 and Ngāti Awa were awarded a reduced area of approximately 74,300 acres. An area of 8,500 acres of this was immediately taken by the Crown in payment of a survey lien. Native Land Court awards were made in the names of individuals and while Ngāti Awa managed to retain most of the land awarded to them for some time, the process of individualising and partitioning of interests accelerated in the twentieth century. This resulted in substantial fragmentation and as a consequence many private sales occurred throughout the late nineteenth and early twentieth centuries. By 1980 Ngāti Awa’s interests in the Matahina block had been reduced to 240 acres in Matahina A1D1. Ngāti Awa consider the loss of this block a significant grievance, which is encapsulated in the waiata *Tangi mo Matahina*.
- II. Putauaki is the tipuna maunga of all Ngāti Awa. Putauaki was bisected by the confiscation boundary and consequently, the northern portion of the maunga was awarded to Te Pahipoto and Nga Maihi by the Compensation Court in 1867. The southern portion of the maunga was within the Putauaki block. An agreement for the sale of the block, subject to conditions, was arranged between Crown purchase

agents and some Ngāti Awa in 1879 but title to the block was not investigated by the Native Land Court until 1881. The Court awarded the block to Ngāti Awa and the iwi requested the land be made inalienable. Ten days later, however, on a request from two Ngāti Awa chiefs, Rangitukehu and Penetito, the Court divided the block into three parts. The largest block was vested in 15 individuals and immediately sold to the Crown. Within days, 27 Ngāti Awa men, women and children petitioned the Native Minister protesting the alienation of the block. Those involved in the sale later requested that the Crown return this and other blocks in exchange for a refund of the purchase money but the Crown did not agree. The remainder of the block, which included the maunga, was awarded to various individuals of Ngāti Awa and other iwi and ceased to be a tribal asset as a consequence of this process of individualisation. Ngāti Awa consider the alienation of Putauaki through various processes in the nineteenth and twentieth centuries to be a significant grievance.

JJ. Ngāti Awa also lost land through acquisitions under public works legislation in the twentieth century, including blocks in the Rangitaiki, Poroporo-Rewatu, Matahina, Whakatāne, and Matata areas. There were urupa, other waahi tapu and papakainga on some of the lands taken.

KK. Ngāti Awa have sought justice for the wrongs inflicted on the iwi by the Crown since 1867. Numerous petitions were sent to the Crown relating to the confiscations, imprisonments, and the loss of land over many generations. Ngāti Awa's case was heard before the Sim Commission in 1927 but the Commission did not find in favour of the general Ngāti Awa claim. The Commission did, however, find that Ngai Te Rangihouhiri II and Ngāti Hikakino had only been granted a small area of land. This was later depleted by a taking under public works legislation and as a result these hapū were left with poor quality land which was insufficient to support them. The Commission recommended the award of some land at Matata, but this never eventuated.

LL. As a result of the recommendations of the Sim Commission other iwi had annuities paid to them by the Crown, and Trust Boards were established for some raupatu iwi, but not for Ngāti Awa.

### 3.2 ACKNOWLEDGEMENTS BY THE CROWN

A. The Crown acknowledges that Ngāti Awa have sought redress since 1867, that despite previous efforts made in the twentieth century it has failed to deal with the grievances of Ngāti Awa in an appropriate way and that recognition of these grievances is long overdue. The Crown hereby recognises the legitimacy of the Ngāti Awa historical claims and makes the following acknowledgements.

## HISTORICAL ACCOUNT, CROWN ACKNOWLEDGEMENTS AND APOLOGY

## B. The Crown acknowledges:

- (a) that Ngāti Awa suffered loss of life and destruction of property during the Crown's expedition to arrest those involved in the murders of Fulloon and others;
- (b) the sense of grievance suffered by Ngāti Awa in relation to the arrests, trials, imprisonment and execution of leaders of Ngāti Awa hapū;
- (c) that the remains of the Ngāti Awa men who died in prison were interred without ceremony within the prison walls and were not returned to their whānau until 1988;
- (d) the destructive effect of these events on the social structure, mana, and rangatiratanga of the hapū involved who were rendered both landless and leaderless.

## C. The Crown acknowledges that:

- (a) Ngāti Awa as an iwi were not in rebellion and were unfairly labelled as "rebels" and "tangata hara";
- (b) Ngāti Awa were deprived of tribal land and resources within the confiscation area and were unable to exercise rangatiratanga over them;
- (c) the confiscation of Ngāti Awa tribal land had a devastating effect on the welfare, economy and development of Ngāti Awa and deprived the iwi of its many waahi tapu, access to its natural resources and opportunities for development;
- (d) its confiscation of Ngāti Awa land was unjust, unconscionable and a breach of the Treaty of Waitangi and its principles, and was described by Ngāti Awa as "he mahi pokanoa – an act without reason".

## D. The Crown acknowledges that:

- (a) the prejudice created by the confiscation was compounded by inadequacies in the Compensation Court;
- (b) the Compensation Court awarded land to individuals rather than iwi or hapū which was not consistent with customary tenure. This system was imposed on Ngāti Awa and their views were not sought;

## HISTORICAL ACCOUNT, CROWN ACKNOWLEDGEMENTS AND APOLOGY

- (c) in many cases the Compensation Court validated prior arrangements made by a Crown official regarding the distribution of land in this area;
- (d) the confiscations were indiscriminate because of the Court's failure to return land in full to those considered to be loyal;
- (e) the compensation process relocated Ngāti Awa hapū from land they had traditionally occupied and cultivated, to those that belonged to other Ngāti Awa hapū which further exacerbated traditional tensions between those hapū;
- (f) Ngāti Awa land, including waahi tapu, was awarded to other iwi who then frequently alienated those lands soon after award;
- (g) these actions eroded the traditional social structures, mana, and rangatiratanga of Ngāti Awa. The Crown failed to adequately protect Ngāti Awa from the impact of these actions and this was a breach of the Treaty of Waitangi and its principles.

## E. The Crown acknowledges that:

- (a) following the vesting of title under native land laws, Ngāti Awa land holdings, comprising land returned after the confiscation and land outside the confiscation boundaries, were further reduced by:
  - (i) The taking of land for payment of survey liens;
  - (ii) Crown purchases and other sales;
- (b) the operation and impact of the native land laws, in particular the awarding of land to individual Ngāti Awa rather than to iwi or hapū, made those lands more susceptible to partition, fragmentation and alienation. This contributed to the further erosion of the traditional tribal structures of Ngāti Awa which were based on collective tribal and hapū custodianship of land. The Crown failed to take steps to adequately protect those structures. This had a prejudicial effect on Ngāti Awa and was a breach of the Treaty of Waitangi and its principles.

## F. The Crown acknowledges that:

- (a) land was also acquired from Ngāti Awa under public works legislation which allowed for the compulsory taking of land if agreement could not be reached.



G. The Crown acknowledges that:

- (a) the cumulative effect of the Crown's actions and omissions, particularly its failure to actively protect Ngāti Awa interests in the land Ngāti Awa wished to retain, left Ngāti Awa virtually landless. The Crown's failure to ensure that Ngāti Awa were left with sufficient land for their present and future needs was a breach of the Treaty of Waitangi and its principles.

H. The Crown acknowledges that:

- (a) the ancestral lands and resources alienated from Ngāti Awa have made a significant contribution to the wealth and development of the nation, whilst Ngāti Awa has been alienated from and deprived of the benefits of those lands and resources. This loss of control over land has prejudiced Ngāti Awa and hindered its economic, social and cultural development. It has also impeded the ability of Ngāti Awa to exercise control over its taonga and waahi tapu and maintain and foster spiritual connections with those ancestral lands;
- (b) the Crown also acknowledges and pays tribute to the contribution that Ngāti Awa has made to the defence of the nation in New Zealand's war efforts overseas;
- (c) the suffering and hardship resulting from the Crown's actions is described by Ngāti Awa in the following waiata:

Here I live as an orphan.  
An orphan upon the land,  
An orphan among the people.  
At night I weep helplessly,  
For where is hospitality to be given?

### 3.3 APOLOGY BY THE CROWN

The Crown apologises formally to Ngāti Awa as follows:

- A. The Crown recognises the efforts and struggles of the ancestors of Ngāti Awa in pursuit of their claims for redress, justice and compensation against the Crown for over 130 years, and hereby makes this apology to them, their descendants and nga uri o nga hapū o Ngāti Awa whanui.

## HISTORICAL ACCOUNT, CROWN ACKNOWLEDGEMENTS AND APOLOGY

- B. The Crown profoundly regrets and apologises unreservedly for the breaches of the Treaty of Waitangi and its principles acknowledged above.
- C. The Crown profoundly regrets and unreservedly apologises for the confiscation of Ngāti Awa lands which was unconscionable.
- D. The Crown profoundly regrets and unreservedly apologises for the cumulative effect of its actions over the generations which has left Ngāti Awa virtually landless, and which has undermined the social and traditional structures and autonomy of Ngāti Awa hapū.
- E. The Crown regrets that Ngāti Awa as an iwi have borne the century old stigma of being labelled “rebels” and “tangata hara” and that this has damaged the self-esteem of the people.
- F. The Crown profoundly regrets and unreservedly apologises for the destructive impact and demoralising effects of its actions which have caused significant damage to the welfare, economy and development of Ngāti Awa as an iwi.
- G. The Crown profoundly regrets its failure to acknowledge the mana and rangatiratanga of Ngāti Awa.
- H. Accordingly, with this apology, the Crown seeks to atone for these wrongs and begin the process of healing and looks forward to building a relationship of mutual trust and co-operation with Ngāti Awa.



## SECTION 4 : CULTURAL REDRESS PROPERTIES

### 4.1 DEFINITIONS

In this Section and its Schedules, unless the context requires otherwise:

*Administering Body* has the same meaning as in section 2 of the Reserves Act 1977;

*Cultural Redress Properties* means the properties to be vested in the Ngāti Awa Governance Entity under *clauses 4.2 to 4.8*;

*Disclosure Information* means, in respect of each Cultural Redress Property, the information already provided by, or on behalf of, the Crown to Ngāti Awa and referred to in *Schedule 4.1*; and

*Encumbrances* means, in respect of each Cultural Redress Property, the tenancies, leases, licences to occupy, easements, covenants or other property rights affecting that property and included in the description of that Cultural Redress Property in *Attachment 4.1* or to be entered into under this Section.

### 4.2 KĀPŪTERANGI

#### 4.2.1 Definition

In this *clause 4.2*, *Kāpūterangi* means that land described by that name in *Attachment 4.1*.

#### 4.2.2 Vesting of Kāpūterangi Historic Reserve

The Settlement Legislation will provide:

- (a) For the revocation of the appointment of the Whakatāne District Council to control and manage Kāpūterangi;
- (b) For the revocation of the reservation of Kāpūterangi as a historic reserve subject to section 18 of the Reserves Act 1977;
- (c) That when the reservation of Kāpūterangi as a historic reserve is revoked, it will vest in the Crown as Crown Land and be subject to section 82 of the Reserves Act 1977;
- (d) That, following the vesting described in *clause 4.2.2(c)*, the fee simple estate in Kāpūterangi will be vested in the Ngāti Awa Governance Entity;

- (e) For the reservation of Kāpūterangi as a historic reserve subject to section 18 of the Reserves Act 1977, for which the Ngāti Awa Governance Entity will be the Administering Body; and
- (f) That, notwithstanding section 16(10) of the Reserves Act 1977, the name of the reserve created under *clause 4.2.2(e)* will be Kāpūterangi Historic Reserve.

#### **4.2.3 Significance of Kāpūterangi to other iwi (including other Mātaatua iwi)**

Ngāti Awa acknowledges that Kāpūterangi is a site that is significant to other iwi (including other Mātaatua iwi), being the location of the pā of Toi Te Huatahi. The Ngāti Awa Governance Entity therefore undertakes to acknowledge the significance of the site to other iwi in any published and interpretation material that it produces about the Kāpūterangi Historic Reserve.

#### **4.2.4 Kohi Point Walkway**

Ngāti Awa acknowledges that the part of the Kohi Point Walkway shown on SO 57035 that is included in Kāpūterangi is intended to be a walkway for the purposes of the New Zealand Walkways Act 1990 and that the Settlement Legislation will provide that:

- (a) that part of the Kohi Point Walkway is deemed to be a walkway under section 6 of that Act immediately before the steps outlined in *clause 4.2.2* have effect; and
- (b) the Registrar-General of Land, upon creation of a computer freehold register for Kāpūterangi, shall make a notification on it to record the effect of *clause 4.2.4(a)*.

### **4.3 TE PARIPARI PĀ**

#### **4.3.1 Definition**

In this *clause 4.3*, *Te Paripari Pā* means that land described by that name in *Attachment 4.1*.

#### **4.3.2 Vesting of Te Paripari Pā Historic Reserve**

The Settlement Legislation will provide:

- (a) For the revocation of the reservation of Te Paripari Pā as a historic reserve subject to section 18 of the Reserves Act 1977;

- (b) That when the reservation of Te Paripari Pā as a historic reserve is revoked, it will vest in the Crown as Crown Land and be subject to section 82 of the Reserves Act 1977;
- (c) That, following the vesting described in *clause 4.3.2(b)*, the fee simple estate in Te Paripari Pā will be vested in the Ngāti Awa Governance Entity;
- (d) For the reservation of Te Paripari Pā as a historic reserve subject to section 18 of the Reserves Act 1977, for which the Ngāti Awa Governance Entity will be the Administering Body; and
- (e) That, notwithstanding section 16(10) of the Reserves Act 1977, the name of the reserve created under *clause 4.3.2(b)* will be Te Paripari Pā Historic Reserve.

#### 4.4 OTITAPU PĀ

##### 4.4.1 Definition

In this *clause 4.4*, *Otitapu Pā* means that part of the Mangaone Scenic Reserve described in *Attachment 4.1*.

##### 4.4.2 Vesting of Otitapu Pā

The Settlement Legislation will provide:

- (a) For the revocation of the reservation of Otitapu Pā, as a scenic reserve subject to section 19 of the Reserves Act 1977;
- (b) That when the reservation of Otitapu Pā as a scenic reserve is revoked, it will vest in the Crown as Crown Land and be subject to section 82 of the Reserves Act 1977;
- (c) That, following the vesting described in *clause 4.4.2(b)* the fee simple estate in Otitapu Pā will be vested in the Ngāti Awa Governance Entity subject to the protected private land agreement referred to in *clause 4.4.4*;
- (d) That the protected private land agreement referred to in *clause 4.4.4* is deemed to be an agreement for the purpose of section 76 of the Reserves Act 1977; and

- (e) That Otitapu Pā is declared to be protected private land under section 76 of the Reserves Act 1977, and the Registrar-General of Land will note a memorial on the title to record this declaration.

#### 4.4.3 Remainder of Mangaone Scenic Reserve unaffected

For the avoidance of doubt, that part of the Mangaone Scenic Reserve not vested in the Ngāti Awa Governance Entity in accordance with *clause 4.4.2* is unaffected by this *clause 4.4* and continues to be a scenic reserve subject to section 19 of the Reserves Act 1977 as at the Settlement Date.

#### 4.4.4 Protected private land agreement

On the Settlement Date, the Ngāti Awa Governance Entity shall enter into a protected private land agreement with the Minister of Conservation in the form set out in *Schedule 4.2*, in respect of Otitapu Pā.

### 4.5 TE TOANGAPOTO

#### 4.5.1 Definition

In this *clause 4.5*, *Te Toangapoto* means that part of the Western Whakatāne Recreation Reserve described in *Attachment 4.1*.

#### 4.5.2 Vesting of Te Toangapoto

The Settlement Legislation will provide:

- (a) For the cancellation of the vesting in the Whakatāne District Council of Te Toangapoto;
- (b) For the revocation of the reservation of Te Toangapoto as a recreation reserve subject to section 17 of the Reserves Act 1977;
- (c) That when the reservation of Te Toangapoto as a recreation reserve is revoked, it will vest in the Crown as Crown Land and be subject to section 82 of the Reserves Act 1977;
- (d) That following the vesting described in *clause 4.5.2(c)* the fee simple estate in Te Toangapoto will be vested in the Ngāti Awa Governance Entity;
- (e) For the reservation of Te Toangapoto as a recreation reserve subject to section 17 of the Reserves Act 1977, for which the Ngāti Awa Governance Entity will be the Administering Body; and

- (f) That, notwithstanding section 16(10) of the Reserves Act 1977, the name of the reserve created under *clause 4.5.2(e)* will be Te Toangapoto Recreation Reserve.

#### **4.5.3 Remainder of Western Whakatāne Recreation Reserve unaffected**

For the avoidance of doubt, that part of the Western Whakatāne Recreation Reserve not vested in the Ngāti Awa Governance Entity in accordance with *clause 4.5.2* is unaffected by this *clause 4.5* and continues to be a recreation reserve vested in the Whakatāne District Council subject to section 17 of the Reserves Act 1977 under that name and administration as at the Settlement Date.

### **4.6 TE IHUKATIA**

#### **4.6.1 Definition**

In this *clause 4.6*, *Te Ihukatia* means that part of the Port Ōhope Recreation Reserve described in *Attachment 4.1*.

#### **4.6.2 Vesting of Te Ihukatia**

The Settlement Legislation will provide:

- (a) For the revocation of the reservation of Te Ihukatia as a recreation reserve subject to section 17 of the Reserves Act 1977;
- (b) That when the reservation of Te Ihukatia as a recreation reserve is revoked, it will vest in the Crown as Crown Land and be subject to section 82 of the Reserves Act 1977;
- (c) That following the vesting described in *clause 4.6.2(b)* the fee simple estate in Te Ihukatia will be vested in the Ngāti Awa Governance Entity;
- (d) For the reservation of Te Ihukatia as a recreation reserve subject to section 17 of the Reserves Act 1977 for which the Ngāti Awa Governance Entity will be the Administering Body; and
- (e) That, notwithstanding section 16(10) of the Reserves Act 1977, the name of the reserve created under *clause 4.6.2(d)* will be Te Ihukatia Recreation Reserve.

#### **4.6.3 Remainder of Port Ōhope Recreation Reserve unaffected**

For the avoidance of doubt, that part of the Port Ōhope Recreation Reserve not vested in the Ngāti Awa Governance Entity in accordance with *clause 4.6.2* is

unaffected by this *clause 4.6* and continues to be a recreation reserve subject to section 17 of the Reserves Act 1977 as at the Settlement Date.

#### 4.7 WHAKAPAU KORERO

##### 4.7.1 Definition

In this *clause 4.7*, *Whakapaukorero* means that part of the Matata Scenic Reserve described in *Attachment 4.1*.

##### 4.7.2 Vesting of Whakapaukorero

The Settlement Legislation will provide:

- (a) For the revocation of the reservation of Whakapaukorero as a scenic reserve subject to section 19 of the Reserves Act 1977;
- (b) That when the reservation of Whakapaukorero as a scenic reserve is revoked, it will vest in the Crown as Crown Land and be subject to section 82 of the Reserves Act 1977;
- (c) That following the vesting described in *clause 4.7.2(b)*, the fee simple estate in Whakapaukorero will be vested in the Ngāti Awa Governance Entity;
- (d) For the reservation of Whakapaukorero as a historic reserve subject to section 18 of the Reserves Act 1977 for which the Ngāti Awa Governance Entity will be the Administering Body; and
- (e) That, notwithstanding section 16(10) of the Reserves Act 1977, the name of the reserve created under *clause 4.7.2(d)* will be Whakapaukorero.

##### 4.7.3 Remainder of Matata Scenic Reserve

For the avoidance of doubt, that part of the Matata Scenic Reserve not vested in the Ngāti Awa Governance Entity in accordance with *clause 4.7.2* is unaffected by this *clause 4.7* and continues to be a scenic reserve subject to section 19 of the Reserves Act 1977 as at the Settlement Date.

#### 4.8 FORMER MATAHINA A4 BLOCK

##### 4.8.1 Definition

In this *clause 4.8*, *Former Matahina A4 Block* means that land described by that name in *Attachment 4.1*.

#### 4.8.2 Vesting of Former Matahina A4 Block

The Settlement Legislation will provide:

- (a) That the fee simple estate in Former Matahina A4 Block will be vested in the Ngāti Awa Governance Entity; and
- (b) That the vesting under *clause 4.8.2(a)* is free from the requirement under Part IVA of the Conservation Act 1987 to reserve a marginal strip.

#### 4.9 VESTING OF CULTURAL REDRESS PROPERTIES

Each Cultural Redress Property shall vest in the Ngāti Awa Governance Entity:

- (a) As redress and without charge to, or consideration to be provided or paid by, the Ngāti Awa Governance Entity or any other person; and
- (b) Subject to and, where applicable, with the benefit of all Encumbrances that relate to that property, which are specified in *Attachment 4.1*, and the terms of this Deed.

#### 4.10 SETTLEMENT DATE

The Settlement Legislation will provide that steps outlined in *clauses 4.2 to 4.8* will take place on, and with effect from, the Settlement Date.

#### 4.11 DETERMINATION OF BOUNDARIES AND COSTS

Where the precise boundaries of any Cultural Redress Properties have not been determined, the Crown will, at its cost, arrange for the relevant Cultural Redress Property to be surveyed and for a survey plan to be prepared and approved (and where applicable deposited). The Crown will pay for all costs required in order to vest the Cultural Redress Properties in the Ngāti Awa Governance Entity.

#### 4.12 TITLE TO PROPERTIES

##### 4.12.1 Settlement Legislation

The Settlement Legislation will provide for the matters set out in *clauses 4.12.2 and 4.12.3* to give effect to each vesting of the fee simple estate in a Cultural Redress Property under this *Section 4*.

#### 4.12.2 Existing Title

Where the land, that forms all or part of the Cultural Redress Property, is all of the land contained in an existing certificate of title or computer freehold register, the Registrar-General of Land must on written application by any person authorised by the Chief Executive of Land Information New Zealand:

- (a) Register the Governance Entity as the proprietor of the fee simple estate in that land; and
- (b) Make such entries in the register, and generally do all things, as may be necessary to give effect to this *Section 4*.

#### 4.12.3 Creation of Title

Where *clause 4.12.2* does not apply, the Registrar-General of Land must on written application by any person authorised by the Chief Executive of Land Information New Zealand (and after completion of survey (if any) as may be necessary) create, in accordance with that application, one or more computer registers in the name of the Governance Entity for the fee simple estate in land that forms all or part of the Cultural Redress Property subject to, and where applicable, with the benefit of, any Encumbrances that are registrable or notifiable and are described on the written application.

#### 4.13 CREATION OF TITLE AS SOON AS REASONABLY PRACTICABLE

The Settlement Legislation will further provide that one or more computer freehold registers for each of the Cultural Redress Properties, must be created under *clause 4.12.3* as soon as reasonably practicable after the Settlement Date and, in any event, no later than 24 months after the vesting of the Cultural Redress Property (or such later date as may be agreed in writing by the Ngāti Awa Governance Entity and the Crown).

#### 4.14 SETTLEMENT LEGISLATION

The Settlement Legislation will provide that:

- (a) Sections 24 and 25 of the Reserves Act 1977 will not apply to a revocation of the reserve status of a Cultural Redress Property to give effect to the vesting of the property in the Ngāti Awa Governance Entity under this *Section 4*;



## CULTURAL REDRESS PROPERTIES

- (b) Sections 78(1)(a), 79, 80 and 81 of the Reserves Act 1977 will not apply to any fee simple estate vested in the Ngāti Awa Governance Entity under this *Section 4*;
- (c) Section 11 or Part X of the Resource Management Act 1991 will not apply to the vesting of the fee simple estate in a Cultural Redress Property in the Ngāti Awa Governance Entity, or anything incidental to, or required for the purposes of, any such vesting;
- (d) The vesting of a Cultural Redress Property under this *Section 4* does not affect any privately owned rights to sub-surface minerals or limit sections 10 and 11 of the Crown Minerals Act 1991; and
- (e) Except as provided for in *clause 4.8.2(b)*, the vesting of the fee simple estate to give effect to this *Section 4* is a disposition for the purposes of Part IVA of the Conservation Act 1987, but sections 24(2A), 24A and 24AA of that Act do not apply to the disposition,

and will contain such other provisions as are necessary or desirable to give effect to this *Section 4*.

#### 4.15 DISCLOSURE INFORMATION

##### 4.15.1 Warranty

The Crown warrants to the Ngāti Awa Governance Entity that the Disclosure Information:

- (a) Relating to the Cultural Redress Properties described in *clauses 4.2 to 4.7* contains all the material information that relates to those Cultural Redress Properties contained in the Department of Conservation's records; and
- (b) Relating to the Cultural Redress Property described in *clause 4.8* contains all the material information that relates to the Cultural Redress Property contained in the Treasury's records.

This warranty does not extend to information which may be apparent from a physical inspection of the Cultural Redress Properties or an enquiry beyond the Crown's records as owner.

**4.15.2 Acknowledgment by Ngāti Awa**

Ngāti Awa acknowledges and agrees that other than those set out in *clause 4.15.1*, no representation or warranty is given, whether express or implied, nor is any responsibility accepted by the Crown with respect to:

- (a) The completeness or accuracy of the Disclosure Information;
- (b) The physical condition of the Cultural Redress Properties;
- (c) The compliance or otherwise of the Cultural Redress Properties with any legislation, regulations, by-laws or any powers, rights and obligations under them, including any outstanding enforcement or other notice, requisition or proceeding issued under any code by any relevant authority, relating to or affecting the Cultural Redress Properties; and
- (d) Any other matter relating to the ownership, occupation, use or management of the Cultural Redress Properties.

**4.15.3 Acknowledgment by Ngāti Awa and the Crown**

Ngāti Awa and the Crown acknowledge and record that prior to the date of this Deed, Ngāti Awa had the opportunity to inspect the Cultural Redress Properties and satisfy itself as to the state and condition of the Cultural Redress Properties.

**4.16 CULTURAL REDRESS PROPERTIES TO VEST IN THEIR STATE AND CONDITION AS AT THE DATE OF THIS DEED**

Ngāti Awa and the Crown agree that the Cultural Redress Properties are to be vested in substantially the same state and condition as at the date of this Deed and that subject to the Crown complying with *clause 4.17*, neither Ngāti Awa nor any Representative Entity has future recourse, claim or action against the Crown, nor will Ngāti Awa or any Representative Entity seek future recompense from the Crown in relation to the state or condition of the Cultural Redress Properties.

**4.17 CROWN TO MAINTAIN CONDITION OF PROPERTY OR PROPERTY INTERESTS AND STRUCTURES**

The Crown agrees that between the date of this Deed and the Settlement Date it will maintain and administer the Cultural Redress Properties (other than those which are not administered by the Crown) in substantially the same state and condition as at the date of this Deed (subject to events beyond the control of the

Crown) and in accordance with its existing management and administration of such Cultural Redress Properties.

#### 4.18 ACCESS

##### 4.18.1 No formal arrangements

Ngāti Awa acknowledge that no formal arrangements for access by Ngāti Awa to the Cultural Redress Properties following vesting of them in the Ngāti Awa Governance Entity are, at the date of this Deed, required to be made by the Crown or under the Settlement Legislation.

##### 4.18.2 Future Access

If at any time the Crown proposes to dispose of, or change the status of, any Crown owned land over which legal access to any of the Cultural Redress Properties in *clauses 4.4 to 4.7* is gained, the Crown agrees to ensure that access to the Cultural Redress Properties in *clauses 4.4 to 4.7* remains over that land following such disposal or change of status to the extent that it is practically possible to provide access without the need to substantially alter the physical terrain of that land in any way, and to the extent that it is legally possible to provide access without the need for the Crown to promulgate or amend legislation.

#### 4.19 NOT CONDITIONAL

*Clause 12.1.1* (which provides that this Deed is conditional upon the Settlement Legislation coming into force) does not apply to *clauses 4.11* and *4.17*.



## CULTURAL REDRESS PROPERTIES

**ATTACHMENT 4.1**  
**CULTURAL REDRESS PROPERTIES**  
*(Clause 4.2-4.8)*

Property	Land Description	Encumbrances
Kāpūterangi <i>(Clause 4.2)</i>	South Auckland Land District – Whakatāne District  4.9321 hectares, more or less, being Allotment 538 Waimana Parish. All Gazette Notice S.441997.  As shown on SO 61683	Subject to Kohi Point Walkway, a walkway under the New Zealand Walkways Act 1990.
Te Paripari Pā <i>(Clause 4.3)</i>	South Auckland Land District – Whakatāne District  1.0451 hectares, more or less, being Lot 2 DP 23964. All Gazette Notice S.547411.  As shown on SO 61684	
Otitapu Pā (Part Mangaone Scenic Reserve) <i>(Clause 4.4)</i>	South Auckland Land District – Whakatāne District  6.0 hectares, approximately, being Part Section 9 Block XII Rotoma Survey District. Part Gazette Notice S.264764. Subject to survey.  As shown on SO 61687	Subject to the protected private land agreement referred to in <i>clause 4.4.4</i>

## CULTURAL REDRESS PROPERTIES

Property	Land Description	Encumbrances
<p>Te Toangapoto (Part of the Western Whakatāne Recreation Reserve)</p> <p><i>(Clause 4.5)</i></p>	<p>South Auckland Land District – Whakatāne District</p> <p>10.0 hectares, approximately, being Part Allotment 273 Rangitaiki Parish. Part Gazette Notice H.024770. Subject to survey.</p> <p>As shown on SO 61741</p>	
<p>Te Ihukatia (Part of the Port Ōhope Recreation Reserve)</p> <p><i>(Clause 4.6)</i></p>	<p>South Auckland Land District – Whakatāne District</p> <p>1.1 hectares, approximately, being Part Allotment 669 Waimana Parish. Part Gazette Notice H.045762. Subject to survey.</p> <p>AND</p> <p>8.9 hectares, approximately, being Part Allotment 679 Waimana Parish. Part Gazette Notice H.163890. Subject to survey.</p> <p>As shown on SO 61740.</p>	

## CULTURAL REDRESS PROPERTIES

Property	Land Description	Encumbrances
<p>Whakapaukorero (Part of the Matata Scenic Reserve)</p> <p>(Clause 4.7)</p>	<p>South Auckland Land District – Whakatāne District</p> <p>30.0 hectares, approximately, being:</p> <p>Part Section 1 Block II and Part Section 1 Block VI Awaateatua Survey District. Part Gazette Notice H.011708;</p> <p>AND</p> <p>Part Allotment 227 Matata Parish. Part Computer Freehold Register SA10A/600;</p> <p>AND</p> <p>Part Allotment 833 Matata Parish. Part Gazette Notice S.554446.</p> <p>Subject to survey.</p> <p>As shown on SO 61688.</p>	

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## CULTURAL REDRESS PROPERTIES

Property	Land Description	Encumbrances
<p>Former Matahina A4 Block</p> <p><i>(Clause 4.8)</i></p>	<p>South Auckland Land District – Whakatāne District</p> <p>4045 square metres, more or less, being Section 2 SO 60978. All Computer Freehold Register SA65B/912 (stratum title).</p> <p>The land in this Computer Freehold Register applies to the surface and airspace above the reduced level of 79.48 metres (Moturiki EDS datum).</p> <p>As shown on SO 61686</p>	<p>Subject to a right to operate for Water Power Development Purposes. Created by Transfer B.499075.10</p>

**SECTION 5: CULTURAL REDRESS****5.1 \$1 MILLION GIFT IN RESPECT OF MĀTAATUA COMPLEX****5.1.1 Gift on the Settlement Date**

The Crown shall gift to the Ngāti Awa Governance Entity the sum of \$1,000,000 on the Settlement Date to assist with the purchase of land and development of that land for re-establishment of the Mātaatua complex.

**5.1.2 Re-establishment of Mātaatua complex**

The Ngāti Awa Governance Entity agrees that it will use the sum referred to in *clause 5.1.1* for the purpose of purchasing and developing land for the re-establishment of the Mātaatua complex.

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## 5.2 STATUTORY ACKNOWLEDGEMENT AND DEEDS OF RECOGNITION

### 5.2.1 Definitions

- (a) In this *clause 5.2* and in *Schedules 5.1 to 5.18*:

**Consent Authority** has the meaning given to it in section 2 of the Resource Management Act 1991;

**Deed of Recognition** means a deed of recognition entered into by the Crown in respect of the Statutory Areas referred to in *Schedules 5.12 to 5.18* only, under *clause 5.2.14* of this Deed;

**Effective Date** means the date that is 6 months after the Settlement Date;

**Relevant Consent Authority** means, for the purposes of a Statutory Acknowledgment, a Consent Authority of a region or district which contains or is adjacent to the Statutory Area to which the Statutory Acknowledgement relates;

**Resource Consent** has the meaning given to it in section 87 of the Resource Management Act 1991;

**Statutory Acknowledgement** means an acknowledgement made by the Crown in the Settlement Legislation in respect of the Statutory Areas referred to in *Schedules 5.1 to 5.11*, comprising the acknowledgement made by the Crown under *clause 5.2.3*, on the terms set out in *clause 5.2*;

**Statutory Areas** means the areas and rivers, defined in *Schedules 5.1 to 5.18*, the general locations of which are indicated on the SO plans indicated in those *Schedules*, and *Statutory Area* means any one of them; and

**Statutory Plans** means all regional policy statements, regional coastal plans, district plans, regional plans and proposed plans as defined in section 2 of the Resource Management Act 1991.

- (b) SO references are included in the relevant Schedules for the purposes of indicating the general location of Statutory Areas and are not intended to establish the precise boundaries of Statutory Areas.

### 5.2.2 Purposes of Statutory Acknowledgements

The Settlement Legislation will provide that, without limiting *clauses 5.2.20 to 5.2.22*, the only purposes of the Statutory Acknowledgements will be:

- (a) To require that Relevant Consent Authorities forward summaries of Resource Consent applications to the Ngāti Awa Governance Entity as provided in *clause 5.2.8*;
- (b) To require that Relevant Consent Authorities, the Environment Court, or the Historic Places Trust, as the case may be, have regard to the Statutory Acknowledgements in relation to the Statutory Areas, as provided in *clauses 5.2.4 to 5.2.6*; and
- (c) To enable the Ngāti Awa Governance Entity and any Member of Ngāti Awa to cite Statutory Acknowledgements as evidence of the association of Ngāti Awa to the Statutory Areas, as provided in *clause 5.2.10*.

### 5.2.3 Provision of Statutory Acknowledgements by Crown

The Crown agrees that it will make Statutory Acknowledgements in the Settlement Legislation relating to the Statutory Areas, which will comprise:

- (a) The descriptions of the Statutory Areas set out in *Schedules 5.1 to 5.11*;
- (b) The texts of the statements by Ngāti Awa of the particular cultural, spiritual, historic, and traditional association of Ngāti Awa with the Statutory Areas as set out in *Schedules 5.1 to 5.11*;
- (c) An acknowledgement by the Crown of Ngāti Awa's statement of association with the Statutory Areas;
- (d) A statement of the purposes of the Statutory Acknowledgements as described in *clause 5.2.2*;
- (e) A statement of the limitations on the effect of the Statutory Acknowledgement as provided in *clauses 5.2.20 to 5.2.22*; and
- (f) A statement that a Statutory Acknowledgement does not prevent the Crown from providing a statutory acknowledgement in respect of the relevant Statutory Area to a person or persons other than Ngāti Awa or a Representative Entity.

**5.2.4 Relevant Consent Authorities to have regard to Statutory Acknowledgements**

The Settlement Legislation will provide that, from the Effective Date, and without derogating from its obligations under Part II of the Resource Management Act 1991, a Relevant Consent Authority must have regard to the Statutory Acknowledgement relating to a Statutory Area:

- (a) In forming an opinion under section 93(1)(e) of the Resource Management Act 1991 as to whether the Ngāti Awa Governance Entity is a person who is likely to be directly affected by an application for activities within, adjacent to, or impacting directly on the Statutory Area;
- (b) In forming an opinion under sections 94(1)(c)(ii) and 94(3)(c) of the Resource Management Act 1991 as to whether the Ngāti Awa Governance Entity is a person who may be adversely affected by the granting of a Resource Consent for activities within, adjacent to, or impacting directly on a Statutory Area; and
- (c) In satisfying itself under section 94(2)(b) of the Resource Management Act 1991 as to whether the Ngāti Awa Governance Entity is a person who may be adversely affected by the granting of a Resource Consent for activities within, adjacent to, or impacting directly on a Statutory Area.

**5.2.5 Environment Court to have regard to Statutory Acknowledgements**

The Settlement Legislation will provide that, from the Effective Date and without derogating from its obligations under Part II of the Resource Management Act 1991, the Environment Court must have regard to the Statutory Acknowledgement relating to a Statutory Area in determining, for the purposes of section 274 of the Resource Management Act 1991, whether the Ngāti Awa Governance Entity is a person having an interest in the proceedings greater than the public generally in respect of an application for a Resource Consent for activities within, adjacent to, or impacting directly on the Statutory Area.

**5.2.6 New Zealand Historic Places Trust and Environment Court to have regard to Statutory Acknowledgements**

The Settlement Legislation will provide that, from the Effective Date, the New Zealand Historic Places Trust or the Environment Court (as the case may be) must have regard to the Statutory Acknowledgement relating to a Statutory Area, in forming an opinion under section 14(6)(a) of the Historic Places Act 1993, and for the purpose of section 20(1) of the Historic Places Act 1993, as to whether the Ngāti Awa Governance Entity may be, or is, a person directly affected in relation to an archaeological site (as defined in section 2 of that Act) within the Statutory Area.

### 5.2.7 Recording of Statutory Acknowledgements on Statutory Plans

The Settlement Legislation will provide that from the Effective Date:

- (a) Relevant Consent Authorities must attach to all Statutory Plans information recording all Statutory Acknowledgements affecting Statutory Areas covered wholly or partly by such Statutory Plans, either by way of reference to the relevant part of the Settlement Legislation or by setting out the Statutory Acknowledgements in full; and
- (b) The attachment of information to any Statutory Plan under this clause is for the purpose of public information only and the information shall neither be part of the Statutory Plan (unless adopted by the Relevant Consent Authority) nor subject to the provisions of the First Schedule of the Resource Management Act 1991.

### 5.2.8 Forwarding summary of resource consent application to the Ngāti Awa Governance Entity

The Settlement Legislation will provide that:

- (a) Subject to *clause 5.2.8(b)*, for a period of 20 years from and after the Effective Date, a Relevant Consent Authority that receives an application for a Resource Consent for activities within, adjacent to, or impacting directly on a Statutory Area must, as soon as reasonably practicable after receiving the application, and prior to making any determination under sections 93 or 94 of the Resource Management Act 1991, forward a summary of the application to the Ngāti Awa Governance Entity;
- (b) The summary of the application which is to be forwarded to the Ngāti Awa Governance Entity under *clause 5.2.8(a)* must contain the same information which would be contained in a notice to persons who may be affected under section 93 of the Resource Management Act 1991, or such other information as may be agreed between the Ngāti Awa Governance Entity and individual Relevant Consent Authorities from time to time; and
- (c) The Ngāti Awa Governance Entity may from time to time waive its rights under *clause 5.2.8(a)* by notice in writing to a Relevant Consent Authority, either generally or in respect of particular types of applications, individual consent authorities, or for specified periods of time, so that the Relevant Consent Authority is no longer required to discharge its obligations in terms of *clause 5.2.8(a)* in respect of the matter waived.

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### 5.2.9 Decision of Relevant Consent Authority

The Settlement Legislation will provide that, for the avoidance of doubt, nothing in *clause 5.2.8* will in any way affect whether or not any application is notified in accordance with sections 93 and 94 of the Resource Management Act 1991, or the discretion of a Relevant Consent Authority as to whether or not the Ngāti Awa Governance Entity may be an affected person under those sections.

### 5.2.10 Use of Statutory Acknowledgement with submissions

The Settlement Legislation will provide that the Ngāti Awa Governance Entity and any Member of Ngāti Awa may cite the relevant Statutory Acknowledgement in submissions to, and in proceedings before, a Relevant Consent Authority, the Environment Court, or the New Zealand Historic Places Trust concerning activities within, adjacent to, or impacting directly on a Statutory Area, as evidence of Ngāti Awa's association with the Statutory Area.

### 5.2.11 Content not nature of fact

The Settlement Legislation will provide that the content of the statement of association, as recorded in a Statutory Acknowledgement, is not by virtue of the Statutory Acknowledgement binding as deemed fact on Relevant Consent Authorities, the Environment Court, the New Zealand Historic Places Trust, parties to proceedings before those bodies, or any other person able to participate in those proceedings, but the Statutory Acknowledgement may be taken into account by them.

### 5.2.12 Other association may be stated

Neither the Ngāti Awa Governance Entity nor any Member of Ngāti Awa is precluded from stating that Ngāti Awa has an association with the Statutory Area that is not described in the relevant Statutory Acknowledgement, nor shall the content or existence of the Statutory Acknowledgement derogate from any such statement.

### 5.2.13 Purposes of Deeds of Recognition

The Settlement Legislation will provide:

- (a) That without limiting *clauses 5.2.20 to 5.2.22*, the only purpose of the Deeds of Recognition will be to require that the Ngāti Awa Governance Entity be consulted, and regard had to its views, as provided in *clause 5.2.16*; and
- (b) A recognition that the Crown may undertake only limited management or administrative functions in relation to a Statutory Area in respect of which a Deed of Recognition is to be given; and

- (c) That entry into a Deed of Recognition does not require the Crown to:
- (i) Increase its management or administrative functions; or
  - (ii) Resume any management or administrative function.

#### **5.2.14 Authorisation to enter into Deeds of Recognition**

The Settlement Legislation will provide in respect of the Statutory Areas referred to in *Schedules 5.12 to 5.18* only that the Minister of the Crown responsible for the management or administration of the land within a Statutory Area, or the Commissioner of Crown Lands, as the case may be, will have power to enter into and amend a Deed of Recognition with the Ngāti Awa Governance Entity in respect of the relevant land within the Statutory Area.

#### **5.2.15 Crown obligation to enter into Deeds of Recognition**

No later than the Settlement Date, the Crown will enter into the Deeds of Recognition set out in *Schedules 5.12 to 5.18* in respect of those parts of the Statutory Areas described in those Schedules which are owned and managed by the Crown.

#### **5.2.16 Form and terms of Deeds of Recognition**

The Settlement Legislation will provide that a Deed of Recognition entered into under *clause 5.2.14* will provide that the Ngāti Awa Governance Entity must be consulted and regard must be had to its views relating to the association described in the Deed of Recognition, concerning the management or administration of the Statutory Area by the responsible Minister of the Crown, or the Commissioner of Crown Lands, as the case may be, on the matters specified in the Deed of Recognition.

#### **5.2.17 Termination of Deeds of Recognition**

The Settlement Legislation will provide that a Deed of Recognition will terminate in relation to a Statutory Area or part of it (the "*Identified Area*") if:

- (a) The Ngāti Awa Governance Entity and the Crown agree in writing that the Deed of Recognition is no longer appropriate in respect of the Identified Area; or
- (b) The Identified Area is disposed of by the Crown; or
- (c) The responsibility for managing the Identified Area is transferred to a different Minister or Department.

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**5.2.18 Continued input in respect of Deeds of Recognition**

If a Deed of Recognition terminates in relation to an Identified Area because the responsibility for managing the Identified Area is transferred to a different Minister or Department, the Crown will take reasonable steps to ensure that the Ngāti Awa Governance Entity continues to have input into the management or administration of that Identified Area, through negotiation with the new responsible Minister, the Commissioner of Crown Lands or other responsible official, as the case may be.

**5.2.19 No limitation on Crown in respect of Statutory Acknowledgements and Deeds of Recognition**

The Settlement Legislation will provide that neither the providing of a Statutory Acknowledgement to the Ngāti Awa Governance Entity nor the entry into a Deed of Recognition with the Ngāti Awa Governance Entity will prevent the Crown from providing a statutory acknowledgement to, or entering into a deed of recognition with, a person or persons other than Ngāti Awa or a Representative Entity, with respect to the same Statutory Area.

**5.2.20 Exercise of powers, duties and functions in respect of Statutory Acknowledgements and Deeds of Recognition**

The Settlement Legislation will provide that, except as expressly provided in *clauses 5.2.2, 5.2.4 to 5.2.6, 5.2.10, 5.2.13 and 5.2.16*:

- (a) Neither a Statutory Acknowledgement nor a Deed of Recognition will affect, or may be taken into account in, the exercise of any power, duty, or function by any person or entity under any statute, regulation, or bylaw; and
- (b) Without limiting *clause 5.2.20(a)*, no person or entity, in considering any matter or making any decision or recommendation under any statute, regulation, or bylaw, may give any greater or lesser weight to Ngāti Awa's association with a Statutory Area (as described in the relevant Statutory Acknowledgement) than that person or entity would give under the relevant statute, regulation, or bylaw, if no Statutory Acknowledgement or Deed of Recognition existed in respect of that Statutory Area.

**5.2.21 Rights not affected by Statutory Acknowledgements and Deeds of Recognition**

The Settlement Legislation will provide that, except as expressly provided in this *clause 5.2*, neither a Statutory Acknowledgement provided to the Ngāti Awa Governance Entity, nor a Deed of Recognition entered into with the Ngāti Awa Governance Entity, will affect the lawful rights or interests of any party who is not a party to this Deed.

**5.2.22 Limitation of rights**

The Settlement Legislation will provide that, except as expressly provided in this *clause 5.2*, neither a Statutory Acknowledgement provided to the Ngāti Awa Governance Entity, nor a Deed of Recognition entered into with the Ngāti Awa Governance Entity, will have the effect of granting, creating, or providing evidence of any estate or interest in, or any rights of any kind whatsoever relating to, a Statutory Area.

**5.2.23 Resource Management Act 1991**

The Settlement Legislation will provide for an amendment to Schedule 11 of the Resource Management Act 1991, to add the short title of the Settlement Legislation to that Schedule.

**5.2.24 Statutory Acknowledgements in relation to Rivers**

The Settlement Legislation will provide that, where a Statutory Acknowledgment is to be given in relation to a river, river:

(a) means:

- (i) A continuously or intermittently flowing body of fresh water, including a stream and modified water course; and
- (ii) The bed of the river; but

(b) does not include:

- (i) Any artificial watercourse;
- (ii) Any part of the bed of the river which is not owned by the Crown;
- (iii) Any land which the waters of the river do not cover at its fullest flow without overlapping its banks; or
- (iv) Any tributary flowing into the river.

**5.2.25 Deeds of Recognition in relation to the beds of Rivers**

The Settlement Legislation will provide that, where a Deed of Recognition is to be given in relation to the bed of a river, the bed of the river does not include:

- (a) Any part of the bed of the river which is not owned and managed by the Crown;

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- (b) Any land which the waters of the river do not cover at its fullest flow without overlapping its banks;
- (c) The bed of any artificial watercourse; or
- (d) The bed of any tributary flowing into the river.

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### 5.3 JOINT ADVISORY COMMITTEE IN RESPECT OF MATATA SCENIC RESERVE, WHAKAPAU KORERO AND TE AWA A TE ATUA (MATATA WILDLIFE REFUGE RESERVE)

#### 5.3.1 Definitions

In this *clause 5.3*:

*Conservation Management Plan* has the meaning given to it by section 2 of the Conservation Act 1987; and includes a conservation management strategy as defined by section 2 of the Conservation Act 1987;

*Director-General* means the Director-General of Conservation;

*Joint Advisory Committee* means the advisory committee appointed in accordance with *clause 5.3.2* and continuing subject to *clause 5.3.7*;

*Matata Scenic Reserve* means the land described by that name in *Attachment 5.1*;

*Members* means members of the Joint Advisory Committee;

*Minister* means the Minister of Conservation;

*Other Claimants* means a group of individuals, or their governance entity, who have entered into a deed of settlement with the Crown to settle claims made by that group of a kind described in *clause 1.3.1(a)*;

*Retained Sites* means:

(a) Te Awa a Te Atua; and

(b) the Matata Scenic Reserve less Whakapaukorero;

*Te Awa a Te Atua* means the land described by that name in *Attachment 5.1*; and

*Whakapaukorero* has the meaning given to it by *Section 4*.

#### 5.3.2 Appointment and functions of Joint Advisory Committee

Subject to *clause 5.3.10*, no later than 12 months after the Settlement Date and subject to nominations being received as described in *clause 5.3.4*, the Minister will appoint a Joint Advisory Committee on terms of reference that require it to advise:

- (a) the Minister and Director-General on Conservation matters affecting the Retained Sites; and
- (b) the Ngāti Awa Governance Entity on Conservation matters affecting Whakapaukorero.

### 5.3.3 Advice on Conservation Matters

- (a) The Minister and the Director-General will consult with, and have regard to the views of, the Joint Advisory Committee in relation to Conservation matters affecting the Retained Sites.
- (b) In particular, the Director-General will consult with, and have regard to the advice of, the Joint Advisory Committee in relation to:
  - (i) the preparation of any Conservation Management Plans relating to the Retained Sites;
  - (ii) annual planning (including annual conservation priorities) in relation to the Retained Sites,
- (c) The Ngāti Awa Governance Entity will have regard to the advice of the Joint Advisory Committee in relation to Conservation matters affecting Whakapaukorero.

### 5.3.4 Membership of Joint Advisory Committee

Subject to *clause 5.3.10*, the Crown and Ngāti Awa agree that:

- (a) the Minister will appoint as Members of the Joint Advisory Committee:
  - (i) two individuals from time to time nominated in writing by the Ngāti Awa Governance Entity to the Director-General;
  - (ii) two individuals from time to time nominated in writing by the Director-General; and
- (b) the initial nominations of Members under *clause 5.3.4* must be made within six (6) months of the Settlement Date;
- (c) the Minister must publish appointments of Members in the New Zealand *Gazette*;

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- (d) Members must be appointed for a term of five (5) years (and may be re-appointed).

**5.3.5 Proceedings of Joint Advisory Committee**

The Crown and Ngāti Awa agree that:

- (a) unless all Members of the Joint Advisory Committee agree otherwise:
- (i) Members must appoint a chairperson;
  - (ii) the chairperson will have a casting vote; and
  - (iii) the Joint Advisory Committee will meet twice a year;
- (b) the failure by the Ngāti Awa Governance Entity, or the Director-General from time to time to nominate individuals under *clause 5.3.4(a)* as Members will not affect the validity of:
- (i) the Joint Advisory Committee;
  - (ii) any advice given by it; or
  - (iii) any exercise of its rights or powers; and
- (c) subject to this clause, the Joint Advisory Committee may regulate its own procedure.

**5.3.6 Funding of Joint Advisory Committee**

- (a) The Crown will meet:
- (i) the costs and expenses of the Members nominated by the Director-General incurred in acting as Members; and
  - (ii) that proportion of the administrative costs and expenses of the Joint Advisory Committee that equates to the proportion the Members nominated by the Director-General bears to the total number of Members.
- (b) The Ngāti Awa Governance Entity will meet:
- (i) the costs and expenses of the Members nominated by it incurred in acting as Members; and

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- (ii) that proportion of the administrative costs and expenses of the Joint Advisory Committee that equates to the proportion the Members nominated by the Ngāti Awa Governance Entity bears to the total number of Members.

### 5.3.7 Rights preserved

- (a) Ngāti Awa agree that, subject to *clause 5.3.8*, if the Minister decides to discharge the Joint Advisory Committee, that decision is not a breach of this Deed.
- (b) Nothing in this Deed limits the ability of the Minister to appoint any person as an adviser and take their advice or the ability of the Director-General to take advice from or consult with any person in relation to the Retained Sites.

### 5.3.8 Consultation prior to discharge of committee

The Crown and Ngāti Awa agree that the Minister will consult with the Joint Advisory Committee prior to exercising her powers to discharge the Joint Advisory Committee or change its composition (unless that change of composition is in accordance with *clause 5.3.9* or *5.3.10*).

### 5.3.9 Changes in ownership of Retained Sites

- (a) Ngāti Awa acknowledge that the Crown may vest parts of the Retained Sites in one or more Other Claimants on similar terms to the vesting of Whakapaukorero in the Ngāti Awa Governance Entity and accordingly, agree in the event that:
  - (i) the obligations in *clause 5.3.3(a)* may apply to a reduced area (not including parts of the Retained Sites vested in one or more Other Claimants); and
  - (ii) the Minister may require that the Other Claimants must have regard to the advice of the Joint Advisory Committee in relation to Conservation matters affecting the part of the Retained Site vested in the Other Claimants; and
  - (iii) notwithstanding *clause 5.3.4* nominees of Other Claimants may be appointed to the Joint Advisory Committee by the Minister.
- (b) Ngāti Awa agree that the reduction in the extent of the obligations in *clause 5.3.3(a)* and the change in composition of the Joint Advisory Committee as described above is not a breach of this Deed.

**5.3.10 Committee already established**

- (a) Ngāti Awa acknowledge that the Crown may agree with Other Claimants that the Minister will appoint a committee:
- (i) with members nominated by Other Claimants; and
  - (ii) on terms of reference in relation to the Retained Sites that are substantially similar to those described in *clause 5.3.2(a)*,
- (b) If, prior to the appointment of the Joint Advisory Committee in accordance with *clause 5.3.2(a)*, the Crown has appointed a committee of the kind referred to in *clause 5.3.10(a)*, Ngāti Awa acknowledge and agree that:
- (i) the terms of reference in *clause 5.3.2(a)* and the terms of reference that the Crown has agreed with Other Claimants in relation to the committee referred to in *clause 5.3.10(a)* could be carried out by a single committee;
  - (ii) the requirements in *clause 5.3.2(a)* (about the time by which the committee must be appointed) and *clauses 5.3.3, 5.3.4, 5.3.5 and 5.3.6* would be unaffected but references in those clauses to the Joint Advisory Committee could be treated as references to the single committee;
  - (iii) the Crown will ensure that the number of members of the committee that can be nominated by the Ngāti Awa Governance Entity is the same as the number of members that can be nominated by each of:
    - (aa) each group of Other Claimants; and
    - (bb) the Director-General

and nothing in *clause 5.3.4(a)(i)* will prevent that.

**5.3.11 Settlement Legislation**

The Settlement Legislation will:

- (a) oblige the Crown, the Director-General and the Ngāti Awa Governance Entity to fulfil their obligations as set out in *clause 5.3*; and
- (b) confer on the Minister the powers, functions, discretion and authority necessary to fulfil the provisions of *clause 5.3*; and

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- (c) state that section 9 of the Reserves Act 1977 does not apply to the powers, functions, discretion and authority exercised by the Minister in fulfilling the provisions of *clause 5.3*.



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## ATTACHMENT 5.1

## Legal Descriptions

Name	Land Description
Matata Scenic Reserve (including Whakapaukorero)	South Auckland Land District – Whakatāne District  491.4176 hectares, more or less, being Parts Allotment 227, Part Allotment 982 and Allotment 833 Matata Parish, Part Section 1 Block II and Section 1 Block VI Awaateatua Survey District, Lot 1 DPS 25135, Lot 1 DPS 25136 and Lot 1 DPS 39703. Balance Computer Freehold Register SA10A/600, Balance Gazette Notice H.011708, All Gazette Notice S.554446, Balance Transfer H.326804.1 and All Transfer H.652435.  As shown on SO 61695.
Te Awa a Te Atua (also known as Matata Wildlife Refuge Reserve)	South Auckland Land District – Whakatāne District  110.1756 hectares, more or less, being Section 6 Block VI Awaateatua Survey District. All Gazette Notice S.594936.  As shown on SO 61694.

**5.4 JOINT MANAGEMENT COMMITTEE IN RESPECT OF MOUTOHORĀ (WHALE) ISLAND WILDLIFE MANAGEMENT RESERVE, ŌHOPE SCENIC RESERVE, AND TAUWHARE PĀ SCENIC RESERVE**

**5.4.1 Definitions**

(a) In this *clause 5.4*:

*Commissioner* has the same meaning as in the Reserves Act 1977;

*Conservation Board* has the same meaning as in the Reserves Act 1977;

*Director-General* means the Director-General of Conservation;

*Joint Management Committee* means the committee appointed in accordance with *clause 5.4.2(a)* and continuing subject to *clause 5.4.4(f)*;

*Jointly Managed Sites* means:

- (a) Moutohorā (Whale) Island Wildlife Management Reserve;
- (b) Ōhope Scenic Reserve; and
- (c) Tauwhare Pā Scenic Reserve

*Members* means Members of the Joint Management Committee;

*Minister* means the Minister of Conservation;

*Moutohorā (Whale) Island Wildlife Management Reserve* means the island described by that name in *Attachment 5.2*; and

*Ōhope Scenic Reserve* means the land described by that name in *Attachment 5.2*;

*Other Claimants* means a group of individuals, or their governance entity, who have entered into a deed of settlement with the Crown to settle claims made by that group of a kind described in *clause 1.3.1(a)*.

*Tauwhare Pā Scenic Reserve* means the land described by that name in *Attachment 5.2*.

(b) Terms defined in the Reserves Act 1977 shall have the same meaning in *Attachment 5.3*.

**5.4.2 Appointment and functions of Joint Management Committee**

(a) The Minister will ensure that no later than 12 months after the Settlement

Date:

- (i) A Joint Management Committee is appointed and, subject to nominations, the Members of the Joint Management Committee are appointed as described in *clause 5.4.4*;
- (ii) The Minister has delegated to the Joint Management Committee in writing the Minister's powers and functions under the Reserves Act 1977 as set out in *Attachment 5.3*;
- (iii) The Minister and the Commissioner have delegated to the Joint Management Committee, in writing, their powers and functions provided for in section 22(5) of the Reserves Act 1977 in respect of Moutohorā (Whale) Island Wildlife Management Reserve.

(b) The Joint Management Committee will:

- (i) exercise the delegations referred to in *clauses 5.4.2(a)(ii) and (iii)*; and
- (ii) advise the Minister, the Director-General, the New Zealand Conservation Authority and the Bay of Plenty Conservation Board concerning the Conservation of the Jointly Managed Sites and, in particular, concerning the following in relation to the Jointly Managed Sites:
  - (aa) The development of Conservation policy;
  - (bb) Conservation management; and
  - (cc) Annual business planning.

**5.4.3 Advice on Conservation matters**

The Settlement Legislation will provide that the Minister, the Director-General, the New Zealand Conservation Authority and the Bay of Plenty Conservation Board must consult with, and have regard to the advice of, the Joint Management Committee concerning the Conservation of the Jointly Managed Sites and, in particular, concerning the following in relation to the Jointly Managed Sites:

- (a) The development of Conservation policy;

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- (b) Conservation management; and
- (c) Annual business planning.

#### 5.4.4 Membership of Joint Management Committee

The Crown and Ngāti Awa agree that:

- (a) The Minister must appoint as Members of the Joint Management Committee:
  - (i) 3 individuals nominated in writing by the Ngāti Awa Governance Entity to the Director-General;
  - (ii) 2 individuals nominated in writing by the Director-General; and
  - (iii) 1 individual nominated in writing by the Bay of Plenty Conservation Board to the Director-General;
- (b) The nominations of Members must be made within six months of the Settlement Date;
- (c) The Minister must publish appointments of Members in the *New Zealand Gazette*;
- (d) Members must be appointed for a term of five (5) years (and may be re-appointed);
- (e) The Minister may, from time to time, appoint additional Members and remove Members (including individuals nominated by Other Claimants);
- (f) The Minister may, from time to time:
  - (i) discharge the Joint Management Committee; or
  - (ii) discharge the Joint Management Committee and appoint in its place any number of new committees (as may be determined by the Minister) to exercise any or all of the powers and functions delegated to or conferred on the Joint Management Committee.
- (g) *Clause 5.4.3, 5.4.4(b) to (f), and clauses 5.4.5 to 5.4.8 will apply to any new committee appointed under clause 5.4.4(f)(ii).*

#### 5.4.5 Proceedings of Joint Management Committee

The Crown and Ngāti Awa agree that:

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- (a) Unless all Members of the Joint Management Committee agree otherwise:
  - (i) Members must appoint a chairperson;
  - (ii) The chairperson has a casting vote; and
  - (iii) The Joint Management Committee must meet twice a year;
- (b) Any failure by the Governance Entity, the Director-General or the Bay of Plenty Conservation Board from time to time to nominate individuals under *clause 5.4.4(a)* as Members will not affect the validity of:
  - (i) The Joint Management Committee;
  - (ii) Any advice given by it;
  - (iii) Any decisions by it; or
  - (iv) Any undertaking of its responsibilities or exercise of its rights or powers; and
- (c) Subject to this clause, the Joint Management Committee may regulate its own procedure.

**5.4.6 Remuneration of Members and administration costs**

The Crown and Ngāti Awa agree that there shall be paid out of money appropriated by Parliament for the purpose:

- (a) to the members of the Joint Management Committee who are not members by virtue of being officers of any Department or State, remuneration by way of fees, salary, or allowances and travelling allowances or expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act will apply accordingly as if the Joint Management Committee were a statutory board within the meaning of that Act; and
- (b) the reasonable administrative costs and expenses of the Joint Management Committee.

**5.4.7 Rights preserved**

- (a) Ngāti Awa agree that, subject to *clause 5.4.8(a)*, if the Minister decides to discharge the Joint Management Committee without new committees being appointed in its place under *clause 5.4.4(f)(ii)*, the decision to discharge is not a breach of this Deed.
  - (b) The delegation of Ministerial powers and functions to the Joint Management Committee under *clause 5.4.2(a)(ii)*:
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- (i) does not prevent the exercise by the Minister of any of those powers and functions; and
- (ii) may be revoked by the Minister subject to *clause 5.4.8(a)*.
- (c) Nothing in this Deed limits the ability of the Minister, the Director-General, the New Zealand Conservation Authority or the Bay of Plenty Conservation Board to appoint any person as an adviser, or take advice from or consult with any person.
- (d) The delegation of powers and functions by the Minister and the Commissioner under *clause 5.4.2(a)(iii)* may be revoked by the Minister or the Commissioner, as the case may be, subject to *clause 5.4.8(b)*.

**5.4.8 Consultation prior to revocation of delegation**

The Crown and Ngāti Awa agree that:

- (a) the Minister shall consult with the Joint Management Committee prior to revoking any delegation as described in *clause 5.4.7(b)(ii)* or discharging the Joint Management Committee as described in *clause 5.4.4(f)* or changing its composition described in *clause 5.4.4(a)*; and
- (b) The Minister or the Commissioner, as the case may be, shall consult with the Joint Management Committee prior to revoking the delegation described in *clause 5.4.2(a)(iii)*.

**5.4.9 Access to Moutohorā (Whale) Island Wildlife Management Reserve**

The Parties acknowledge that the delegation to the Joint Management Committee of the powers and functions under section 22(5) of the Reserves Act 1977 in respect of Moutohorā (Whale) Island Wildlife Management Reserve together with *clause 5.4.10(d)* will, without limitation of the powers in section 22(5), include a power to grant a permit when that is appropriate to Members of Ngāti Awa to enter the reserve for the purpose of collecting Relevant Hangi Stones in accordance with the Crown Minerals Act 1991 and *clause 5.8*.

**5.4.10 Settlement Legislation**

The Settlement Legislation will:

- (a) oblige the Crown and the Ngāti Awa Governance Entity to fulfil their obligations as set out in this clause;
- (b) confer on the Minister the powers, functions, discretion and authority necessary to fulfil the provisions of *clause 5.4*;

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- (c) in relation to the Jointly Managed Sites, confer on the Joint Management Committee the powers and functions of a Conservation Board for the purposes of section 40B of the Reserves Act 1977 (and sections 17E(3), 17G, 17H, 17I and 17N of the Conservation Act 1987 as they are applied with respect to conservation management plans by section 40B) and the powers and functions of the Conservation Boards shall be amended accordingly;
- (d) provide that the collection of Relevant Hangi Stones in accordance with the Crown Minerals Act 1991 and *clause 5.8* as described in *clause 5.4.9* is not an offence; and
- (e) state that section 9 of the Reserves Act 1977 does not apply to the powers, functions, discretion and authority exercised by the Minister in fulfilling the provisions of *clause 5.4*.

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**ATTACHMENT 5.2****Legal Descriptions**

<b>Site</b>	<b>Land Description</b>
Moutohorā (Whale) Island Wildlife Management Reserve	South Auckland Land District – Whakatāne District.  143.2586 hectares, more or less, being Moutohorā Island ML 257. All Gazette Notice H.526913.  As shown on SO 61405.
Ōhope Scenic Reserve	South Auckland Land District – Whakatāne District.  489.2231 hectares, more or less, being Allotments 554, 567, 568, 581 and 691 and Part Allotment 573 Waimana Parish and Lot 2 DPS 16673. Balance Gazette Notice H.028909, All New Zealand Gazette 1978 page 205 and All New Zealand Gazette 1980 page 3006.  As shown on SO 61696.
Tauwhare Pā Scenic Reserve	South Auckland Land District – Whakatāne District.  11.3800 hectares, more or less, being Lot 1 DPS 26909 and Lot 1 DPS 34658. All Transfer 256725.1 and All Transfer H.554386.  As shown on SO 61689.

## ATTACHMENT 5.3

## Powers and functions under the Reserves Act 1977 delegated to the Joint Management Committee

## A Powers and functions delegated in respect of the Ōhope Scenic Reserve and Tauwhare Pā Scenic Reserve

Section of the Reserves Act 1977	Summary of Powers	Limitation of Powers
S42(1)	<p>Give or decline to give express written consent to the cutting or destruction of trees and bush on the Reserve.</p> <p>Determine terms and conditions subject to which consent is given.</p>	The delegation applies only to exotic trees and bush.
S45	<p>Give or decline to give prior approval to the Commissioner to erect, or authorise any voluntary organisation or educational institution to erect shelters, huts, cabins, lodges and similar resting or sleeping accommodation on the Reserve.</p> <p>Determine terms and conditions as to location, structure, custody, use or otherwise as the Joint Management Committee approves.</p>	The delegation applies only where the use is provided for or contemplated in an approved management plan for the Reserve.
S46(2)	Grant or decline to grant, by notice in the Gazette, the right to bury or inter the remains of deceased Maori in a place in the Reserve to be specified.	

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Section of the Reserves Act 1977	Summary of Powers	Limitation of Powers
S50(1)	<p>Authorise or decline to authorise any person to take and kill any specified kind of fauna that may be found in the Reserve.</p> <p>Impose conditions on giving the authorisation.</p> <p>Authorise or decline to authorise the use of firearms, traps, nets, or other like objects within the reserve for the foregoing purposes.</p>	The delegation is for non-protected exotic fauna only.
S51(1)	<p>Authorise or decline to authorise in writing the Commissioner to introduce indigenous flora or fauna into the Reserve.</p> <p>Impose conditions on giving the authorisation.</p>	Authorisations can only be given if provided for or contemplated in an approved management plan for the Reserve.
S55(1)(a)	Grant or decline to grant prior approval to the Commissioner to any planting of trees or shrubs on the Reserve.	Only exercisable where the planting is provided for or contemplated in an approved management plan for the Reserve.
S55(2)	Give or decline to give prior consent to the Commissioner to carry out any of the matters specified in sections 55(2)(a), (d), (e), (f) and (g) of the Reserves Act 1977.	Only exercisable where the matter is provided for or contemplated in an approved management plan for the Reserve.

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Section of the Reserves Act 1977	Summary of Powers	Limitation of Powers
S74(1)(b)(ii)	Consent or decline to consent to the Commissioner granting a licence in respect of the Reserve.	Only exercisable where the activity is provided for or contemplated in an approved management plan for the Reserve or the activity is an existing use and the effects of the use will be the same or similar in character, intensity and scale.

**B Powers and functions delegated in respect of the Jointly Managed Sites**

Section of the Reserves Act 1977	Summary of Powers	Limitation of Powers
	<p>Grant or decline to grant in writing the right to any qualified person to take specified specimens of flora or fauna or rock mineral or soil from the Reserves.</p> <p>Form an opinion as to whether a qualified person has the necessary credentials.</p> <p>Impose conditions on the grant in writing.</p>	

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Section of the Reserves Act 1977	Summary of Powers	Limitation of Powers
S59A(1)	In accordance with Part IIIB of the Conservation Act 1987, grant or refuse a concession in respect of the Reserves.	Only exercisable where the activity is provided for or contemplated in an approved management plan for the reserve or the activity is an existing use and the effects of the use will be the same or similar in character, intensity and scale.

## C General

Section of the Reserves Act 1977	Summary of Powers	Limitation of Powers
S121	Where, under any delegation provided for in Parts A and B of this <i>Attachment 5.3</i> , the consent or approval of the Joint Management Committee is required, the Joint Management Committee may give its consent or approval subject to such conditions as it thinks fit.	

## 5.5 ADVISORY COMMITTEES TO MINISTERS

### 5.5.1 Freshwater Fish Species

The Crown agrees that the Minister of Conservation will:

- (a) Appoint the Ngāti Awa Governance Entity, with effect from the Settlement Date, as an advisory committee under section 56 of the Conservation Act 1987, to provide advice to the Minister of Conservation on all matters concerning the management and conservation by the Department of Conservation of freshwater fish species to the extent that they are under the Department of Conservation's jurisdiction within the Ngāti Awa DOC Protocol Area (as defined in *clause 5.7.1*); and
- (b) Have regard to the advice of the advisory committee referred to in *clause 5.5.1(a)*.

### 5.5.2 Fisheries

The Crown agrees that the Minister of Fisheries will:

- (a) Appoint the Ngāti Awa Governance Entity, with effect from the Settlement Date, as an advisory committee under section 21 of the Ministry of Agriculture and Fisheries (Restructuring) Act 1995, to provide advice to the Minister of Fisheries on all matters concerning the utilisation, while ensuring sustainability, of fish, aquatic life and seaweed administered by the Minister of Fisheries within the Ngāti Awa Fisheries Protocol Area (as defined in *clause 5.7.1*) under the Fisheries Legislation; and
- (b) Have regard to the advice of the advisory committee referred to in *clause 5.5.2(a)*.

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## 5.6 NOHOANGA ENTITLEMENTS

### 5.6.1 Definitions

In this clause:

**Entitlement Land** means a site over which a Nohoanga Entitlement is granted;

**Land Holding Agent** means the Minister of the Crown responsible for the Department which manages the Entitlement Land;

**Nohoanga Entitlement** means an entitlement granted under *clauses 5.6.3, 5.6.19(c) or 5.6.20(e)*;

**Nohoanga Sites** means the areas described in *Schedule 5.19*, and *Nohoanga Site* means any one of them;

**Waterway** means:

- (a) Any lake, being a body of fresh water which is entirely or nearly surrounded by land, or a river, being continuously or intermittently flowing body of fresh water, and includes a stream and modified water course, does not include any artificial water course (including an irrigation canal, water supply race, canal for the supply of water for electricity power generation, and farm drainage canal); and
- (b) Coastal waters, including harbours.

### 5.6.2 Purpose of granting Nohoanga Entitlements

The Settlement Legislation will provide that, without limiting *clauses 5.6.26 or 5.6.27*, the granting of the Nohoanga Entitlements under this *clause 5.6* will be for the sole purpose of permitting Members of Ngāti Awa on a temporary and non-commercial basis, to occupy the Entitlement Land:

- (a) So as to have access to a Waterway for lawful fishing; and
- (b) For lawful gathering of other natural resources in the vicinity of the Entitlement Land.

### 5.6.3 Grant and renewal of Nohoanga Entitlements

The Settlement Legislation will provide:

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- (a) For the Crown, in accordance with this *clause 5.6*, to grant a Nohoanga Entitlement over each Nohoanga Site to the Ngāti Awa Governance Entity;
- (b) For the grant of Nohoanga Entitlements over each Nohoanga Site to be:
  - (i) In the form set out in *Schedule 5.20*, or as varied in accordance with *clause 5.6.4*; and
  - (ii) For an initial term of 10 years with effect from the Settlement Date;
- (c) For a Nohoanga Entitlement to be renewed at the expiry of its term at the option of the Ngāti Awa Governance Entity for further terms of 10 years, unless the Nohoanga Entitlement is terminated under *clause 5.6.19* or *5.6.20*;
- (d) That the granting of a Nohoanga Entitlement under this *clause 5.6.3* must be notified by the Land Holding Agent in the *New Zealand Gazette*;
- (e) That the Chief Executive of Land Information New Zealand must note the granting of a Nohoanga Entitlement under this *clause 5.6.3*, and the notice in the *New Zealand Gazette* published under *clause 5.6.3(d)*, in his or her records;
- (f) That *clauses 5.6.3(c) to (e)* apply to:
  - (i) The renewal of a Nohoanga Entitlement as if it were the grant of the Nohoanga Entitlement; and
  - (ii) The grant of a Nohoanga Entitlement under *clauses 5.6.19(c)* and *5.6.20(e)*; and
- (g) That *clauses 5.6.3(d)* and *(e)* will apply to a termination under *clauses 5.6.19* and *5.6.20*.

**5.6.4 Variation of terms of Nohoanga Entitlement**

The Settlement Legislation will provide that:

- (a) The form of a Nohoanga Entitlement granted under *clause 5.6.3* may vary from the form in *Schedule 5.20* by:

- (i) The addition of terms reasonably required by the Crown to protect and preserve the Entitlement Land, the surrounding land, or associated flora or fauna; or
  - (ii) Agreement between the Land Holding Agent and the Ngāti Awa Governance Entity.
- (b) Any additional terms and any variation of terms under *clause 5.6.4(a)* must be in writing and not inconsistent with this *clause 5.6*.

#### 5.6.5 Criteria for Nohoanga Entitlements

The Nohoanga Sites are, and any site over which a Nohoanga Entitlement is granted under *clause 5.6.19(c)* or *5.6.20(e)* must be, land:

- (a) Which is not a national park, a marginal strip, a nature reserve, an esplanade reserve, a scientific reserve or any part of an unformed road (including a road reserve) within 20 metres of a Waterway;
- (b) Which is already in Crown ownership;
- (c) Of approximately 1 hectare in area and suitable for temporary occupation;
- (d) Situated sufficiently close to a Waterway to permit convenient access to the Waterway (normally land adjacent to a marginal strip or esplanade reserve or similar strip bordering the Waterway itself);
- (e) To which practical and legal access exists;
- (f) Where the existing practices and patterns of public use at the time the Nohoanga Entitlement is to be created would not be unreasonably impaired by the granting of a Nohoanga Entitlement; and
- (g) Where the location of the Nohoanga Entitlement shall not unreasonably exclude public access to any Waterway.

#### 5.6.6 Execution of the Nohoanga Entitlements

- (a) The Crown must, by or on the Settlement Date, provide the Ngāti Awa Governance Entity with a form of Nohoanga Entitlement for each Nohoanga Site:
  - (i) In the form specified in *Schedule 5.20* along with any specific conditions specified in *Schedule 5.19*; and

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- (ii) Signed in duplicate by the Land Holding Agent.
- (b) The Ngāti Awa Governance Entity must:
  - (i) Sign each form of Nohoanga Entitlement in duplicate; and
  - (ii) Return one copy to the Crown by no later than the date which is 10 Business Days after the Settlement Date.

**5.6.7 Occupation of Entitlement Land by Members of Ngāti Awa**

The Settlement Legislation will provide that:

- (a) Subject to *clauses 5.6.7(b) to (d)*, the Ngāti Awa Governance Entity will have the right to permit Members of Ngāti Awa to occupy the Entitlement Land:
  - (i) For the purpose of a Nohoanga Entitlement as set out in *clause 5.6.2*; and
  - (ii) To the exclusion of other persons during the period or periods that it exercises the right to occupy the land;
- (b) *Clause 5.6.7(a)* and the grant and exercise of a Nohoanga Entitlement does not prevent agents of the Crown or persons exercising statutory powers undertaking their functions in relation to the Entitlement Land;
- (c) The Ngāti Awa Governance Entity may permit Members of Ngāti Awa to occupy the Entitlement Land for such period or periods in a calendar year that do not exceed 210 days in total; and
- (d) The Ngāti Awa Governance Entity must not permit Members of Ngāti Awa to occupy the Entitlement Land in a calendar year during the period beginning on 1 May and ending on the close of 15 August.

**5.6.8 Right to erect temporary dwellings**

The Settlement Legislation will provide that:

- (a) The Ngāti Awa Governance Entity may permit Members of Ngāti Awa, while occupying Entitlement Land, to erect camping shelters or similar temporary dwellings on the land; and

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- (b) The Ngāti Awa Governance Entity shall ensure the removal of any camping shelters or similar temporary dwellings that are erected on the Entitlement Land under a Nohoanga Entitlement whenever the right to occupy the Entitlement Land is not being exercised.

**5.6.9 Condition of Entitlement Land when ceasing to occupy it**

The Settlement Legislation will provide that:

- (a) The Ngāti Awa Governance Entity must ensure, whenever Members of Ngāti Awa who have been permitted by the Ngāti Awa Governance Entity to occupy the Entitlement Land cease to exercise the right to occupy Entitlement Land:
- (i) The removal of all rubbish and waste material (including human waste) from the Entitlement Land and any adjacent reserve; and
  - (ii) That the Entitlement Land is left in substantially the same condition as it was in at the beginning of that period of occupation; and
- (b) *Clause 5.6.9(a)(ii)* does not apply to temporary effects normally associated with occupation of Entitlement Land under a Nohoanga Entitlement.

**5.6.10 Activities on Entitlement Land**

The Settlement Legislation will provide that:

- (a) The Ngāti Awa Governance Entity may, with the consent of the Land Holding Agent, undertake such activities on the Entitlement Land that are reasonably necessary for the Entitlement Land to be used for the purpose of a Nohoanga Entitlement set out in *clause 5.6.2*;
- (b) When applying for the Land Holding Agent's consent under *clause 5.6.10(a)*, the Ngāti Awa Governance Entity must provide to the Land Holding Agent details relating to the proposed activities, including (but not limited to):
- (i) The effect of the activities on the Entitlement Land and, if the Entitlement Land is land held under the Conservation Act 1987 or any statute in the First Schedule to that Act, on the surrounding land and associated flora or fauna; and

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- (ii) Any measures that the Ngāti Awa Governance Entity proposes to take (if the Land Holding Agent's consent is given) to avoid, remedy, or mitigate any adverse effects;
- (c) In considering whether to give consent in relation to land held under the Conservation Act 1987 or any statute in the First Schedule to that Act, the Land Holding Agent may require the Ngāti Awa Governance Entity to obtain, at the Ngāti Awa Governance Entity's expense, an environmental impact report about the proposed activities, and an audit of that report;
- (d) The giving of consent under *clause 5.6.10(a)* is at the complete discretion of the Land Holding Agent;
- (e) The Land Holding Agent may give consent under *clause 5.6.10(a)* subject to such conditions as he or she thinks fit to impose;
- (f) Without limiting *clause 5.6.10(e)*, in giving consent in relation to land held under the Conservation Act 1987 or any statute in the First Schedule to that Act, the Land Holding Agent may impose reasonable conditions to avoid, remedy, or mitigate any adverse effects of the proposed activities on the Entitlement Land, the surrounding land, or any associated flora or fauna;
- (g) If the Crown has complied with its obligations under the Nohoanga Entitlement, the Crown is not liable to compensate the Ngāti Awa Governance Entity (whether on termination of a Nohoanga Entitlement or at any other time) for any activities undertaken by the Ngāti Awa Governance Entity on the Entitlement Land; and
- (h) This *clause 5.6.10* applies subject to *clause 5.6.8*.

**5.6.11 Crown's Obligation to provide lawful access**

The Settlement Legislation will provide that:

- (a) If an event described in *clause 5.6.11(b)* occurs during the term of a Nohoanga Entitlement, the Crown must ensure that the Ngāti Awa Governance Entity continues, for the rest of the term of the Nohoanga Entitlement, to have the same type of lawful access to the Entitlement Land as it had before the event occurred;
- (b) The events are:

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- (i) The alienation by the Crown of land adjacent to the Entitlement Land;  
or
  - (ii) A change in the classification or status of land adjacent to the Entitlement land; and
- (c) The Crown's obligation in *clause 5.6.11(a)* is subject to compliance with any applicable provisions in or under any legislation.

**5.6.12 Nohoanga Entitlement not to restrict public access**

The Settlement Legislation will provide that the grant and exercise of a Nohoanga Entitlement must not impede access by members of the public along the Waterway that the Nohoanga Entitlement relates to.

**5.6.13 Compliance with laws, bylaws, and land and water management practices**

The Settlement Legislation will provide that:

- (a) The Ngāti Awa Governance Entity (and Members of Ngāti Awa permitted by the Ngāti Awa Governance Entity to occupy Entitlement Land under *clause 5.6.7*), and the activities carried on by the Ngāti Awa Governance Entity on the Entitlement Land (including any activities undertaken on the Entitlement Land under *clause 5.6.10*) are subject to all laws, bylaws, regulations, and land and water management practices that apply to the Entitlement Land including the need, as required, to apply for resource consent under the Resource Management Act 1991; and
- (b) The Land Holding Agent must, in carrying out land and water management practices relating to the Entitlement Land, have regard to the existence of the Nohoanga Entitlement and must:
  - (i) Notify the Ngāti Awa Governance Entity of any activity which may adversely affect the Ngāti Awa Governance Entity's use of the Entitlement Land for the purposes set out in *clause 5.6.2*; and
  - (ii) Avoid unreasonable disruption to the Ngāti Awa Governance Entity's use of the Entitlement Land for the purposes set out in *clause 5.6.2*.

**5.6.14 Rights of the Ngāti Awa Governance Entity under Nohoanga Entitlement not assignable**

The Settlement Legislation will provide that the rights of the Ngāti Awa Governance Entity under the Nohoanga Entitlements are not assignable.

**5.6.15 Nohoanga Entitlement not to restrict the Crown's right to alienate land**

The Settlement Legislation will provide that the grant and exercise of a Nohoanga Entitlement does not restrict the Crown's right to alienate the Entitlement Land, land adjacent to the Entitlement Land, or land adjacent to the associated Waterway.

**5.6.16 Ngāti Awa Governance Entity may enforce rights against other persons**

The Settlement Legislation will provide that, while Members of Ngāti Awa (who have been permitted by the Ngāti Awa Governance Entity to occupy Entitlement Land under *clause 5.6.7*) are exercising the right to occupy the Entitlement Land under the terms of the Nohoanga Entitlement, the Ngāti Awa Governance Entity may enforce its rights under the Nohoanga Entitlement against persons who are not parties to this Deed as if the Ngāti Awa Governance Entity were the owner of the Entitlement Land.

**5.6.17 Crown not obliged to enforce**

Ngāti Awa and the Crown agree that the Crown shall not be obliged to enforce the rights of the Ngāti Awa Governance Entity under a Nohoanga Entitlement against any person who is not a party to this Deed, on behalf of the Ngāti Awa Governance Entity.

**5.6.18 Suspension of Nohoanga Entitlement**

The Settlement Legislation will provide that:

- (a) The Land Holding Agent may suspend a Nohoanga Entitlement in accordance with this *clause 5.6.18*;
- (b) The Land Holding Agent must not suspend the Nohoanga Entitlement unless he or she first:
  - (i) Consults the Ngāti Awa Governance Entity; and
  - (ii) Has particular regard to the views of the Ngāti Awa Governance Entity;
- (c) The Land Holding Agent must not suspend a Nohoanga Entitlement unless he or she considers the suspension is necessary for the management of the land, having regard to the purposes for which the Entitlement Land is held;
- (d) If a Nohoanga Entitlement is suspended, the Ngāti Awa Governance Entity may, after the end of the suspension, permit Members of Ngāti Awa to occupy the Entitlement Land for a period equal to that part of the period of

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the suspension equal to the period that the Governance Entity would otherwise have been entitled to occupy the Entitlement Land; and

- (e) The occupation of Entitlement Land under *clause 5.6.18(d)* is not subject to the restrictions in *clause 5.6.7(d)*.

#### 5.6.19 Termination of Nohoanga Entitlements

The Settlement Legislation will provide that:

- (a) The Crown may terminate a Nohoanga Entitlement by giving written notice to the Ngāti Awa Governance Entity on one or more of the following grounds:
- (i) That the Crown has alienated the Entitlement Land;
  - (ii) That the Entitlement Land has, by a natural cause, been destroyed or permanently and detrimentally affected;
  - (iii) That the Entitlement Land is on reserve land which may be required for the specific purpose that it is held as a reserve and the Entitlement Land is required for that purpose;
  - (iv) That the Entitlement Land is an unformed road that has become formed; or
  - (v) That, subject to *clause 5.6.11*, if lawful access to the Entitlement Land no longer exists;
- (b) The Ngāti Awa Governance Entity and the Crown may terminate a Nohoanga Entitlement by agreement in writing;
- (c) On termination of a Nohoanga Entitlement under this *clause 5.6.19*, the Crown must take reasonable steps to grant a replacement Nohoanga Entitlement to the Ngāti Awa Governance Entity;
- (d) *Clause 5.6.19(c)* does not apply if the fee simple estate in the Entitlement Land is vested in the Ngāti Awa Governance Entity; and
- (e) The grant of a replacement Nohoanga Entitlement under *clause 5.6.19(c)* must be in the form set out in *Schedule 5.20* (or as varied in accordance with *clause 5.6.4*) and be over land that:

- (i) Meets the criteria set out in *clause 5.6.5*; and
- (ii) Is identified by similar processes used by the Crown and Ngāti Awa to identify Nohoanga Sites prior to entry into this Deed.

#### **5.6.20 Termination of Nohoanga Entitlement for breach of obligations**

The Settlement Legislation will provide that:

- (a) If the Ngāti Awa Governance Entity defaults in performing any of its obligations under the Nohoanga Entitlement, and such default is capable of remedy, the Crown may give written notice to the Ngāti Awa Governance Entity specifying the default and the remedy which the Crown requires (which remedy must be reasonable in the circumstances);
- (b) Unless within 41 Business Days after the giving of notice pursuant to *clause 5.6.20(a)* the default specified in the notice has been remedied or appropriate action has been taken to remedy the default as required in the notice given pursuant to *clause 5.6.20(a)* the Crown may immediately terminate the Nohoanga Entitlement by notice in writing to the Ngāti Awa Governance Entity;
- (c) If the default is not one which is capable of remedy the Crown may immediately terminate the Nohoanga Entitlement by notice in writing to the Ngāti Awa Governance Entity;
- (d) On termination of the Nohoanga Entitlement pursuant to *clause 5.6.20(b)* or *clause 5.6.20(c)*, the Ngāti Awa Governance Entity may, after the expiry of two years from the date of termination of the Nohoanga Entitlement, apply to the Minister of Maori Affairs for the grant of a replacement Nohoanga Entitlement meeting the criteria set out in *clause 5.6.5*;
- (e) On receipt of an application under *clause 5.6.20(d)*, the Crown may, in its discretion, take reasonable steps to grant a replacement Nohoanga Entitlement in the form set out in *Schedule 5.20* (or as varied in accordance with *clause 5.6.4*) and over land that:
  - (i) Meets the criteria set out in *clause 5.6.5*; and
  - (ii) Is identified by similar processes used by the Crown and Ngāti Awa to identify Nohoanga Sites prior to entry into this Deed.

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**5.6.21 Section 11 or Part X of Resource Management Act 1991 not to apply**

The Settlement Legislation will provide that the grant of a Nohoanga Entitlement is not a subdivision for the purposes of section 11 or Part X of the Resource Management Act 1991.

**5.6.22 Part IIIB of Conservation Act 1987 not to apply**

The Settlement Legislation will provide that Part IIIB of the Conservation Act 1987 does not apply to the granting of a Nohoanga Entitlement.

**5.6.23 Section 44 Reserves Act 1977 not to apply**

The Settlement Legislation will provide that section 44 of the Reserves Act 1977 does not apply in relation to a Nohoanga Entitlement granted over land subject to that Act.

**5.6.24 Local Government (Rating) Act 2002**

The Settlement Legislation will provide confirmation that the grant of a Nohoanga Entitlement does not alter the non-rateable status of the Entitlement Land under section 8 of the Local Government (Rating) Act 2002.

**5.6.25 Targeted Rates**

The Settlement Legislation will provide that:

- (a) Section 9 of the Local Government (Rating) Act 2002 will apply to the Entitlement Land;
- (b) The Ngāti Awa Governance Entity is liable to pay targeted rates payable under section 9 of the Local Government (Rating) Act 2002 in respect of the Entitlement Land only in proportion to the period for which the Ngāti Awa Governance Entity is entitled to occupy the Entitlement Land under *clause 5.6.7*.

**5.6.26 Rights not affected**

The Settlement Legislation will provide that, except as expressly provided in this *clause 5.6*, the existence of the Nohoanga Entitlements will not affect the lawful rights or interests of any person who is not a party to this Deed.

**5.6.27 Limitation of rights**

The Settlement Legislation will provide that, except as expressly provided in this *clause 5.6*, the existence of the Nohoanga Entitlements will not have the effect of granting, creating or providing evidence of any estate or interest in, or any rights of any kind whatsoever relating to, the Entitlement Land.

## 5.7 PROTOCOLS

### 5.7.1 Definitions

In this *clause 5.7*:

**Antiquity** has the meaning given to it in section 2 of the Antiquities Act 1975;

**Artifact** has the meaning given to it in section 2 of the Antiquities Act 1975;

**Minister** means the Minister of Conservation, the Minister of Fisheries or the Minister for Arts, Culture and Heritage (as the case may be);

**Ministry** means the Department of Conservation, the Ministry of Fisheries or the Ministry for Culture and Heritage (as the case may be);

**Protocol** means a statement in writing, issued by the Crown through the Minister of Conservation, the Minister of Fisheries or the Minister for Arts, Culture and Heritage to the Ngāti Awa Governance Entity, which sets out:

- (a) How the Department of Conservation will exercise its functions, powers and duties in relation to specified matters within the Ngāti Awa DOC Protocol Area;
- (b) How the Ministry of Fisheries will exercise its functions, powers and duties in relation to specified matters within the Ngāti Awa Fisheries Protocol Area;
- (c) How the Ministry for Culture and Heritage will exercise its functions, powers and duties in relation to specified matters within the Ngāti Awa Antiquities Protocol Area; or
- (d) How the Department of Conservation, the Ministry of Fisheries or the Ministry for Culture and Heritage will, on a continuing basis, interact with Ngāti Awa and provide for Ngāti Awa's input into their decision-making processes;

**Ngāti Awa Antiquities Protocol Area** means the area identified in the map included in *Attachment A of Schedule 5.23* together with the adjacent waters;

**Ngāti Awa DOC Protocol Area** means the area identified in the map included in *Attachment A of Schedule 5.21* together with the adjacent waters and Offshore

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Islands to the extent they are administered by the Department of Conservation;  
and

*Ngāti Awa Fisheries Protocol Area* means the area identified in the map included as *Attachment A* of *Schedule 5.22* together with the adjacent waters.

**5.7.2 Issue of Protocols**

- (a) On the Settlement Date the Crown, through the Minister of Conservation, will issue a Protocol in the form set out in *Schedule 5.21* on the following matters within the Ngāti Awa DOC Protocol Area:
- (i) Input into business planning at area office level;
  - (ii) The provision of access to, and the use of, cultural materials (not including Artifacts);
  - (iii) The management of historic resources (including waahi tapu and waahi taonga of, and places of historical and cultural significance to, Ngāti Awa); and
  - (iv) Visitor and public information.
- (b) On the Settlement Date the Crown, through the Minister of Fisheries, will issue a Protocol in the form set out in *Schedule 5.22* on the following matters:
- (i) Recognition of the interests of Ngāti Awa in all species of fish, aquatic life or seaweed that exist within the Ngāti Awa Fisheries Protocol Area;
  - (ii) Development of sustainability measures, fisheries regulations and fisheries plans;
  - (iii) Management of customary non-commercial fisheries;
  - (iv) Research planning;
  - (v) Consultation on the Ministry of Fisheries annual business plan;
  - (vi) Contracting for services; and

- (vii) Employment of staff with non-commercial customary fisheries responsibilities.
- (c) On the Settlement Date the Crown, through the Minister for Arts, Culture and Heritage, will issue a Protocol in the form set out in *Schedule 5.23* on:
  - (i) Newly found Artifacts;
  - (ii) The export of Artifacts; and
  - (iii) The Antiquities Act 1975 and any amendment or substitution thereof.

### 5.7.3 Authority to issue, amend or cancel Protocols

The Settlement Legislation will provide that:

- (a) Subject to *clause 5.7.3(c)*, each Minister may issue a Protocol in the form referred to in *clause 5.7.2*; and may, from time to time, amend or cancel that Protocol;
- (b) A Protocol may be amended or cancelled pursuant to *clause 5.7.3(a)* at the initiative of either the Minister or the Ngāti Awa Governance Entity; and
- (c) The relevant Minister may amend or cancel the Protocol, only after consulting with, and having particular regard to the views of, the Ngāti Awa Governance Entity.

### 5.7.4 Protocols subject to Crown obligations

The Settlement Legislation will provide that all Protocols shall be issued and amended, subject to, and without restriction upon:

- (a) The obligations of the relevant Minister and the relevant Ministry to discharge their respective functions, powers and duties in accordance with existing law and government policy from time to time, including, without limitation, the ability of the relevant Minister or Ministry to interact or consult with any person or persons the Crown considers appropriate (including, without limitation, any other iwi, hapū, marae, whānau, or other representatives of tangata whenua); and
  - (b) The Crown's powers to amend policy and introduce legislation, including amending legislation.
- 

### 5.7.5 Noting of Protocols

The Settlement Legislation will provide that:

- (a) The existence of the Protocol issued under *clause 5.7.2(a)*, once issued, and as amended from time to time, and including a definition of the Protocols as set out in *clause 5.7.1* and a summary of the terms of issue of the Protocols, shall be noted in conservation management strategies, conservation management plans and national park management plans from time to time affecting the area covered by the Protocol;
- (b) Such noting of the Protocol issued under *clause 5.7.2(a)* shall be for the purpose of public notice only and shall not be amendments to the relevant strategies or plans for the purposes of section 17I of the Conservation Act 1987 or section 46 of the National Parks Act 1980;
- (c) The existence of the Protocol issued under *clause 5.7.2(b)*, once issued, and as amended from time to time, and including a definition of the Protocols as set out in *clause 5.7.1* and a summary of the terms of issue of the Protocols, shall be noted in fisheries plans from time to time affecting the area covered by the Protocol; and
- (d) Such noting of the Protocol issued under *clause 5.7.2(b)* shall be for the purpose of public notice only and shall not be amendments to the relevant strategies or plans for the purposes of section 11A of the Fisheries Act 1996.

### 5.7.6 Enforceability of Protocols

The Settlement Legislation will provide that:

- (a) The Crown must comply with its obligations under a Protocol as long as it remains in force;
  - (b) If the Crown fails, without good cause, to comply with its obligations under a Protocol, the Ngāti Awa Governance Entity may, subject to the Crown Proceedings Act 1950, enforce the Protocol;
  - (c) Notwithstanding *clause 5.7.6(b)*, the Ngāti Awa Governance Entity may not recover damages, or any form of monetary compensation (other than any costs related to the bringing of proceedings awarded by a Court), from the Crown for failure to comply with a Protocol; and
  - (d) This clause will not apply to any guidelines developed in relation to a Protocol.
- 

**5.7.7 Not breach of Deed**

Any failure by the relevant Minister to comply with a Protocol issued under *clause 5.7.2* shall not constitute a breach of this Deed.

**5.7.8 Limitation of rights**

The Settlement Legislation will provide that:

- (a) A Protocol issued under *clause 5.7.2(a)* does not have the effect of granting, creating or providing evidence of any estate or interest in, or any rights of any kind whatsoever relating to, land held, managed or administered, or flora and fauna administered, under the Conservation Act 1987 or the statutes listed in the First Schedule to that Act;
- (b) A Protocol issued under *clause 5.7.2(b)* will not have the effect of granting, creating or providing evidence of any estate or interest in, or any rights of any kind whatsoever relating to, any assets or other property rights held, managed or administered under the Fisheries Legislation and/or the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 (including fish, aquatic life or seaweed);
- (c) A Protocol issued under *clause 5.7.2(c)* will not have the effect of granting, creating or providing evidence of any estate or interest in, or any rights of any kind whatsoever relating to, antiquities, or artifacts managed or administered under the Antiquities Act 1975.

**5.7.9 Consistency with the Conservation Act 1987**

A Protocol issued under *clause 5.7.2(a)* is consistent with section 4 of the Conservation Act 1987 and does not override or diminish the requirements of that Act or of the statutes listed in the First Schedule to that Act, or the functions, powers and obligations of the Minister of Conservation or the Department of Conservation under those Acts, or the rights of Ngāti Awa or a Representative Entity under those Acts.

**5.7.10 Consistency with other Acts**

A Protocol issued under *clauses 5.7.2(b)* or *clause 5.7.2(c)* does not override or diminish the requirements of, respectively, the Fisheries Legislation and the Antiquities Act 1975, or the functions, powers and obligations of the relevant Minister or Ministry under those Acts, or the rights of Ngāti Awa or a Representative Entity under those Acts.

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## 5.8 RIGHT TO EXTRACT HANGI STONES FROM MOUTOHORĀ (WHALE) ISLAND WILDLIFE MANAGEMENT RESERVE

### 5.8.1 Definitions

In this clause and *clause 5.4*:

*Hangi Stones* means naturally occurring rounded rocks, typically basalt or andesite volcanic cobbles, with such rocks typically lacking in fracture planes and having dense crystalline texture, thus giving them capacity to retain heat and being commonly found in deposits of volcanic avalanche debris;

*Moutohorā (Whale) Island Wildlife Management Reserve* has the meaning given to it in *clause 5.4.1*;

*Relevant Hangi Stones* means Hangi Stones situated above mean high water springs on Moutohorā (Whale) Island Wildlife Management Reserve.

### 5.8.2 Traditional rights recognised

Ngāti Awa acknowledge that Ngāti Awa's traditional rights relating to the collection of Hangi Stones on Moutohorā (Whale) Island Wildlife Management Reserve have been recognised in the Settlement by:

- (a) *clause 5.4.2(a)(iii)* which provides for the delegation of the power to the Joint Management Committee established under *clause 5.4* to grant permits under section 22(5) of the Reserves Act 1977 to enter Moutohorā (Whale) Island Wildlife Management Reserve; and
- (b) *clause 5.8.3*.

### 5.8.3 Settlement Legislation

- (a) The Settlement Legislation will provide that section 8 of the Crown Minerals Act 1991 will not apply to the extraction of Relevant Hangi Stones if the 3 conditions set out in *clause 5.8.3(b)* have been met.
- (b) The conditions are:
  - (i) The Relevant Hangi Stones are loose;
  - (ii) The Relevant Hangi Stones are extracted by hand and without causing ground disturbance; and

## CULTURAL REDRESS

- (iii) The Relevant Hangi Stones are extracted by a Member of Ngāti Awa who has been given a permit under section 22(5) of the Reserves Act 1977 by the Joint Management Committee established under *clause 5.4* to enter Moutohorā (Whale) Island Wildlife Management Reserve.

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## 5.9 SITES CONSIDERED BY NGĀTI AWA TO BE WAAHI TAPU

### 5.9.1 Acknowledgement of waahi tapu sites

The Crown and Ngāti Awa acknowledge that the sites described in *Schedule 5.24* (being sites situated on Crown land or Cultural Redress Properties) are considered by Ngāti Awa to be waahi tapu.

### 5.9.2 No Crown agreement

Nothing in this clause constitutes or implies any acknowledgement or agreement by the Crown that such sites are waahi tapu. For the avoidance of doubt, the acknowledgment in *clause 5.9.1* shall not be binding as deemed fact upon Consent Authorities, the Environment Court, the New Zealand Historic Places Trust, parties to proceedings before those bodies, or any other person able to participate in those proceedings.

### 5.9.3 No Ngāti Awa Acknowledgement

Nothing in this clause constitutes an acknowledgement by Ngāti Awa that the sites described in *Schedule 5.24* are an exhaustive list of sites which Ngāti Awa considers to be waahi tapu.

### 5.9.4 Rights not affected

The Crown and Ngāti Awa acknowledge that nothing in *clause 5.9.1* will affect the lawful rights or interests of any party who is not a party to this Deed.

### 5.9.5 Limitation of rights

The Crown and Ngāti Awa acknowledge that nothing in *clause 5.9.1* will have the effect of granting, creating, or providing evidence of any estate or interest in, or any rights of any kind whatsoever relating to, any of the sites described in *Schedule 5.24*.

## 5.10 PLACE NAMES

### 5.10.1 Definitions

In this *clause 5.10*, *Place Names* means the names of the places listed in *Schedule 5.25*.

### 5.10.2 Amendment of Place Names

The Settlement Legislation will provide for the New Zealand Geographic Board to be deemed to have approved:

- (a) The amendment of Place Names shown in the "Existing Place Name" column of *Schedule 5.25* to the name shown in the "Amended Place Name" column; and
- (b) The allocation of the Place Names in the column "Names to be allocated to sites presently not named" of *Schedule 5.25* to those places described in the "Location" column.

### 5.10.3 Te Paepae o Aotea

Ngāti Awa acknowledge that the Chief Topographer/Hydrographer may at his or her discretion include a reference to Volkner Rocks as a textual note in addition to the official name "Te Paepae o Aotea" on hydrographic charts and topographic maps for an indefinite period.

### 5.10.4 Process for updating new place names

The Crown will arrange for the progressive amending of the Place Names on official signs and publications as those signs and publications become due in the ordinary course for replacement, updating or reprinting.

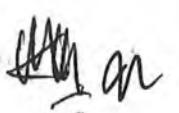
### 5.10.5 Change of name of Thornton Lagoon Wildlife Management Reserve to Okorero/Thornton Lagoon Wildlife Management Reserve

The Settlement Legislation will provide that:

- (a) The name of the Government Purpose (wildlife management) reserve currently named Thornton Lagoon Wildlife Management Reserve shall be changed to Okorero/Thornton Lagoon Wildlife Management Reserve;
- (b) The change of name referred to in *clause 5.10.5(a)* shall be deemed to have been changed pursuant to section 16(10) of the Reserves Act 1977.

**5.10.6 Process for updating new reserve names**

The Crown will arrange for the progressive amending of the name of the reserves under *clause 5.10.5* and under *clauses 4.2, 4.3, 4.5, 4.6 and 4.7* on Departmental signs and publications as those signs and publications become due in the ordinary course for replacement, updating or reprinting.



## 5.11 OFFSHORE ISLANDS

### 5.11.1 Definitions

In this *clause 5.11*, *Offshore Islands* has the meaning set out in clause 15.1.

### 5.11.2 Crown to consult the Ngāti Awa Governance Entity

If the Department of Internal Affairs conducts a review of the local government administration of the Offshore Islands it:

- (a) Will, as a part of that review, consult with, and have regard to the views of, the Ngāti Awa Governance Entity about its concerns and interests in relation to the local government administration of the Offshore Islands; and
- (b) May, as a part of that review, consult:
  - (i) Other iwi with an interest in the Offshore Islands;
  - (ii) Other land owners with an interest in the Offshore Islands;
  - (iii) Local authorities having jurisdiction over areas which are adjacent to the Offshore Islands;
  - (iv) The Local Government Commission; and
  - (v) Other parties with interests in the Offshore Islands.

### 5.11.3 Not breach of Deed

Any failure by the Crown to conduct a review of the local government administration of the Offshore Islands under this *clause 5.11* shall not constitute a breach of this Deed.

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## 5.12 PUTAUAKI (MOUNT EDGE CUMBE)

### 5.12.1 Letter to Current Owners

The Parties acknowledge that the Minister in Charge of Treaty of Waitangi Negotiations has written a letter to the current owner of Putauaki, Tarawera Forest Limited, to ask it to consider being represented at a meeting with Ngāti Awa on the issue of whether Tarawera Forest Limited would be willing to divest its interests in Putauaki and liaise with relevant iwi interests to explore appropriate options for acquiring title to Putauaki from Tarawera Forest Limited.

### 5.12.2 Limit of Crown's Role

Ngāti Awa acknowledge that any meeting or discussions between Ngāti Awa and Tarawera Forest Limited contemplated under *clause 5.12.1* can only occur with the consent of both parties, and that the Crown is not in a position to impose any such meeting or discussions. In addition, Ngāti Awa acknowledge that the Crown will not, except as provided in *clause 5.12.3*, have any further involvement in, or obligations in respect of, any discussions between Ngāti Awa and Tarawera Forest Limited.

### 5.12.3 Appointment of Facilitator

The Crown agrees that, if a meeting between Ngāti Awa and Tarawera Forest Limited, as contemplated by *clause 5.12.1*, occurs within 24 months of the Settlement Date, the Crown will meet the reasonable costs of hosting the meeting, in particular paying for the venue for the discussions and for a facilitator agreed between the parties, but the Crown will not pay such costs for any subsequent meeting.

### **5.13 LETTER TO ENVIRONMENT BAY OF PLENTY IN RESPECT OF ACCESS TO MAHINGA KAI AND WAAHI TAPU STATUS OF KOOHI POINT (KOHU POINT) ROCKS**

#### **5.13.1 Letter to Environment Bay of Plenty**

The Parties acknowledge that the Minister in Charge of Treaty of Waitangi Negotiations and the Minister for the Environment have written to Environment Bay of Plenty suggesting that Environment Bay of Plenty consider initiating a meeting with Ngāti Awa to discuss the waahi tapu status of the Koohi Point Rocks and whether access by Members of Ngāti Awa to specific mahinga kai along rivers within the Area of Interest over reserves administered by Environment Bay of Plenty can be improved.

#### **5.13.2 Limit of Crown's role**

Ngāti Awa acknowledge that any meeting between Ngāti Awa and Environment Bay of Plenty contemplated under *clause 15.13.1* can only occur with the consent of both parties, and that the Crown is not in a position to impose any such meeting. In addition, Ngāti Awa acknowledge that the Crown will not have any further involvement in, or obligations in respect of, any discussions between Ngāti Awa and Environment Bay of Plenty.

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#### **5.14 MONITORING THE PROVISIONS OF THE RESOURCE MANAGEMENT ACT 1991**

The Crown agrees that:

- (a) As soon as reasonably practicable after the Settlement Date, the Ngāti Awa Governance Entity will be given an opportunity to express to the Ministry for the Environment the views of Ngāti Awa on how the Treaty of Waitangi provisions, and other relevant provisions, of the Resource Management Act 1991 are being addressed in the Area of Interest; and
- (b) After the Settlement Date, the Ministry for the Environment will monitor (on behalf of the Minister for the Environment in accordance with the functions of that Minister under section 24 of the Resource Management Act 1991) the performance of local government in implementing the Treaty of Waitangi provisions, and other relevant provisions, of the Resource Management Act 1991 in the Area of Interest.

## 5.15 COASTAL TENDERING

### 5.15.1 Definitions

In this clause and in *Schedule 5.26*:

**Authorisation** means an authorisation granted by the Minister of Conservation pursuant to section 161 of the Resource Management Act 1991;

**Coastal Marine Area** has the same meaning as in section 2(1) of the Resource Management Act 1991; and

**Specified Coastal Marine Area** means the Coastal Marine Area within Part Ōhiwa Harbour.

### 5.15.2 Right of the Ngāti Awa Governance Entity to Purchase Authorisations

The Settlement Legislation will provide that if the Minister of Conservation offers by public tender, in accordance with Part VII of the Resource Management Act 1991, Authorisations in respect of any part of the Specified Coastal Marine Area, the Ngāti Awa Governance Entity will have a preferential right, exercisable in accordance with *clause 5.15.4*, to purchase a proportion of the Authorisations that are the subject of that tender.

### 5.15.3 Proportion of Authorisations that are subject to the right

The proportion of Authorisations that the Ngāti Awa Governance Entity has a right to purchase under *clause 5.15.2* must:

- (a) in area be up to 5% of all Authorisations granted, or proposed to be granted, by the Minister of Conservation in that tender round in respect of the Specified Coastal Marine Area;
- (b) in terms of the relevant portions of the Specified Coastal Marine Area be of not less than fair average quality relative to the quality of those portions for all other Authorisations which are the subject of that tender round.

### 5.15.4 Procedure to produce Authorisations

The procedure in accordance with which the right of the Ngāti Awa Governance Entity to purchase Authorisations must be exercised is set out in *Schedule 5.26*.

### 5.15.5 The Ngāti Awa Governance Entity Deemed to have made Tender

The Settlement Legislation will provide that:

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## CULTURAL REDRESS

- (a) where the Ngāti Awa Governance Entity has, under *clause 5.15.2*, a preferential right to purchase Authorisations, the Ngāti Awa Governance Entity will be deemed to have lodged (for \$1 remuneration) a valid tender for the Authorisations that complies with section 158 of the Resource Management Act 1991; and
- (b) if, in response to an offer by public tender referred to in *clause 5.15.2*, the Minister of Conservation receives no tenders or considers that he or she would reject every tender received, the tender that the Ngāti Awa Governance Entity is deemed to have lodged will be deemed to be the tender most preferred by the Minister for the Authorisations concerned.

**5.15.6 Resource Management Act 1991 not affected**

The Crown agrees that, except as provided in *clauses 5.15.2 to 5.15.5*, nothing in this Deed affects the powers, functions and duties of the Minister of Conservation under Part VII of the Resource Management Act 1991.

**5.15.7 Rights in respect of Coastal Marine Area**

The Settlement Legislation will provide that nothing in the Settlement Legislation will, except as expressly provided in that legislation:

- (a) affect the lawful rights or interests of persons who are not parties to this Deed in relation to the Specified Coastal Marine Area; or
- (b) grant, create or evidence an estate or interest in, or rights of any kind relating to, the Specified Coastal Marine Area; or
- (c) limit or affect the rights of Ngāti Awa to acquire Authorisations or otherwise exercise any statutory right, power or privilege.

**5.15.8 No limitation on Crown in respect of similar rights in Part Ōhiwa Harbour**

The Settlement Legislation will provide that the providing of the redress contained in this *clause 5.15* does not preclude the Crown from granting similar redress to a person or persons other than Ngāti Awa or a Representative Entity in respect of the Specified Coastal Marine Area or from implementing that similar redress.

**5.15.9 Crown has no intention to utilise Coastal Tendering Mechanism**

The Crown and Ngāti Awa acknowledge that, despite any provision in this Deed or the Settlement Legislation in respect of coastal tendering, the Crown currently has no intention of utilising the coastal tendering provisions in Part VII of the Resource Management Act 1991 in respect of the Specified Coastal Marine Area.

## 5.16 CONSISTENCY WITH LEGISLATION

The Parties agree and acknowledge that a number of the items of redress described in *Section 5* (Cultural Redress) are directed at providing the Ngāti Awa Governance Entity with meaningful input into Department of Conservation and Ministry of Fisheries decision-making processes relating to specified aspects of management and administration of certain areas of land and species, but those items of redress do not override or diminish the requirements of the Conservation Act 1987 or the statutes listed in the First Schedule of that Act, the Fisheries Legislation or the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992, or the functions, powers and obligations of the Minister of Conservation or the Department of Conservation or the Minister of Fisheries or the Ministry of Fisheries under those Acts, or the rights of Ngāti Awa or any Representative Entity under those Acts.

## 5.17 CROWN'S ABILITY TO PROVIDE OTHER REDRESS

### 5.17.1 Acknowledgement relating to non-exclusive redress

The Parties agree and acknowledge that to avoid doubt and without limiting *clauses 5.2.3(f), 5.2.19, 5.3.9, 5.7.4, 5.11.2(b)* and *5.15.8*, the existence of the redress described in *clauses 5.2 to 5.5, 5.7 to 5.9* and *5.11 to 5.15* does not prevent the Crown from:

- (a) providing the same or similar non-exclusive redress or other non-exclusive redress in respect of the relevant areas of land to a person or persons other than Ngāti Awa or a Representative Entity; and
- (b) doing anything else (including disposing of land to a person or persons other than Ngāti Awa or a Representative Entity) if that thing is consistent with the terms of the specified redress.

### 5.17.2 Statement by Ngāti Awa

Without limiting *clause 5.17.1*, Ngāti Awa records that *clause 5.17.1* does not necessarily mean that Ngāti Awa considers that other groups have interests in areas over which the redress specified in *clause 5.17.1* has been provided.

## 5.18 WHAKATĀNE AIRPORT LAND

### 5.18.1 Definition

In this *clause 5.18*, *Whakatāne Airport Land* means the land described by that name in *Attachment 5.4*.

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**5.18.2 Vesting of contingent interest by Settlement Legislation**

The Settlement Legislation will provide that if:

- (a) The Minister of Conservation considers that all or part of the Whakatāne Airport Land is not required for aerodrome purposes; and
- (b) The Minister of Conservation exercises his or her power under section 24 of the Reserves Act 1977 to revoke the reservation of the Whakatāne Airport Land (or part of it) as a reserve;

then, upon revocation, the relevant land will not become Crown land under section 25(1) of that Act but will vest in the Ngāti Awa Governance Entity.

**5.18.3 Clarification of nature of contingent interest**

The Settlement Legislation will provide, for the avoidance of doubt, that:

- (a) The redress under *clause 5.18.2* and *clause 5.18.6* does not:
  - (i) Subject to *clause 5.18.4*, affect the functions and powers of the Minister of Conservation under the Reserves Act 1977 in relation to the Whakatāne Airport Land;
  - (ii) Subject to *clause 5.18.4*, affect the functions and powers of the territorial authority (in which the Whakatāne Airport Land is vested as a reserve for aerodrome purposes) under the Reserves Act 1977 and the Airport Authorities Act 1966 in relation to the Whakatāne Airport Land;
  - (iii) Mean or imply that the Minister of Conservation will or may revoke the reserve status of the Whakatāne Airport Land (or part of it); or
  - (iv) Give any member of Ngāti Awa, the Ngata Awa Governance Entity or any Representative Entity any further right of action in respect of the exercise of any power or function under the Reserves Act 1977 in relation to the Whakatāne Airport Land than would have been available had the redress not been given; and
- (b) For the purposes of *clause 5.18.2(a)*, the Minister may consider that a part of the Whakatāne Airport Land is still required for aerodrome purposes even if it is being put to another use if:
  - (i) that use is lawful; and

- (ii) some other part of the Whakatāne Airport Land is being used for aerodrome purposes.

#### 5.18.4 No change in classification or purpose

The Settlement Legislation will provide that, despite sections 24 and 24A of the Reserves Act 1977, neither the Minister of Conservation nor the territorial authority in which the Whakatāne Airport Land is vested as a reserve for aerodrome purposes may change the classification or purpose of the whole or any part of the Whakatāne Airport Land.

#### 5.18.5 Encumbrances

The Settlement Legislation will provide that:

- (a) the Minister shall, in determining under section 25(2) of the Reserves Act 1977 the restrictions, encumbrances, liens or interests that should be specified in a *Gazette* notice that revokes the reservation of the Whakatāne Airport Land (or part of it) as a reserve, enquire into the validity of an existing restriction, encumbrance, lien or interest that the Minister considers may be invalid and shall not specify it if the Minister is satisfied that it is invalid;
- (b) the Minister shall give notice identifying the restrictions, encumbrances, liens and interests that the Minister:
  - (i) intends to specify in the *Gazette* notice; and
  - (ii) intends not to specify in the *Gazette* notice in accordance with *clause 5.18.5(a)*;
- (c) the Minister shall give the notice under *clause 5.18.5(b)*:
  - (i) in writing to:
    - (aa) the Ngāti Awa Governance Entity; and
    - (bb) every person who would be entitled to enforce a restriction, encumbrance, lien or interest identified under *clause 5.18.5(b)(ii)* if it were valid; but
  - (ii) if, in respect of a restriction, encumbrance, lien or interest, it is impracticable to give notice to every person under *clause 5.18.5(c)(i)(bb)*, by publication in a daily newspaper circulating in the district of the Whakatāne District Council;

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- (d) the Minister may not give notice in the *Gazette* revoking the reservation of the Whakatāne Airport Land (or part of it) as a reserve until the expiry of one month after notice has been given under *clause 5.18.5(b)* and *(c)*.

#### 5.18.6 Protected land

The Settlement Legislation will provide that if the Whakatāne Airport Land is vested in the Ngāti Awa Governance Entity under *clause 5.18.2* then the Ngāti Awa Governance Entity may, in relation to the Whakatāne Airport Land:

- (i) give a direction under *clause 9.3.1(a) and (b)* including a direction that the Whakatāne Airport Land is Protected Land; and
- (ii) give a direction under *clause 9.3.3*,

and *Section 9* shall apply to the Whakatāne Airport Land as if it were a Settlement Property.

#### 5.18.7 Notification on title

The Settlement Legislation will provide that the Registrar-General of Land must make a notification on the computer freehold registers for the Whakatāne Airport Land recording that the Whakatāne Airport Land is subject to the matters referred to in this *clause 5.18*.

**ATTACHMENT 5.4**

**WHAKATĀNE AIRPORT LAND**

*(Clause 5.18)*

South Auckland Land District – Whakatāne District

225.9941 hectares, more or less, being Lot 1 DPS 75887. All Computer Freehold Register SA60A/447;

AND

2.8832 hectares, more or less, being Lot 1 DPS 75684. All Computer Freehold Register SA59B/897;

AND

1145 square metres, more or less, being Lot 1 DPS 26713. All Computer Freehold Register SA44D/331;

AND

790 square metres, more or less, being Lot 2 DPS 26713. All Computer Freehold Register SA44D/332;

AND

722 square metres, more or less, being Lot 3 DPS 26713. All Computer Freehold Register SA44D/333;

AND

790 square metres, more or less, being Lot 4 DPS 26713. All Computer Freehold Register SA44D/334;

AND

768 square metres, more or less, being Lot 5 DPS 26713. All Computer Freehold Register SA44D/335.

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## FINANCIAL REDRESS

**SECTION 6: FINANCIAL REDRESS****6.1 REDRESS AMOUNT AND INITIAL PAYMENTS****6.1.1 The Redress Amount**

The parties agree that the Redress Amount is:

- (a) \$42,390,000, being the sum of:
  - (i) The aggregate of the Redress Values as defined in *Section 8*;
  - (ii) The amounts or agreed values referred to under *clause 6.1.2*;
  - (iii) The Cash Settlement Amount of \$15,810,275, subject to *clause 8.4.2*; and
- (b) The amount payable to the Ngāti Awa Governance Entity under *clause 7.2*.

**6.1.2 Payment by the Crown of initial payments**

Ngāti Awa acknowledges receipt from the Crown of the following which, Ngāti Awa and the Crown agree, are to be treated as part payments of the Redress Amount:

- (a) The amount of \$2,000,000 paid to Te Runanga o Ngāti Awa under the Mātaatua Agreement on 29 August 1996;
- (b) A further amount of \$1,250,000 paid to Te Runanga o Ngāti Awa from 5 April 2001 to the date of this Deed as an advance of cash settlement; and
- (c) The amount of \$390,000 in relation to the transfer to Te Runanga o Ngāti Awa of the Whakatāne Telecom site on 3 October 1994.

**6.1.3 Other payments**

The Parties record that Ngāti Awa has also received \$1,350,000 paid in instalments from March 1996 to December 2000 as a contribution towards Ngāti Awa's negotiating costs but that those amounts are not redress and have not been deducted from the Redress Amount in determining the Cash Settlement Amount.

**6.1.4 Treatment of Mātaatua Agreement's "Settlement Sum"**

Ngāti Awa and the Crown acknowledge:

- (a) That the Redress Amount includes the amount of the Settlement Sum (as defined in the Mātaatua Agreement); but

## FINANCIAL REDRESS

- (b) That the balance of the Redress Amount (after deduction of that Settlement Sum) and the redress as a whole were agreed without taking into account that Settlement Sum or the redress under the Mātaatua Agreement; and
- (c) Accordingly the treatment of the Settlement Sum under this Deed is consistent with clauses 8.3.2 and 8.3.3 of the Mātaatua Agreement.

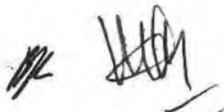
**6.1.5 Status of initial payments if Deed does not become unconditional**

If for any reason this Deed does not become unconditional:

- (a) The amount of any redress which the Crown becomes obliged to provide to discharge the Crown's obligations in respect of any of the Ngāti Awa Historical Claims will be adjusted to reflect the amounts and the agreed value referred to in *clauses 6.1.2(b) and (c)*; and
- (b) The Crown may produce this Deed to any Court or tribunal considering the quantum of any redress to be provided by the Crown in relation to any of the Ngāti Awa Historical Claims to give effect to *clause 6.1.5(a)*.

**6.2 PAYMENT BY THE CROWN OF THE SETTLEMENT AMOUNT**

The Crown must pay the Ngāti Awa Governance Entity the Cash Settlement Amount on the Settlement Date.



**SECTION 7: ANCILLARY CLAIMS****7.1 BACKGROUND****7.1.1 Heads of Agreement**

The Heads of Agreement contained the following paragraph:

“59 After discussions with Ngāti Awa negotiators, the Crown notes that it is an objective of the two hapū, Te Rangihouhiri II and Hikakino, to acquire land within their traditional area of interest. The Crown therefore offers, in response to the specific claims of those two hapū, to pay any balance of funds remaining from the \$1 million sum after settlement of the ancillary claims to the Ngāti Awa governance entity to make available to Te Rangihouhiri and Hikakino. For the avoidance of doubt, all three ancillary claims must be settled before any of this residual amount will be paid to the Ngāti Awa governance entity.”

**7.1.2 Status of Ancillary Claims**

The Ancillary Claims have not been settled at the date of this Deed and the Crown and Ngāti Awa have agreed to give effect to paragraph 59 of the Heads of Agreement on the terms set out in *clause 7.2*.

**7.2 PAYMENT TO NGĀTI AWA GOVERNANCE ENTITY****7.2.1 Payment on Settlement Date**

On the Settlement Date, the Crown shall pay to the Ngāti Awa Governance Entity the amount of \$590,000, being the difference between \$1,000,000 and the aggregate of amounts set aside for settlement of the Ancillary Claims.

**7.2.2 Acknowledgement by Ngāti Awa**

Ngāti Awa acknowledge that Ngāti Awa intend to pay the amount received under *clause 7.2.1* to a body representing Ngai Te Rangihouhiri II and Ngāti Hikakino after the Settlement Date.

**7.2.3 Limit of Crown's Obligation**

Ngāti Awa acknowledges that the Crown's only obligation is to make the payment under *clause 7.2.1* to the Ngāti Awa Governance Entity and, in particular the Crown has no obligation to Ngāti Awa:

- (a) To ensure that the Ngāti Awa Governance Entity makes the payment referred to in *clause 7.2.2*; or

## ANCILLARY CLAIMS

- (b) To ensure that the payment is made to an appropriate entity that properly represents Ngai Te Rangihouhiri II and Ngāti Hikakino; or
- (c) To make any further payment if the Ancillary Claims never settle or settle at an amount less than the aggregate amount set aside for settlement of the Ancillary Claims; or
- (d) To settle the Ancillary Claims or settle them at the aggregate amount set aside for settlement of the Ancillary Claims.

AK [Signature]

**SECTION 8: TRANSFER OF COMMERCIAL REDRESS PROPERTIES  
AND OTHER LAND ASSETS****8.1 DEFINITIONS**

In this Section and its Schedules, unless the context requires otherwise:

**Commercial Redress Property** means the Redress Land and the Redress Licensed Land;

**Crown Forest Land** has the meaning given to it in section 2 of the Crown Forest Assets Act 1989;

**Crown Forestry Licence:**

- (a) Has the meaning given to it in section 2 of the Crown Forest Assets Act 1989; and
- (b) In relation to each Redress Licensed Land means the Licence affecting the Redress Licensed Land at the date of this Deed; and
- (c) Still has that meaning even though that Licence is replaced on conclusion of the process referred to in *clause 8.4.5*;

**Crown Forestry Rental Trust** means the forestry rental trust referred to in section 34 of the Crown Forest Assets Act 1989;

**Disclosure Information** means, in respect of each Commercial Redress Property and the Ōhope Beach Holiday Park Land, the information already provided by, or on behalf of, the Crown to Ngāti Awa and referred to in *Schedule 8.1*;

**Encumbrances** means, in respect of each Commercial Redress Property, the tenancies, leases, licences to occupy, easements, covenants or other property rights affecting that property and included in the description of that Commercial Redress Property in *Attachment 8.1* or *8.2*, without variation;

**Leaseback** means, in respect of each Leaseback Property, the ground lease to be granted by the Ngāti Awa Governance Entity to the relevant Transferor Agency on the Settlement Date, as referred to in *clause 8.2.3*;

**Leaseback Property** means each Redress Land identified as being a Leaseback Property in *Attachment 8.1*;

## TRANSFER OF COMMERCIAL REDRESS PROPERTIES AND OTHER LAND ASSETS

**Licence Fee Review** means a review under clause 4.3 of a Crown Forestry Licence that has not been concluded at the Settlement Date;

**Licensee** means the registered holder for the time being of the relevant Crown Forestry Licence;

**Ōhope Beach Holiday Park Land** has the meaning given to it in *clause 8.5.1*;

**Redress Land** means each of the properties described in *Attachment 8.1*;

**Redress Licensed Land** means each of the 3 areas of land described in *Attachment 8.2* as “*Part Northern Boundary Licensed Land*”, “*Rotoehu East Licensed Land*” and “*Part Rotoehu West Licensed Land*”, and shown on SO 61738 South Auckland Land District but excludes:

- (a) All trees growing or standing or, in the case of windthrow, lying on those areas of land; and
- (b) Subject to the terms of the Crown Forestry Licence, all improvements that have been acquired by any purchaser of the trees on those parcels of land or made thereafter by such purchaser or the Licensee;

**Redress Value** means:

- (a) In respect of each Redress Land, the portion of the Redress Amount attributable to that property as set out in *Attachment 8.1*;
- (b) In respect of each Redress Licensed Land, the portion of the Redress Amount attributable to that property as set out in *Attachment 8.2* or as varied under *clause 8.4.2*; and
- (c) \$159,000, being the portion of the Redress Amount attributable to the redress relating to Ōhope Beach Holiday Park Land under this Section; and

**Transferor Agency** means:

- (a) In respect of each Redress Land, the transferor agency listed in the column headed “*Transferor Agency*” in *Attachment 8.1*;
- (b) In respect of the Redress Licensed Land, Land Information New Zealand.

## 8.2 TRANSFER OF COMMERCIAL REDRESS PROPERTIES

### 8.2.1 Transfer of Commercial Redress Properties

On the Settlement Date, the Crown shall transfer each Commercial Redress Property to the Ngāti Awa Governance Entity subject only to the Encumbrances and free of any other tenancies, leases, licences to occupy, easements, covenants or other property rights.

### 8.2.2 Terms of Transfer

The terms and conditions which apply to the transfer of each Commercial Redress Property are those set out in *Schedule 8.2* which is deemed to be a separate agreement in respect of each Commercial Redress Property.

### 8.2.3 Leasebacks

- (a) In respect of each Leaseback Property, on the Settlement Date, immediately following transfer, the Ngāti Awa Governance Entity shall sign as landlord and the Transferor Agency or Crown shall sign as tenant a Memorandum of Lease on the terms and conditions described in Part A of *Schedule 8.3* where the Transferor Agency is the Ministry of Education and Part B of *Schedule 8.3* where the Transferor Agency is the Department for Courts.
- (b) The commencement date for each Leaseback shall be the Settlement Date.
- (c) The initial annual rent payable on the commencement date under each Leaseback shall be an amount specified for that Leaseback Property in *Attachment 8.1*.

## 8.3 LEGISLATIVE CHANGES RELATING TO COMMERCIAL PROPERTIES GENERALLY

The Settlement Legislation will:

- 8.3.1 Provide that nothing in section 11 or Part X of the Resource Management Act 1991 applies to:
  - (a) The transfer of a Commercial Redress Property; or
  - (b) The Leaseback of a Commercial Redress Property; or
  - (c) Any matter incidental to, or required for the purpose of, the transfer or Leaseback of a Commercial Redress Property,

for the purpose of giving effect to this Deed;

## TRANSFER OF COMMERCIAL REDRESS PROPERTIES AND OTHER LAND ASSETS

- 8.3.2 Provide that the laying out or forming, granting or reserving of any private road, private way or right of way that may be required for the purposes of this *Section 8* shall not require the prior permission of any council under section 348 of the Local Government Act 1974;
- 8.3.3 Provide that:
- (a) Where the land that forms all or part of the Commercial Redress Property is not all of one or more allotments specified in an existing certificate of title or computer freehold register the Registrar-General of Land must on written application by any person authorised by the Chief Executive of Land Information New Zealand (and after completion of survey (if any) as may be necessary) create, in accordance with that application, one or more computer registers in the name of the Crown for the fee simple estate in that land subject to, and where applicable, with the benefit of, any Encumbrances that are registrable or notifiable and are described on the written application. The reference in this clause to one or more allotments means one or more allotments as “allotment” is defined in section 218 of the Resource Management Act 1991; and
  - (b) Where, immediately before a computer register is created under *clause 8.3.3(a)*, the land is held for different purposes a single computer register for that land can be created in the name of the Crown without any statement or purpose.
- 8.3.4 Provide that, in addition to those parts of *clause 11.2* that relate to Crown Forest Land, in relation to the Redress Licensed Land:
- (a) With effect from the Settlement Date the Ngāti Awa Governance Entity will be a “Confirmed Beneficiary” under clause 11.1 of the Crown Forestry Rental Trust (that is, the Ngāti Awa Governance Entity will become entitled to licence fees payable since the commencement of the relevant Crown Forestry Licences and all the provisions of the Crown Forestry Rental Trust shall apply accordingly);
  - (b) With effect from the Settlement Date and pursuant to its Trust Deed, the Crown Forestry Rental Trust shall pay to the Ngāti Awa Governance Entity the licence fees received by the Crown Forestry Rental Trust since the commencement of the relevant Crown Forestry Licences;

## TRANSFER OF COMMERCIAL REDRESS PROPERTIES AND OTHER LAND ASSETS

- (c) With effect from the Settlement Date the Crown must give a notice described in section 17(4)(b) of the Crown Forest Assets Act 1989 even though the Waitangi Tribunal has not made a recommendation under section 8HB(1)(a) of the Treaty of Waitangi Act 1975 for the return of the land, and the notice will have effect as if such a recommendation had been made and had become final;
- (d) With effect from the Settlement Date, the Ngāti Awa Governance Entity will be the Licensor under the relevant Crown Forestry Licences or any replacement licence on conclusion of the process referred to in *clause 8.4.5* as if the Redress Licensed Land had been returned to Maori ownership on the Settlement Date pursuant to section 36 of the Crown Forest Assets Act 1989, but section 36(1)(b) of that Act does not apply to that return;
- (e) *Clauses 8.3.4(a) to (d)* apply even if:
  - (i) The transfer of the fee simple estate in the Redress Licensed Land has not been registered by the Settlement Date; and
  - (ii) Where the Redress Licensed Land is part only of the Crown Forest Land under the Crown Forestry Licence, the processes under clause 17.4 of the Crown Forestry Licence have not been completed by the Settlement Date; and
- (f) Despite *clause 8.3.4(d)*, where the Redress Licensed Land is part only of the Crown Forest Land under the Crown Forestry Licence, clause 17.4 of the Crown Forestry Licences shall continue to apply:
  - (i) On the basis that the Crown remains responsible for obligations in that clause to be undertaken by the Crown; and
  - (ii) As if references to “the prospective Proprietors” were references to the Ngāti Awa Governance Entity;

8.3.5 Provide that, on the registration of the transfer of the fee simple estate in the Redress Licensed Land to the Ngāti Awa Governance Entity, the Land ceases to be Crown Forest Land but, even though the Redress Licensed Land does not cease to be Crown Forest Land until that registration, neither the Crown nor any Court or Tribunal nor any person may do any thing, or omit to do any thing, which would otherwise be permitted by the Crown Forest Assets Act 1989 if to do that thing or to omit to do that thing is inconsistent with this *Section 8*;

## TRANSFER OF COMMERCIAL REDRESS PROPERTIES AND OTHER LAND ASSETS

- 8.3.6 Enable the grant and registration of covenants by the Crown to arrange for the later creation of one or more computer freehold registers for any Commercial Redress Property that is to be transferred to the Ngāti Awa Governance Entity;
- 8.3.7 Empower the Crown to grant the easements referred to in *clause 8.4.4* and provide that any such easement over any conservation area:
- (i) Is registrable under section 17ZA(2) of the Conservation Act 1987, as if it were a deed to which that provision applied; and
  - (ii) Is enforceable in accordance with its terms despite Part IIIB of the Conservation Act 1987;
- 8.3.8 Empower the Crown to sign transfers and Leasebacks and do anything else necessary to give effect to the Crown's obligations under this *Section 8* without complying with any other enactment that regulates or applies to those activities;
- 8.3.9 Provide that the transfer of a Commercial Redress Property under this *Section 8* does not affect any privately owned rights to sub-surface minerals or sections 10 or 11 of the Crown Minerals Act 1991;
- 8.3.10 Provide that the transfer of the fee simple estate to give effect to this *Section 8* is a disposition for the purposes of Part IVA of the Conservation Act 1987, but sections 24(2A), 24A and 24AA of that Act do not apply to the disposition; and
- 8.3.11 Make such other provisions as are necessary or desirable to give effect to this *Section 8*.

**8.4 FURTHER PROVISIONS RELATING TO REDRESS LICENSED LAND****8.4.1 Provisions relating to the management of Crown Forestry Licences**

(a) From the date of this Deed until the Settlement Date, the Crown shall:

- (i) Continue to manage the licensor's interest in the Redress Licensed Land prudently and having regard to the commercial interests of the Ngāti Awa Governance Entity as licensor from the Settlement Date;
- (ii) Give the Ngāti Awa Governance Entity all material information (unless to do so would breach any obligation to keep that information confidential) relating to the obligation in *clause 8.4.1(a)(i)*, where

## TRANSFER OF COMMERCIAL REDRESS PROPERTIES AND OTHER LAND ASSETS

practicable in sufficient time to enable the Ngāti Awa Governance Entity to make submissions on the Crown's management of the licensor's interest in the Redress Licensed Land; and

- (iii) In complying with *clause 8.4.1(a)(i)*, have regard to any submissions made to it by the Ngāti Awa Governance Entity about the management of the licensor's interest in the Redress Licensed Land and the conduct of a Licence Fee Review.

(b) Following the Settlement Date:

- (i) The Ngāti Awa Governance Entity shall conduct the Licence Fee Reviews insofar as they relate to the Redress Licensed Land; and
- (ii) The Crown shall conduct them in relation to the balance of the land under the Crown Forestry Licence,

independently and in a manner that does not prejudice the other's position as licensor under the reviews.

(c) The Crown shall ensure that:

- (i) All licence fees the Crown receives from the Licensees under the Crown Forestry Licences that relate to the Redress Licensed Land; or
- (ii) If the Licensee fails to make payment of a licence fee, all equivalent payments the Crown receives in respect of that failure from any guarantor of the licensees' obligations (but, for the avoidance of doubt, not any interest or other compensation for late payment),

shall be paid to the Crown Forestry Rental Trust as soon as practicable so that the Crown Forestry Rental Trust is able to pay those amounts to the Ngāti Awa Governance Entity with effect from the Settlement Date.

- (d) The Crown shall not be in breach of *clause 8.4.1(c)* if such payments are received too late (whether before or after the Settlement Date) for it to be practicable for the Crown to pay them to the Crown Forestry Rental Trust so that the Crown Forestry Rental Trust is able to pay them to the Ngāti Awa Governance Entity with effect from the Settlement Date and, in that case, the Crown shall ensure those amounts are paid to the Ngāti Awa Governance Entity on the Settlement Date or as soon as practicable after it.

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- (e) The Crown gives no warranty or indemnity to the Ngāti Awa Governance Entity that the amounts referred to in *clause 8.4.1(c)* will be received by the Crown but the Crown acknowledges that *clause 8.4.1(a)* applies to the collection of those amounts from the Licensees and any guarantor of the Licensees' obligations and shall, accordingly, until the Settlement Date, take all reasonable steps to enforce payment by the Licensees and guarantor in the event of a breach by any licensee of the obligations covered by the guarantee.
- (f) To the extent that *clause 8.3.4* does not achieve the same effect, the Crown assigns to the Ngāti Awa Governance Entity all the Crown's rights as licensor under the Crown Forestry Licences insofar as they relate to the Redress Licensed Land and under any replacement licence entered into on conclusion of the process referred to in *clause 8.4.5* including the right to pursue remedies against the Licensee in respect of breaches by the Licensee occurring before the Settlement Date but without limiting or affecting the Crown's rights:
- (i) Relating to any failure by the licensee to pay rates in respect of a period prior to the Settlement Date; and
  - (ii) To take Court proceedings against, or defend Court proceedings by, the licensee where:
    - (aa) The proceedings relate to a loss or potential loss to, or Court order against, the Crown; or
    - (bb) The proceedings relate to a clause in the Crown Forestry Licence (or a replacement licence) where reference to the "Crown" or the "Crown's" is not replaced by a reference to the "Proprietor" or the "Proprietor's".
- (g) If the Ngāti Awa Governance Entity receives from the Licensee any rates referred to in *clause 8.4.1(f)*, the Ngāti Awa Governance Entity holds them on trust for the Crown and shall pay them to the Crown as soon as reasonably practicable after receipt.
- (h) The Crown shall pay to the Ngāti Awa Governance Entity:
- (i) The amount the Ngāti Awa Governance Entity is required to pay to a Licensee under a Crown Forestry Licence (or under a licence that replaces it on conclusion of the process referred to in *clause 8.4.5*) as a result of a claim brought against the Ngāti Awa Governance Entity



## TRANSFER OF COMMERCIAL REDRESS PROPERTIES AND OTHER LAND ASSETS

arising out of a breach by the Crown before the Settlement Date as licensor under the Crown Forestry Licence, or under the licence that replaces it; and

- (ii) The amount of any set-off awarded to the Licensee for a counter-claim arising out of such a breach against a claim brought by the Ngāti Awa Governance Entity,

but the Ngāti Awa Governance Entity shall do all things reasonably requested of it by the Crown and at the cost of the Crown to ensure that the Crown may defend the claim or counter-claim.

- (i) The Ngāti Awa Governance Entity shall pay to the Crown the amount the Crown is required to pay to a Licensee under a Crown Forestry Licence (or under a licence that replaces it on conclusion of the process referred to in *clause 8.4.5*) as a result of a claim brought against the Crown arising out of a breach by the Ngāti Awa Governance Entity after the Settlement Date as licensor under the Crown Forestry Licence or under the licence that replaces it, but the Crown shall do all things reasonably requested of it by the Ngāti Awa Governance Entity and at the cost of the Ngāti Awa Governance Entity to ensure that the Ngāti Awa Governance Entity may defend the claim.
- (j) From the Settlement Date, the Ngāti Awa Governance Entity shall be responsible for all the licensor's obligations under the Crown Forestry Licences insofar as they relate to the Redress Licensed Land (other than obligations of the Crown under *clause 17.4* of the Crown Forestry Licences), or under the licences that replace them on conclusion of the process referred to in *clause 8.4.5*, including, without limitation, the obligation to pay any overpayment to a Licensee (and interest on it) on completion of a licence fee review in respect of a period prior to the Settlement Date.
- (k) *Clause 12.1.1* (which provides that this Deed is conditional) does not apply to *clause 8.4.1(a)*.

#### 8.4.2 Redress Value for Redress Licensed Land

- (a) The Redress Value for each Redress Licensed Land as set out in *Attachment 8.2* was established as the market value of the Licensor's interest in the land as at 1 April 2001. In the case of the Redress Licensed Land described in *paragraph 1.1.1* of *Attachment 8.2*, the market value was originally established for a larger area of land and the Redress Value has been calculated by reducing that market value by 24.7% to reflect a reduction in the area of the Redress Licensed Land agreed after the market value for that larger area was established.

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- (b) The Crown and Ngāti Awa have jointly instructed the Valuer to update the Redress Value for each Redress Licensed Land by jointly signing and delivering to the Valuer instructions in the form of the Instructions to Valuer and the Valuer has accepted those instructions in writing to Ngāti Awa and the Crown.
- (c) The Crown has given to Ngāti Awa and the Valuer a report (together with copies of any relevant documents) describing all information and events which have become apparent or which have occurred since the date the Redress Value for the Redress Licensed Land was established which, if they had been apparent or had occurred before that date, would have been disclosed by the Crown to Ngāti Awa as at that date.
- (d) *Paragraph 8 of Schedule 8.2* applies to that report as if the report were the Disclosure Information.
- (e) The Crown and Ngāti Awa made written submissions to the Valuer in accordance with paragraph 11 of the Instructions to Valuer.
- (f) No later than 10 Business Days after the date on which the Valuer gives a draft report that complies with the Instructions to Valuer, the Crown and Ngāti Awa may make written submissions to the Valuer on the draft report.
- (g) No later than 20 Business Days after the expiry of the period under *clause 8.4.2(f)* the Valuer must give a final report that complies with the Instructions to Valuer.
- (h) Where the final report under *clause 8.4.2(g)* states that the Redress Value for a Redress Licensed Land should be updated, then the updated amount contained in the report shall be the Redress Value for that Redress Licensed Land for the purposes of this Deed in substitution for the Redress Value set out in *Attachment 8.2*, and the Cash Settlement Amount shall be varied accordingly.
- (i) The determination in the final report is final and binding on the Crown and Ngāti Awa. The Crown and Ngāti Awa do not intend this *clause 8.4.2* to be a submission to arbitration.
- (j) If the Valuer:
  - (i) Fails to perform an obligation of the Valuer specified in this *clause 8.4.2* or in the Instructions to Valuer and, after being given written notice by the Crown or Ngāti Awa that the obligation must be met

## TRANSFER OF COMMERCIAL REDRESS PROPERTIES AND OTHER LAND ASSETS

within a further 20 Business Days of receipt of that notice by the Valuer, still fails to perform; or

- (ii) Is or becomes unwilling or unable to continue to perform the Valuer's functions under this *clause 8.4.2* or the Instructions to Valuer,

then the Crown and Ngāti Awa shall jointly attempt to appoint, within 10 Business Days of either event in (i) or (ii) occurring, another Valuer on similar terms, failing which either the Crown or Ngāti Awa may request the President for the time being of the New Zealand Property Institute to nominate a suitably experienced, independent registered valuer to be the Valuer for the purposes of this *clause 8.4.2* and the Instructions to Valuer. The Crown and Ngāti Awa must accept the nomination of the President of the New Zealand Property Institute and they have no right to object on the grounds that the person nominated is not suitably experienced or independent.

- (k) If a final report is not issued by the Settlement Date then, on the Settlement Date, the Crown shall pay the Cash Settlement Amount on the basis of the Redress Values set out in *Attachment 8.2* and a balancing payment will be made by one party to the other within 60 Business Days of receipt by both parties of the final report. The balancing payment will be paid by the Crown if the sum of the Redress Values established by the final report is less than the sum of the Redress Values set out in *Attachment 8.2* and by the Ngāti Awa Governance Entity if the sum of the Redress Values established by the final report is greater than the sum of the Redress Values set out in *Attachment 8.2*. The balancing payment will be an amount equal to the difference between the sum of the Redress Values established by the final report and the sum of the Redress Values set out in *Attachment 8.2*.
- (l) The party making the balancing payment must also pay interest on the amount of the balancing payment from the Settlement Date to the date of payment at the rate set out in *clause 14.6*.
- (m) The Crown and Ngāti Awa shall each bear their own costs in connection with the process set out in this *clause 8.4.2* and the costs of the Valuer shall be borne by the Crown.
- (n) In this *clause 8.4.2*:

**Instructions to Valuer** means instructions to the Valuer in the form set out in Schedule 8.7;

**Valuer** means:

- (i) the registered valuer who established the Transfer Value for the Redress Licensed Land as at 1 April 2001; or
  - (ii) the registered valuer appointed under *clause 8.4.2(j)*.
- (o) *Clause 12.1.1* (which provides that this Deed is conditional) does not apply to *paragraphs (a) to (j) and (n)* of this *clause 8.4.2*.

### 8.4.3 Apportionment of Licence Fees

- (a) For the purposes of:
  - (i) *clauses 8.4.1 and 8.4.2* of this Deed; and
  - (ii) *clause 4.1* of the relevant Crown Forestry Licences,

in respect of the Crown Forestry Licences for which the Redress Licensed Land is part only of the land covered by the licence, the licence fee attributable to the Redress Licensed Land in that licence until completion of the process referred to in *clause 8.4.5* is:

$$A \times (B \div C)$$

where:

- A = The licence fee for the Crown Forestry Licence;
- B = The area of the Redress Licensed Land covered by the Crown Forestry Licence as specified in *paragraphs 1.1 and 3.1* of *Attachment 8.2* for each such Redress Licensed Land; and
- C = The area of all the land covered by the Crown Forestry Licence.

- (b) If the areas of the Redress Licensed Land are finally determined following survey and the approval of the survey plan by the Chief Executive (as defined in the Cadastral Survey Act 2002) after the Settlement Date, the Crown or the Ngāti Awa Governance Entity (as the case may be) shall make a balancing payment to the other within 10 Business Days of the date on

which the areas are finally determined if a finally determined area differs from the area specified in *paragraph 1.1* or *paragraph 3.1* of *Attachment 8.2*. The balancing payment to be made by the payer will be the difference between the amount of the licence fees the payer received on the basis set out in *clause 8.4.3(a)* and the amount of licence fees that would have been received by the payer if the areas had been finally determined by the Settlement Date.

- (c) The Settlement Legislation will make provision to give effect to *clause 8.4.3(a)(ii)*.

#### 8.4.4 Easements to be granted

- (a) On registration of the transfer of the Redress Licensed Land described in *Attachment 8.2* as “Part Northern Boundary Licensed Land” or, if later, on completion of any necessary survey, the Ngāti Awa Governance Entity shall grant to the Crown a right of way easement in gross in the form set out in *Schedule 8.4* from Ngamotu Road across Lot 1 DPS 45824 to the adjoining conservation land being Section 1 SO 60435.
- (b) On registration of the transfer of the Redress Licensed Land described in *Attachment 8.2* as “Part Northern Boundary Licensed Land”, the Crown shall grant to the Ngāti Awa Governance Entity, in favour of that Redress Licensed Land, a permanent right of way easement over Whakawhiti and Ngatamawahine roads from Parapara Road to the western boundary of Lot 1 DPS 45073 and over Crown land, being Part Run 54, and being the connection between Ngatamawahine Road and the Northern Boundary Public Road. The terms and conditions of such easement shall be similar to those contained in the easement granted pursuant to *clause 8.4.5(b)*, and it will apply (in respect of the part over Lot 1 DPS 45013) from the time the road ceases to be subject to a Crown Forestry Licence, unless the Licensee agrees to an earlier application.
- (c) On registration of the transfer of the Redress Licensed Land described in *Attachment 8.2* as “Rotoehu East Licensed Land”, the Ngāti Awa Governance Entity shall grant to the Crown a right of way easement in gross from Pikowai Road across Lot 1 DPS 57549 via Pā and Cave Roads, to provide access to the adjoining conservation land being Section 2 SO 60650, and from the unnamed road leading from Pā Road that gives access to the adjoining conservation land being Section 1 SO 60650. The terms and conditions of the easement shall be in the form set out in *Schedule 8.4*, except that an additional clause 3.12 shall be included, which shall read: “The Grantee shall, while the Grantor’s Land remains subject to the Crown

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Forestry Licence registered as Computer Interest Register SA52D/550 (South Auckland Registry), obtain the written consent of the licensee under that licence before exercising its right under this Deed.”

- (d) On registration of the transfer of the Redress Licensed Land described in *Attachment 8.2* as “Rotoehu East Licensed Land” the Crown shall grant to the Ngāti Awa Governance Entity a right of way easement over land held under the Conservation Act 1987 being Section 2 SO 60650 and shown marked “D” on DPS 57549 in favour of that part of the Redress Licensed Land contained in Lot 1 DPS 57549 in the form set out in *Schedule 8.5*.
- (e) If, as a result of the process referred to in *clause 8.4.5(a)*, the Ngāti Awa Governance Entity is granted a right of way easement in favour of the Redress Licensed Land described in *Attachment 8.2* as “Part Rotoehu West Licensed Land” along Wairoa Valley Road to the southern boundary of the forest, then, as soon as practicable after it has been created, the Crown shall grant to the Ngāti Awa Governance Entity a right of way easement over conservation land, being Section 5 and Part Sections 4 and 7 Block II, Sections 7 and 10 and Part Sections 6 and 9 Block VI Rotoma Survey District and Part Closed Road SO 32378 and shown “A” on DPS 68064 in favour of those parts of Lot 1 DPS 57551 and Lot 1 DPS 57645 that are part of the Redress Licensed Land in the form set out in *Schedule 8.6*.
- (f) Ngāti Awa acknowledge that the agreement by the Crown to grant the easement under *clause 8.4.4(b)*:
- (i) shall, given that it has been granted without regard to the concept of mutual benefit contained in the processes described in *clause 8.4.5(a)*, be taken into account in those processes in determining rights that the Crown may require under those processes; and
- (ii) shall not be used as a precedent to require the Crown to grant, during those processes, any other easement in favour of the Redress Licensed Land.
- (g) The Crown shall bear its own costs and the reasonable costs of the Ngāti Awa Governance Entity incurred in complying with this *clause 8.4.4*.

#### 8.4.5 Rights arising out of subdivided licences

- (a) The Crown shall carry out and complete the processes set out in clause 17.4 of the Crown Forestry Licences relating to the areas of land described in *Attachment 8.2* as “Part Northern Boundary Licensed Land” and “Part
- 

Rotoehu West Licensed Land” as soon as practicable and shall take reasonable steps to ensure that the processes are completed by the Settlement Date. However, the Ngāti Awa Governance Entity acknowledges that the Crown is only able to carry out the processes before the Settlement Date to the extent that the Licensees voluntarily take part in them.

- (b) The Crown and the Ngāti Awa Governance Entity agree that, as part of the processes described in *clause 8.4.5(a)*, they will procure the grant of reciprocal permanent right of way easements along those roads that are on or adjacent to the boundary between the Redress Licensed Land and the balance of the relevant licensed land, the easements applying from the time that the road ceases to be subject to a Crown Forestry Licence, unless the Licensee agrees to an earlier application. The agreement in this clause does not affect the operation of clause 17.4 of the Crown Forestry Licences in relation to other rights contemplated by that clause.
- (c) Ngāti Awa acknowledges that:
- (i) The process referred to in *clause 8.4.5(a)* may not be completed by the Settlement Date and that the Redress Licensed Land will be subject to, and have the benefit of, matters arising out of the process;
- (ii) The Ngāti Awa Governance Entity shall execute all documents and do all other things required of it as owner of the Redress Licensed Land to give effect to the matters agreed or determined under that process.

#### 8.4.6 Access to Wahi Tapu site

- (a) The Crown and Ngāti Awa acknowledge that Maori other than Ngāti Awa also have associations with the Redress Licensed Land and this *clause 8.4.6* is included to give effect to that acknowledgement.
- (b) For the purposes of *clause 8.4.6(c)*, “**Protected Site**” means:
- (i) each of the following 4 sites:
- (aa) Otamarakau 3A ML 22158;
- (bb) Otamarakau 3B ML 22159;
- (cc) Otamarakau 3C ML 22160;

## TRANSFER OF COMMERCIAL REDRESS PROPERTIES AND OTHER LAND ASSETS

- (dd) Otamarakau 3D ML 22161;
- (ii) any area of land situated in the Redress Licensed Land that:
  - (aa) becomes a registered place within the meaning of the Historic Places Act 1993; and
  - (bb) is wahi tapu or a wahi tapu area within the meaning of the Historic Places Act 1993.
- (c) The Settlement Legislation will provide that:
  - (i) The registered proprietor of the Redress Licensed Land and (subject to *clause 8.4.6(d)*) any person holding title or occupancy rights from the registered proprietor must allow access across the Redress Licensed Land to each Protected Site to Maori for whom the Protected Site is of special spiritual, cultural or historical significance;
  - (ii) The access right may be exercised:
    - (aa) By vehicles over any reasonably convenient routes in existence from time to time and specified by the registered proprietor;
    - (bb) By foot over reasonably convenient routes specified by the registered proprietor;
  - (iii) The access right is subject to the following conditions:
    - (aa) Reasonable notice of intention to exercise the right must be given in writing to the registered proprietor;
    - (bb) The right must be exercised at reasonable times and is only permitted during hours of daylight;
    - (cc) Such conditions made by the registered proprietor relating to the time, location and manner of access as are reasonably required for the safety of people or for the protection of land, improvements, flora and fauna, plant and equipment and livestock or for operational reasons;
  - (iv) The Registrar-General of Land must, as soon as reasonably practicable after the Settlement Date, make a notation on the computer freehold

## TRANSFER OF COMMERCIAL REDRESS PROPERTIES AND OTHER LAND ASSETS

registers for the Redress Licensed Land that the Redress Licensed Land is subject to *clause 8.4.6(c)*.

- (d) The Settlement Legislation will provide that, in respect of the Protected Sites described in *clause 8.4.6(b)(i)* and the land shown as Section 32 Block III Rotoma Survey District, the access rights created under *clause 8.4.6(c)* may also be exercised by the owner or registered proprietor or person in whom such land is vested, or by a person authorised by that owner or registered proprietor or person in whom such land is vested for purposes consistent with the status of such land, in order to access such land across the Redress Licensed Land.
- (e) The Settlement Legislation will provide that *clauses 8.4.6(c)* and *(d)* are subject to, and do not override, the terms of the Crown Forestry Licences and of the new licences granted following completion of the process described in *clause 8.4.5(a)*, except where the Licensee has agreed to an exercise of the access right.
- (f) The Settlement Legislation will provide that an amendment to the licences described in *clause 8.4.6(e)* will be of no effect to the extent that the amendment would have, but for this clause:
  - (i) Delayed the date from which access under *clauses 8.4.6(c)(i)* and *8.4.6(d)* would otherwise have been available; or
  - (ii) Otherwise adversely affected the rights created under this *clause 8.4.6*.

#### 8.4.7 Road network

- (a) In this *clause 8.4.7*:

*Ngāti Awa Land* means that part of the Kaingaroa forest land, being the Redress Licensed Land described as "Part Northern Boundary Licensed Land" in *Attachment 8.2*;

*Kaingaroa forest land* means the land which is subject to the Crown Forestry Licences described in *Attachment 8.3* as at the date of this Deed;

*Other Owner* has the meaning set out in *clause 8.4.7(d)*;

*owner of the Kaingaroa forest land* means:

- (i) the Crown while it holds land in the Kaingaroa forest land; and

## TRANSFER OF COMMERCIAL REDRESS PROPERTIES AND OTHER LAND ASSETS

(ii) each registered proprietor of land in the Kaingaroa forest land; and

*road network purpose* means the purpose set out in *clause 8.4.7(b)*.

- (b) The purpose of this clause is to allow each owner of the Kaingaroa forest land access from its part of the Kaingaroa forest land across the balance of the Kaingaroa forest land to the extent necessary to facilitate the ordinary use and management of its part by the owner and the owner's lessees and licensees and their agents and contractors.
- (c) Subject to *clause 8.4.7(e)*, the Ngāti Awa Governance Entity will permit access by each owner of the Kaingaroa forest land across the Ngāti Awa Land for the road network purpose.
- (d) An owner of the Kaingaroa forest land intending to take the benefit of *clause 8.4.7(c)* (*Other Owner*) will give notice of that intention to the Ngāti Awa Governance Entity.
- (e) The Ngāti Awa Governance Entity does not have to permit access under *clause 8.4.7(c)* until the Other Owner signs an enforceable document that:
- (i) Contains terms and conditions commonly found in access arrangements of that nature;
  - (ii) Provides for a consideration to be paid or provided to the Ngāti Awa Governance Entity which the Ngāti Awa Governance Entity could reasonably be expected to receive under an arm's length transaction between willing, but not anxious, parties;
  - (iii) Contains reciprocal arrangements to those described in *clauses 8.4.7(c), (e)(i)* and *(e)(ii)* over the part of the Kaingaroa forest land owned by Other Owner for the road network purpose; and
  - (iv) Achieves the road network purpose,
- and the Ngāti Awa Governance Entity will give that document to the Other Owner within a reasonable time of receipt of the notice under *clause 8.4.7(d)*, having regard to the road network purpose.
- (f) This *clause 8.4.7* is for the benefit of the owners of the Kaingaroa forest land and is intended to be enforceable by them under section 4 of the Contracts (Privity) Act 1982.

- (g) The Settlement Legislation will provide that:
- (i) Despite any rule of law or equity to the contrary, the rights created under this *clause 8.4.7* run with, and bind all subsequent owners of, the Ngāti Awa Land;
  - (ii) The rights created under this *clause 8.4.7* do not in themselves create a registrable interest in land, but this provision does not affect the registrability of any document entered into as a result of an exercise of those rights;
  - (iii) The Ngāti Awa Governance Entity will, on transferring the fee simple estate in the Ngāti Awa land (or any part of it), include a statement identifying *clause 8.4.7(g)(i)* in the transfer and will notify the Registrar-General of Land that this *clause 8.4.7(g)(iii)* applies when the transfer is lodged for application, and the Registrar General will then record on the computer freehold register for the transferred land a statement to the effect that the land to which the computer freehold register relates is subject to *clause 8.4.7(g)(i)*;
  - (iv) This *clause 8.4.7* does not affect the rights of the Licensees under the Crown Forestry Licences described in *Attachment 8.3* and of the new licences to be granted following completion of the process described in *clause 17.4* of each Crown Forestry Licence; and
  - (v) Any amendment to the Crown Forestry Licence of the Ngāti Awa Land and of the new licence to be granted following completion of the process described in *clause 8.4.5(a)* will be of no effect to the extent that the amendment would have, but for this provision, adversely affected the road network purpose.

## 8.5 ŌHOPE BEACH HOLIDAY PARK LAND

### 8.5.1 Definitions

In this clause:

*Existing Leases* means the leases described in *Attachment 8.4* as amended by the Memorandum of Variation described in *Attachment 8.4* but otherwise without variation;

*Ōhope Beach Holiday Park Land* means together Site A and Site B;

*Site A* means the land described by that name in *Attachment 8.4*;

*Site B* means the land described by that name in *Attachment 8.4*.

### 8.5.2 Crown's interest in Ōhope Beach Holiday Park Land

The Crown shall vest the Ōhope Beach Holiday Park Land in the Ngāti Awa Governance Entity with effect from the Settlement Date subject to, and with the benefit of, the Existing Leases.

### 8.5.3 Vesting of Ōhope Beach Holiday Park Land

The vesting under *clause 8.5.2* shall be effected by the Settlement Legislation which will provide:

- (a) That Site A shall cease to be a conservation area;
- (b) For the revocation of the reservation of Site B as a recreation reserve subject to section 17 of the Reserves Act 1977;
- (c) That when the reservation of Site B as a recreation reserve is revoked, it will vest in the Crown as Crown Land and be subject to section 82 of the Reserves Act 1977;
- (d) That following the vesting described in *clause 8.5.3(c)* the fee simple estate in the Ōhope Beach Holiday Park Land will be vested in the Ngāti Awa Governance Entity subject only to the Existing Leases; and
- (e) That section 64(2)(b) of the Conservation Act 1987 will continue to apply to Site A of the Ōhope Beach Holiday Park Land and the Existing Lease of Site A as if:
  - (i) The reference to the Director-General were a reference to the lessor from time to time under that Existing Lease;
  - (ii) The provisions of the Land Act 1948 specified in subsection 64(3) of the Conservation Act 1987 were sections 130 to 151 and 170 to 170B but not subsection 143(1);
  - (iii) The reference to the "Crown" or "Her Majesty" in subsections 136(4), 139(1) and 146(3) of the Land Act 1948 were a reference to the lessor from time to time under that Existing Lease; and
  - (iv) The phrase " , with the approval of the Minister," were omitted from subsection 146(1) of the Land Act 1948.

**8.5.4 Other terms of transfer**

Ōhope Beach Holiday Park Land is a Commercial Redress Property for the purposes of *clause 8.3* but, to give effect to *clause 8.2*, *clauses 4.11 to 4.17* apply as if Ōhope Beach Holiday Park Land were a Cultural Redress Property.



## REDRESS LAND

## ATTACHMENT 8.1

## REDRESS LAND

*(Clause 8.1)*

South Auckland Land District – Whakatāne District

Legal description, including Encumbrances	Street Address	Redress Value	Transferor Agency	Leaseback Property	Initial Annual Rental
<p><b>Apanui Resource Centre:</b></p> <p>4994 square metres, approximately, being Allotment 291 and Part Allotment 292 Waimana Parish. Part New Zealand Gazette 1886 p1307. Subject to survey;</p> <p>AND</p> <p>1012 square metres, more or less, being Allotment 290 Waimana Parish. All Computer Freehold Register SA 379/50.</p> <p>Subject to existing unregistered lease to Te Whare Wananga o Awanuiarangi dated 19 November 1997, as varied by Deed of Variation of Lease</p>	<p>Domain Road and McAllister Street, Whakatāne</p>	<p>\$12,500</p>	<p>Ministry of Education</p>	<p>No.</p>	<p>N/A</p>

## REDRESS LAND

Legal description, including Encumbrances	Street Address	Redress Value	Transferor Agency	Leaseback Property	Initial Annual Rental
dated 22 November 2001.					
<p><b>Apanui School:</b></p> <p>1811 square metres, more or less, being Lot 21 DPS 10398. All Computer Freehold Register SA 6A/1382;</p> <p>AND</p> <p>3.6805 hectares, more or less, being Lots 1 and 5 DPS 55822, together with a Right of Way specified in Easement Certificate B053395.9 and subject to a Right to Convey Water specified in Easement Certificate B053395.10, a Right to Drain Water specified in Easement Certificate B053395.11, and to section 308(4) Local Government Act 1974. All Computer Freehold Register SA 49C/365. The easements specified in Easement Certificates B053395.9, B053395.10 and</p>	Pounama Place and McAllistar Street, Whakatāne	\$519,981	Ministry of Education	Yes	\$45,510 plus GST

## REDRESS LAND

Legal description, including Encumbrances	Street Address	Redress Value	Transferor Agency	Leaseback Property	Initial Annual Rental
B053395.11 are subject to section 309(1)(a) Local Government Act 1974.					
<p><b>Ōhope School:</b></p> <p>8787 square metres, approximately, being Part Lot 2 DP 23762 as shown on SO 43384. Part Gazette Notice S.401568. Subject to survey;</p> <p>AND</p> <p>5886 square metres, approximately, being Part Lot 2 DP 23762 as shown marked A on SO 53705. All Gazette Notice H. 591556. Subject to survey.</p>	170-172 Pohutukawa Ave, Ōhope	\$263,253	Ministry of Education	Yes	\$23,040 plus GST
<p><b>Part Whakatāne High School:</b></p> <p>860 square metres, more or less, being Lot 15 DPS 581. All Proclamation S.90429;</p> <p>AND</p>	Soutars Avenue and Goulstone Road, Whakatāne	\$838,278	Ministry of Education	Yes	\$73,350 plus GST

## REDRESS LAND

Legal description, including Encumbrances	Street Address	Redress Value	Transferor Agency	Leaseback Property	Initial Annual Rental
4.0469 hectares, approximately, being Part Allotment 287 Waimana Parish. Part Gazette Notice H.144963. Subject to survey.					
<b>Whakatāne Court House</b> 2021 square metres, more or less, being Section 1 SO 57375. All Computer Freehold Register SA 45A/58	7 Pyne Street	\$250,000	Department for Courts	Yes	\$15,000 plus GST

## REDRRESS LICENSED LAND

## ATTACHMENT 8.2

## REDRRESS LICENSED LAND

(Clause 8.1)

**1 PART NORTHERN BOUNDARY LICENSED LAND****1.1 Legal description**

- 1.1.1 Approximately 6889.52 hectares (subject to survey) being Lot 1 DPS 45824, Lot 1 DPS 45826, Lot 1 DPS 55282, approximately 1515.37 hectares of Lot 1 DPS 55283 and approximately 2031.3 hectares of Lot 1 DPS 45073, (South Auckland Land District), illustrated on SO 61738 a copy of which is attached as Appendix I to this Attachment.

The southern and eastern boundary of that part of Lot 1 DPS 45073 included in the Redress Licensed Land and requiring survey:

- Commences at the western boundary of Lot 1 DPS 45073, more or less where the boundary intersects the southern boundary of the Matahina A6 block and runs eastwards to Parapara Road;
- Follows the northern side of Parapara road around the southern boundary of compartment 1288 (i.e. the section of Parapara Road forming the southern boundary of compartment 1288 is excluded from the Redress Licensed Land);
- Follows the western and northern sides of Paeroa road along the eastern boundary of compartment 1288 and the northern boundary of compartment 1286 to meet Parapara Road at the north east corner of compartment 1286 (i.e. the section of Paeroa Road forming the western and northern boundaries of compartment 1286 is excluded from the Redress Licensed Land);
- Follows the northern side of Parapara Road along the southern boundary of compartment 1283 to its intersection with Mangaharakeke Road (i.e. the section of Parapara Road forming the southern boundary of compartment 1283 is excluded from the Redress Licensed Land);
- Follows the northern side of Mangaharakeke Road from Parapara Road to Bonisch Road (i.e. Mangaharakeke Road is excluded from the Redress Licensed Land);

## REDRESS LICENSED LAND

- Crosses Bonisch Road and then follows the eastern side of Bonisch Road from Mangaharakeke Road to the northern boundary of Lot 1 DPS 45073 (i.e. this section of Bonisch Road forming the eastern boundary of compartment 1309 is included in the Redress Licensed Land).

The eastern boundary of that part of Lot 1 DPS 55283 included in the Redress Licensed Land and requiring survey:

- Commences at the eastern side of Bonisch Road where it intersects the southern boundary of Lot 1 DPS 55283 (i.e. where it meets the eastern boundary of that part of Lot 1 DPS 45073 included in the Redress Licensed Land as described above) and follows the eastern side of Bonisch Road to the boundary between compartments 1340 and 1343 (i.e. this section of Bonisch Road is included in the Redress Licensed Land);
- Follows the eastern and southern side of the logging track that forms the boundary between compartments 1340 and 1343 and then passes through compartment 1340 to Pahekeheke Road (i.e. the logging track is included in the Redress Licensed Land);
- Follows the northern and eastern side of Pahekeheke Road around the north eastern corner of compartment 1340 to its intersection with Boyd Road (i.e. the section of Pahekeheke Road on the boundary of compartment 1340 is excluded from the Redress Licensed Land);
- Follows the northern side of Boyd Road from its intersection with Pahekeheke Road on the boundary of compartment 1340 to its intersection with the boundary between compartments 1327 and 1325 (i.e. the section of Boyd Road forming the southern boundary of compartments 1334 and 1327 is excluded from the Redress Licensed Land);
- Follows the southern boundary of compartment 1327 from Boyd Road to Wharau Road;
- Crosses Wharau Road and then follows the eastern side of Wharau Road to intersect the eastern boundary of Lot 1 DPS 55283 at the southern point of compartment 1329 (i.e. the section of Wharau Road bordering compartment 1324 is excluded from the Redress Licensed Land).

1.1.2 The part of the Northern Boundary Licensed Land to be transferred to the Ngāi Awa Governance Entity will be subject to and, where applicable, have the benefit of:

## REDRESS LICENSED LAND

- Part IVA Conservation Act 1987;
- Section 11 Crown Minerals Act 1991;
- Part Crown Forestry Licence Computer Interest Register SA60D/550;
- Protective Covenant Certificate Computer Interest Register SA60D/551;
- Public Access Easement Certificate Computer Interest Register SA60D/552;
- Gas pipeline in gross, document H.395560;
- Statutory rights of owners of transmission lines;
- The right of way easements to be granted under *clauses 8.4.4(a) and (b)*;
- Access to Waahi Tapu sites pursuant to *clause 8.4.6*;
- Any other encumbrances created under the process referred to in *clause 8.4.5*;
- Proclamation defining middle line of a portion of the Edgecumbe-Murupara Railway Proclamation S15809;
- Fencing covenant contained in Transfer S132078 (affects Lot 1 DPS 45824 and Lot 1 DPS 45826);
- Any other encumbrances required to give effect to a right referred to in the Disclosure Information or in the publicly available documents under which the land is currently held or to ensure the computer freehold register is created for the Redress Licensed Land.

1.1.3 The Crown will order one computer freehold register to cover the whole of the part Northern Boundary Redress Licensed Land.

## 1.2 Survey

Survey is required or may be required:

- To define the boundary of that part of the Northern Boundary Licensed Land to be transferred to the Ngāti Awa Governance Entity (essentially to divide Lot 1 DPS 55283 and Lot 1 DPS 45073);

## REDRESS LICENSED LAND

- To define any easements arising out of the process referred to in *clause 8.4.5*;
- To define the right of way easements to be granted pursuant to *clauses 8.4.4(a) and 8.4.4(b)*.

### 1.3 Redress Value

The portion of the Redress Amount attributable to the part of the Northern Boundary Licensed Land to be transferred to the Ngāti Awa Governance Entity is \$15,097,654.

## 2 ROTOEHU EAST LICENSED LAND

### 2.1 Legal Description

1,495.0960 hectares, more or less, being Lot 2 DPS 35012, Lots 3 and 4 DPS 35013, Lots 5 and 6 DPS 35014, Lot 1 DPS 57549 and Lots 1 and 2 DPS 57553, (South Auckland Land District), illustrated on SO 61738, a copy of which is attached as Appendix I to this Attachment, subject to and, where applicable, with the benefit of:

- Part IVA Conservation Act 1987;
- Section 11 Crown Minerals Act 1991;
- Crown Forestry Licence Computer Interest Register SA52D/550;
- Protective Covenant Certificate Computer Interest Register SA52D/551;
- Appurtenant right of way easement over Section 24 Blk XI, Waihi South SD, created by H.326290.2 (in favour of Lot 2 DPS 57553 and shown marked A on SO 50429);
- Section 308(4) Local Government Act 1974 (affects Lot 6 DPS 35014);
- Section 168A Coal Mines Act 1925 and Section 8 Mining Act 1971 (affects Lot 2 DPS 35012, Lots 3 and 5 DPS 35013 and Lots 5 and 6 DPS 35014);
- The right of way easement in gross to be granted under *clause 8.4.4(c)*;
- Appurtenant right of way easement in favour of Lot 1 DPS 57549 to be granted under *clause 8.4.4(d)* over Section 2 SO 60650 (conservation land) and as marked "D" on DPS 57549;
- Access to Waahi Tapu sites pursuant to *clause 8.4.6*

## REDRESS LICENSED LAND

- Any other encumbrance required to give effect to a right referred to in the Disclosure Information or in the publicly available documents under which the land is currently held or to ensure the computer freehold registers are created for the Redress Licensed Land.

## 2.2 Title to Licensed Land

The Rotoehu East Licensed Land will be transferred to the Ngāti Awa Governance Entity in the following computer freehold registers:

Computer Freehold Register	Area (ha)	Description
SA31B/295	45.6730	Lot 2 DPS 35012
SA31B/296	70.5060	Lot 3 DPS 35013
SA31B/297	42.7580	Lot 4 DPS 35013
SA31B/298	41.7160	Lot 5 DPS 35014
SA31B/299	33.8130	Lot 6 DPS 35014 (The balance of the land in this computer freehold register is Lot 7 DPS 35014, which is part of the Rotoehu West Licensed Land, see paragraph 3.1.1 of this Attachment 8.2). This computer freehold register is subject to Section 308(4) Local Government Act 1974.
New computer freehold register	1260.6300	Balance of Rotoehu East Licensed Land (Lot 1 DPS 57549 and Lots 1 and 2 DPS 57553) to be held in one computer freehold register.
Total	1495.0960	

## 2.3 Redress Value

The portion of the Redress Amount attributable to the Rotoehu East Licensed Land to be transferred to the Ngāti Awa Governance Entity is \$3,416,401.

## 3 PART ROTOEHU WEST LICENSED LAND

### 3.1 Legal description of licensed land:

- 3.1.1 Approximately 1044.0040 hectares (subject to survey) being Lot 2 DPS 57645, Lot 1 DPS 57552, Lot 7 DPS 35014 and approximately 420

## REDRESS LICENSED LAND

hectares of Lot 1 DPS 57645 and approximately 31 hectares of Lot 1 DPS 57551 (all in the South Auckland Land District) illustrated on SO 61738 a copy of which is attached as *Appendix I* to this Attachment.

3.1.2 The parts of Lot 1 DPS 57645 and Lot 1 DPS 57551 are the parts:

- Commencing from the point of intersection of Lot 1 DPS 57645, Lot 1 DPS 53631 and Section 26 Block XI Waihi South Survey District then generally southwest along the southern side of Wairoa Valley Road to the boundary between Compartments 71 and 72;
- The boundary then follows the boundary between compartments 71 and 72 to Deadman's Road and along the northern side of Deadman's Road to the boundary between compartments 68 and 73. The survey will need to determine the most practical route along the boundary between compartments 73 and 68 to Waho Road and then across Waho Road along the boundary between compartments 67 and 78. The section of Waho Road forming part of the boundary (between the north-east corner of compartment 68 to the north west corner of compartment 67) should be excluded from the Rotoehu West Licensed Land to be transferred to the Ngāti Awa Governance Entity;
- The boundary then runs south along the boundary between compartments 79 and 67, then between compartments 66 and 67 and then along the southern boundary of compartment 66 on the north side of Martins Road to the eastern boundary of Lot 1 DPS 57551 adjacent to the Whakahaupapa Stream;
- Finally, in a northerly direction along the eastern boundaries of Lot 1 DPS 57551 and Lot 1 DPS 57645 back to the point of commencement.

3.1.3 The part of the Rotoehu West Licensed Land to be transferred to the Ngāti Awa Governance Entity will be subject to and, where applicable, have the benefit of:

- Part IVA Conservation Act 1987;
- Section 11 Crown Minerals Act 1991;
- Part Crown Forestry Licence Computer Interest Register SA58A/550;
- Protective Covenant Certificate Computer Interest Register SA58A/600;

## REDRESS LICENSED LAND

- Public Access Easement Certificate Computer Interest Register SA58A/650;
- Section 308(4) Local Government Act 1974 (affects Lot 7 DPS 35014);
- Section 168A Coal Mines Act 1925 and Section 8 Mining Act 1971 (affects Lot 7 DPS 35014).
- Right of way easement if it is granted under *clause 8.4.4(e)*;
- *Access to Waahi Tapu sites pursuant to clause 8.4.6;*
- *Any other encumbrances created under the processes referred to in clause 8.4.5;*
- Any other encumbrance required to give effect to a right referred to in the Disclosure Information or in the publicly available documents under which the land is currently held or to ensure the computer freehold registers are created for the Redress Licensed Land;

### 3.2 Title to Licensed Land

The part Rotoehu West Licensed Land will be transferred to the Ngāti Awa Governance Entity in the following computer freehold registers:

Computer Freehold Registers	Area (ha)	Description
SA31B/299	20.9040	Lot 7 DPS 35014 (The balance of the land in this computer freehold register is Lot 6 DPS 35014, which is part of the Rotoehu East Licensed Land, see paragraph 2.1 of this Attachment 8.2). This computer freehold register is subject to 308(4) Local Government Act 1974.
New computer freehold register	Approximately 1023.1000	Balance of part Rotoehu West Licensed Land (Pt Lot 1 DPS 57551, Lot 1 DPS 57552, Lot 2 and Pt Lot 1 DPS 57645) to be held in one computer freehold

## REDRESS LICENSED LAND

		register.
Total	Approximately 1044.0040	

**3.3 Survey**

3.3.1 Survey is required or may be required:

- to define the boundary of the land to be transferred to the Ngāti Awa Governance Entity (essentially to divide Lot 1 DPS 57645 and Lot 1 DPS 57551);
- to define any easements arising out of the process referred to in *clause 8.4.5(a)*.

3.3.2 If the survey shows all or part of Wairoa Valley Road to lie on Lot 1 DPS 53631 or on Lot 1 DPS 53629, the boundary of the Redress Licensed Land will not extend beyond the boundary of Lot 1 DPS 57645.

**3.3 Redress Value**

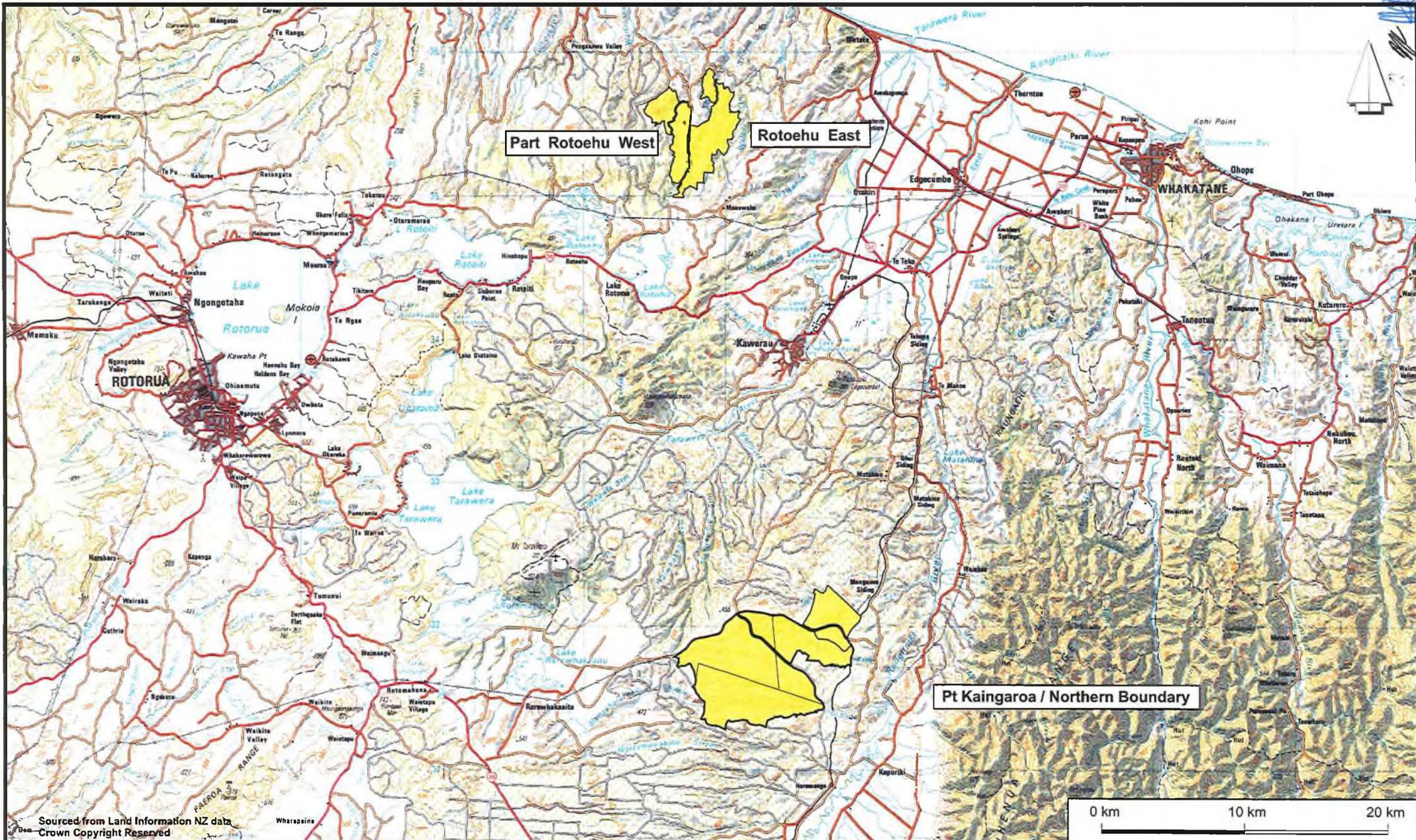
The portion of the Redress Amount attributable to the part of the Rotoehu West Licensed Land to be transferred to the Ngāti Awa Governance Entity is \$2,382,658.

REDRESS LICENSED LAND

**APPENDIX I**

**ILLUSTRATIVE MAP OF THE REDRESS LICENSED LAND**





Sourced from Land Information NZ data  
Crown Copyright Reserved



South Auckland Land District  
Territorial authority :  
Whakatane District and  
Western Bay of Plenty District



## Redress Licensed Land

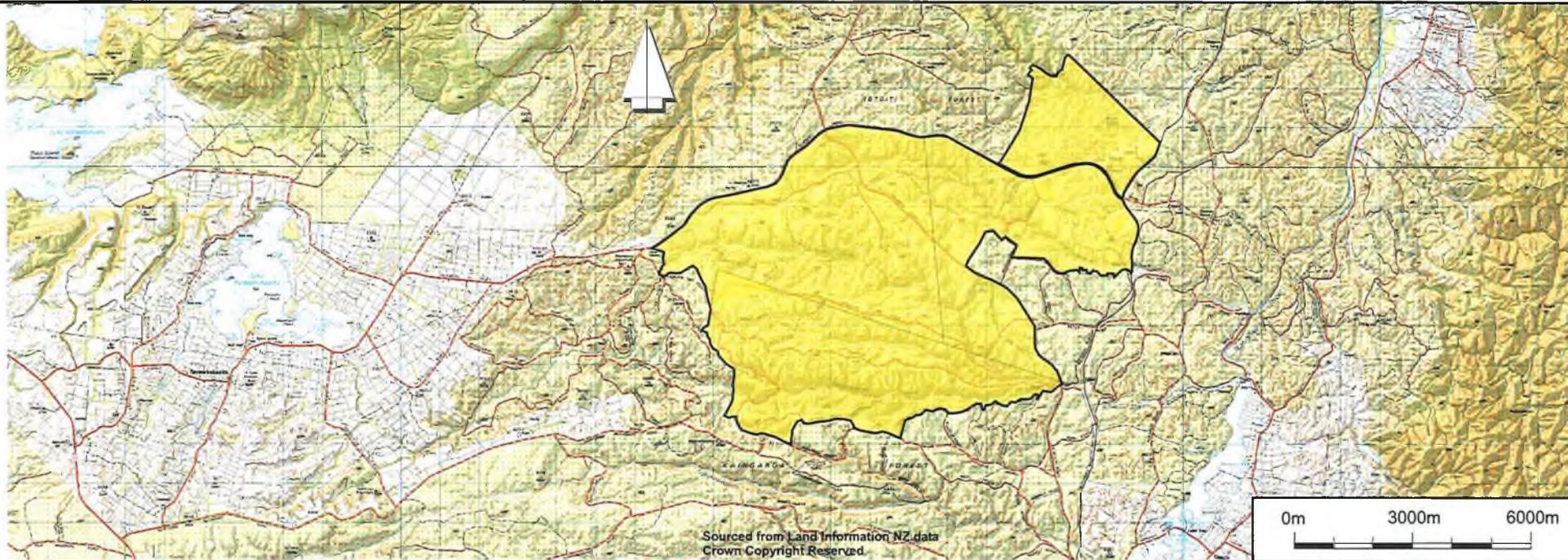
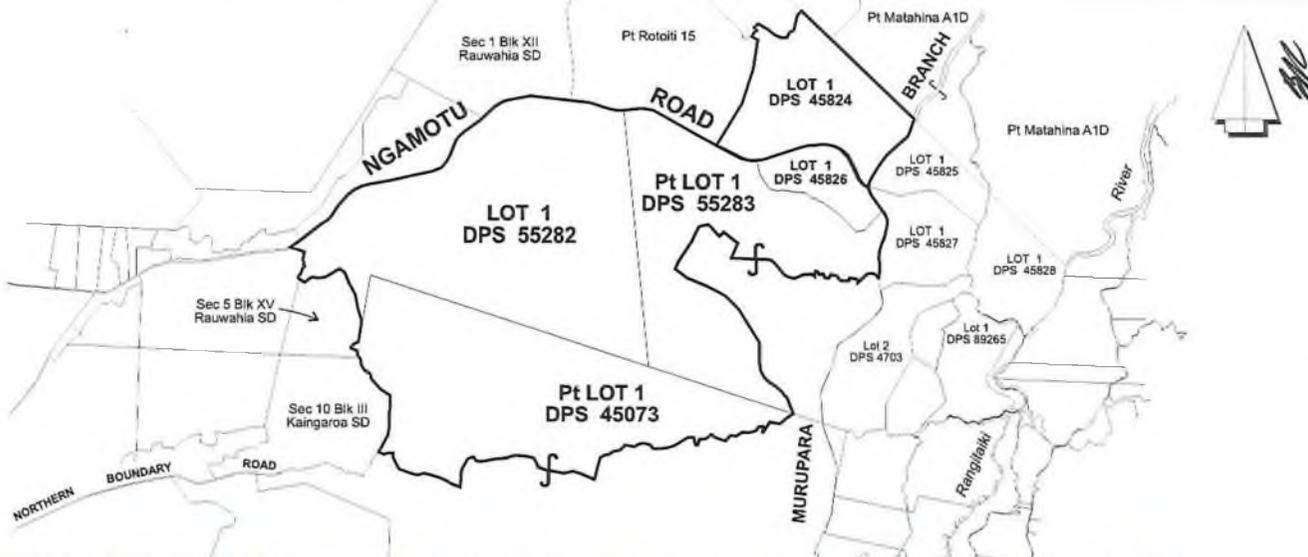
Approximate illustration of areas referred to in the  
Deed of Settlement between Ngati Awa and the Crown

Approved as to boundaries :  
..... /.....  
for and on behalf of Ngati Awa  
..... /.....  
for and on behalf of the Crown

**SO 61738**

**PART KAINGAROA / NORTHERN BOUNDARY  
Licensed Crown Forest Land.**

Area	Description
752.9000 ha	more or less, being Lot 1 DPS 45824.
225.8400 ha	more or less, being Lot 1 DPS 45826.
2364.1100 ha	more or less, being Lot 1 DPS 55282.
1515.37 ha	approximately, being Part Lot 1 DPS 55283. Subject to survey.
2031.3 ha	approximately, being Part Lot 1 DPS 45073. Subject to survey.




South Auckland Land District  
Territorial authority :  
Whakatane District



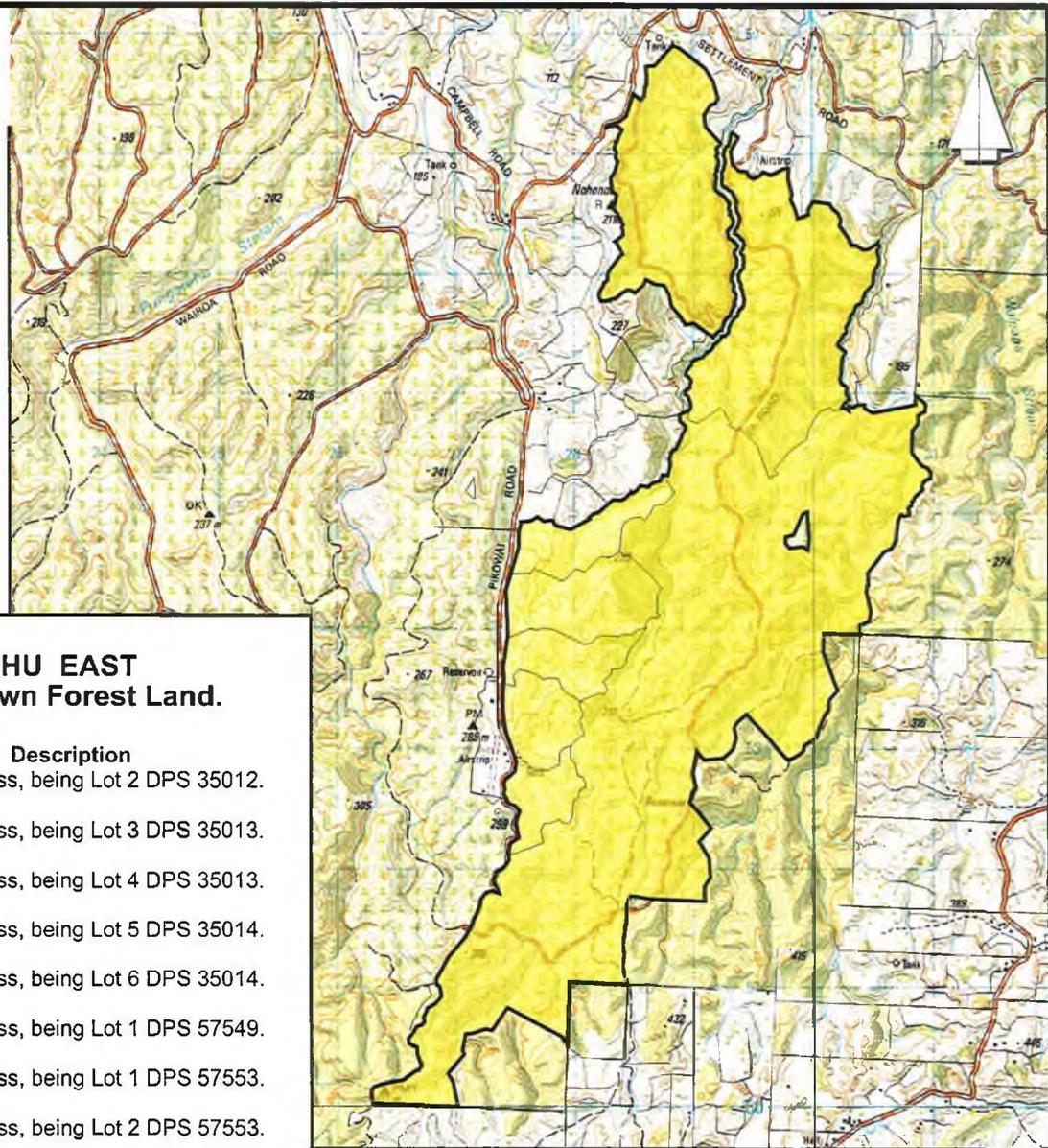
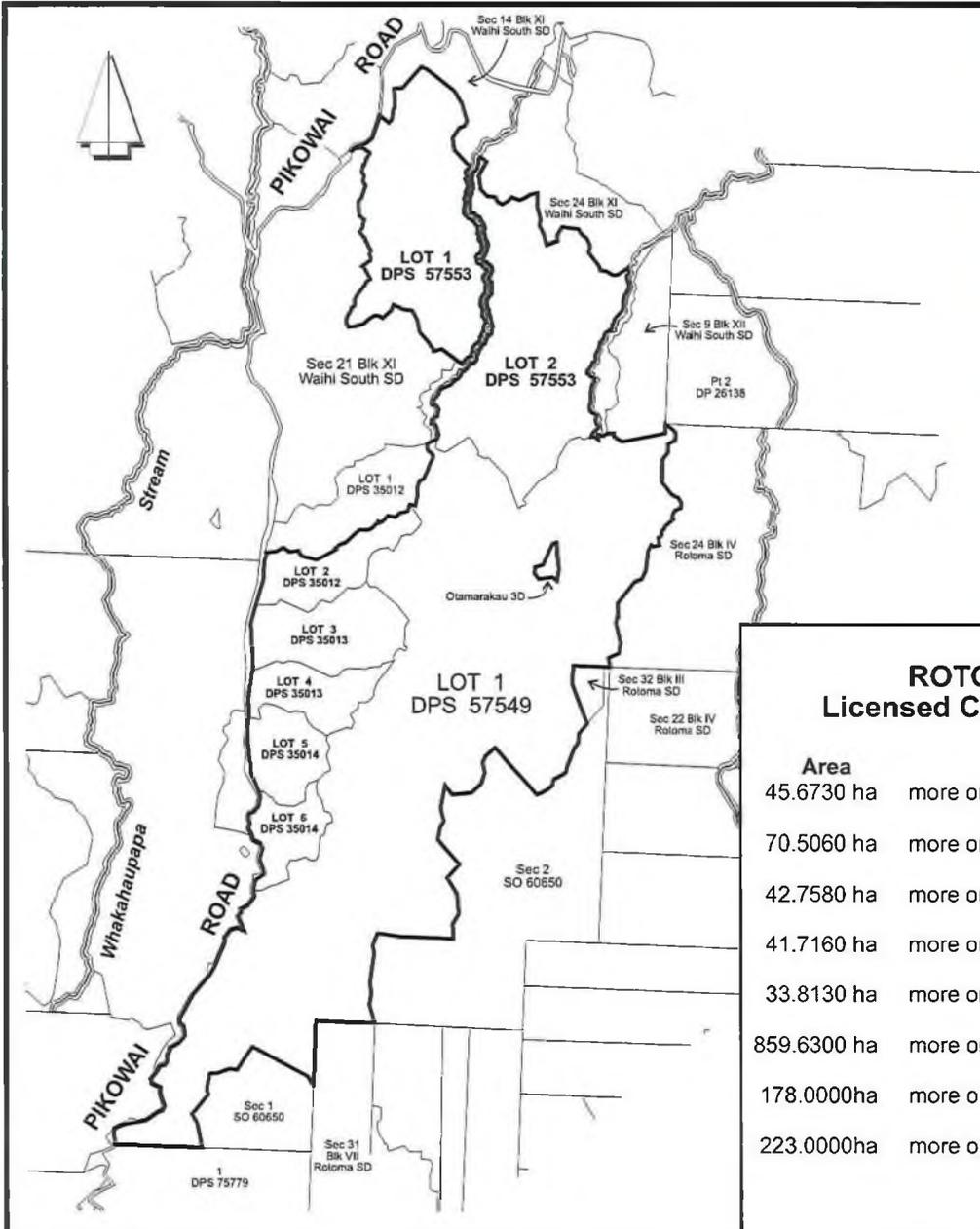
TERRALINK INTERNATIONAL

**Part Kaingaroa / Northern Boundary**

**Approximate illustration of areas referred to in the  
Deed of Settlement between Ngati Awa and the Crown**

Approved as to boundaries :  
.....  
for and on behalf of Ngati Awa  
.....  
for and on behalf of the Crown

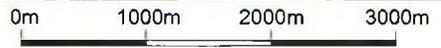
**SO 61738**



**ROTOEHU EAST  
Licensed Crown Forest Land.**

Area	Description
45.6730 ha	more or less, being Lot 2 DPS 35012.
70.5060 ha	more or less, being Lot 3 DPS 35013.
42.7580 ha	more or less, being Lot 4 DPS 35013.
41.7160 ha	more or less, being Lot 5 DPS 35014.
33.8130 ha	more or less, being Lot 6 DPS 35014.
859.6300 ha	more or less, being Lot 1 DPS 57549.
178.0000ha	more or less, being Lot 1 DPS 57553.
223.0000ha	more or less, being Lot 2 DPS 57553.

Sourced from Land Information NZ data  
Crown Copyright Reserved



South Auckland Land District  
Territorial authority :  
Whakatane District



TERRALINK INTERNATIONAL

## Rotoehu East

**Approximate illustration of areas referred to in the  
Deed of Settlement between Ngati Awa and the Crown**

Approved as to boundaries :

.....  
for and on behalf of Ngati Awa

.....  
for and on behalf of the Crown

**SO 61738**



## KAINGAROA FOREST LAND

**ATTACHMENT 8.3***(Clause 8.4.7)***KAINGAROA FOREST LAND**

<b>Crown Forestry Licence</b>	<b>Registered in the South Auckland Land Registry Office as:</b>
Kaingaroa Forest / Northern Boundary Block	Computer Interest Register SA60D/550
Kaingaroa Forest / Totara Block	Computer Interest Register SA52D/400
Kaingaroa Forest / Headquarters Block	Computer Interest Register SA52D/450
Kaingaroa Forest / Reporoa Block	Computer Interest Register SA57A/750
Kaingaroa Forest / Caves Block	B.239829.1
Kaingaroa Forest / Wairapukao Block	Computer Interest Register SA55B/450
Kaingaroa Forest / Flaxy Creek Block	Computer Interest Register SA55B/500
Kaingaroa Forest / Waimaroke Block	Computer Interest Register SA52D/500
Kaingaroa Forest / Matea Block	Computer Interest Register SA57B/1
Kaingaroa Forest / Pukuriri Block	Computer Interest Register SA56D/50
Kaingaroa Forest / Whirinaki Block	Computer Interest Register SA57A/60
Waimihia Forest / North Block	Computer Interest Register SA56D/200
Waimihia Forest / South Block	Computer Interest Register SA55A/100

## OHŌPE BEACH HOLIDAY PARK LAND

## ATTACHMENT 8.4

## OHŌPE BEACH HOLIDAY PARK LAND

*(Clause 8.5)*

## South Auckland Land District – Whakatāne District

Description	Existing Leases
<p><b>Site A (Conservation area)</b></p> <p>3.1565 hectares, more or less, being Allotment 548 Waimana Parish. All Gazette Notice B.095864. As shown A on SO 61745.</p>	<p>Subject to a lease registered as Computer Interest Register SA 20D/10, as varied by Memorandum of Variation B096661.2, and by a Memorandum of Variation of Lease dated 13 December 2001.</p>
<p><b>Site B (Part Port Ōhope Recreation Reserve)</b></p> <p>3.4 hectares, approximately, being Part Allotments 679 and 751 Waimana Parish. Part New Zealand Gazette 1977 page 3261. Subject to survey. As shown B on SO 61745.</p>	<p>Subject to an unregistered lease dated 23 July 1991 to Ōhope Beach Holiday Park (1991) Limited, as varied by a Deed of Variation of Lease dated 13 December 2001.</p>

**SECTION 9 : AWANUIARANGI II TITLE****9.1 BACKGROUND****9.1.1 Land to be held by eponymous ancestor**

The Crown and Ngāti Awa have agreed that the Ngāti Awa Governance Entity should be able to hold any land in the name of Ngāti Awa's eponymous ancestor, Awanuiarangi II. Any such land may be held in the name of Awanuiarangi II, including Settlement Properties and all other properties subsequently acquired by the Ngāti Awa Governance Entity (including Maori reservations that were vested in, and Maori freehold land that was lawfully alienated to, the Ngāti Awa Governance Entity under Te Ture Whenua Maori Act 1993/Maori Land Act 1993).

**9.1.2 Selected Settlement Properties to have some of the characteristics of Maori land**

The Crown and Ngāti Awa have also agreed that Ngāti Awa can choose to declare Settlement Properties (but only Settlement Properties) to be "Protected land" in which case the Settlement Property in question will have some of the characteristics of "Maori land" as that term is defined in Te Ture Whenua Maori Act 1993/Maori Land Act 1993.

**9.1.3 Awanuiarangi II title to be established by the Settlement Legislation**

To give effect to these agreements, the Settlement Legislation will provide for all the matters set out in this *Section 9*, but, if the Settlement Legislation is enacted before 1 July 2003, the provision in the Settlement Legislation to give effect to *clause 9.4.7* will also provide for the Rating Powers Act 1988 to apply to Protected land, until the Rating Powers Act 1988 is replaced, as if the land were Maori freehold land.

**9.2 DEFINITIONS**

In this *Section 9*:

*1993 Act* means Te Ture Whenua Maori Act 1993/Maori Land Act 1993;

*Protected land* means land that is a Settlement Property, the computer freehold register to which contains a notation that the land is Protected land; and

*Registrar* means the Registrar-General of Land approved under the Land Transfer Act 1952.

### 9.3 REGISTRATION OF LAND IN NAME OF AWANUIARANGI II

#### 9.3.1 Direction by Ngāti Awa Governance Entity

The Ngāti Awa Governance Entity may direct the Registrar in writing that the fee simple estate in any land that is registerable or registered under the Land Transfer Act 1952 in the name of the Ngāti Awa Governance Entity:

- (a) Be registered in the name of Awanuiarangi II, rather than in the name of the Ngāti Awa Governance Entity; or
- (b) Be no longer registered in the name of Awanuiarangi II and instead be registered in the name of the Ngāti Awa Governance Entity.

#### 9.3.2 Direction may direct land to be Protected land

A direction under *clause 9.3.1(a)* in relation to land that is a Settlement Property may direct the land to be Protected land for the purposes of this *Section 9*.

#### 9.3.3 Direction that land no longer Protected land

The Ngāti Awa Governance Entity may direct the Registrar in writing that any Settlement Property that is Protected land no longer be Protected land.

#### 9.3.4 Registrar to give effect to direction under *clause 9.3.1(a)*

If the Registrar receives a direction in writing from the Ngāti Awa Governance Entity under *clause 9.3.1(a)*, the Registrar shall give effect to that direction by:

- (a) Registering the title to the land in the name of Awanuiarangi II;
- (b) In respect of a direction under *clause 9.3.1(a)* that directs the land to be Protected land, entering on the title a notation that the land is Protected land; and
- (c) Entering on the title a notation that the land is subject to this *Section 9*.

#### 9.3.5 Registrar to give effect to direction under *clause 9.3.1(b)*

If the Registrar receives a direction in writing from the Ngāti Awa Governance Entity under *clause 9.3.1(b)*, the Registrar shall give effect to that direction by:

- (a) Registering the title to the land in the name of the Ngāti Awa Governance Entity; and
- (b) Cancelling any notation entered under *clause 9.3.4(b)*; and
- (c) Cancelling the notation entered under *clause 9.3.4(c)*.

**9.3.6 Registrar to give effect to direction under *clause 9.3.3***

If the Registrar receives a direction in writing from the Ngāti Awa Governance Entity under *clause 9.3.3*, the Registrar shall give effect to that direction by cancelling the notation on the title that the Settlement Property is Protected land.

**9.3.7 Ngāti Awa Governance Entity to have rights, duties and powers of registered proprietor**

Where the fee simple estate in land is registered under the Land Transfer Act 1952 in the name of Awanuiarangi II:

- (a) The Ngāti Awa Governance Entity shall have all the rights, duties and powers of the registered proprietor of that land (except that the land shall continue to be registered in the name of Awanuiarangi II unless a direction is given under *clause 9.3.1(b)*) and shall exercise and perform every such right, duty and power in its own name and not in the name of Awanuiarangi II; and
- (b) The Registrar shall have regard to *clause 9.3.7(a)*.

**9.3.8 Evidence of proper direction**

The presentation to the Registrar of a direction in writing:

- (a) Executed or purported to be executed by the Ngāti Awa Governance Entity; and
- (b) Relating to any land registrable or registered in the name of the Ngāti Awa Governance Entity; and
- (c) In the case of a direction under *clause 9.3.1(a)* that directs the land to be Protected land, relating to a Settlement Property; and
- (d) in the case of a direction under *clause 9.3.3*, relating to Protected land,

shall, in the absence of evidence to the contrary, be sufficient evidence that the direction has been properly given under *clause 9.3.1* or, as the case may be, *clause 9.3.3*.

**9.4 PROTECTED LAND****9.4.1 Application of special characteristics**

This *clause 9.4* applies to Protected land for so long as it is registered in the name of Awanuiarangi II.

## AWANUIARANGI II TITLE

**9.4.2 Application of the Public Works Act 1981**

No land to which this *clause 9.4* applies may be acquired or taken under the Public Works Act 1981 without the consent of the Minister of Maori Affairs.

**9.4.3 Amendments to section 42L of the Transit New Zealand Act 1989**

Section 42L of the Transit New Zealand Act 1987 shall be amended by:

- (a) Adding “*land registered in the name of Awanuiarangi II as Protected land under section [ ] of the [ ] Act [ ],*” before “or Maori historical” in that section; and
- (b) Adding a new paragraph (aa) before existing paragraph (b) as follows:

“(aa) *In the case of land registered in the name of Awanuiarangi II as Protected land or interests relating to that land, the Ngāti Awa Governance Entity (as defined in section [ ] of the [ ] Act [ ]); or*”.

**9.4.4 Application of sections 297 to 305 of the 1993 Act**

Sections 297 to 305 of the 1993 Act apply to land to which this *clause 9.4* applies as if the land were Maori freehold land.

**9.4.5 Application of section 108(9) of the Resource Management Act 1991**

Section 108(9) of the Resource Management Act 1991 applies to land to which this *clause 9.4* applies as if the land were Maori land.

**9.4.6 Application of section 342 of the 1993 Act**

Section 342 of the 1993 Act applies to land to which this *clause 9.4* applies as if the interest of the Ngāti Awa Governance Entity in the land were a beneficial freehold interest in Maori freehold land.

**9.4.7 Application of Local Government (Rating) Act 2002**

The Local Government (Rating) Act 2002 applies to land to which this *clause 9.4* applies as if the land were Maori freehold land.

**9.4.8 Amendments to section 51 of the Crown Minerals Act 1991**

Section 51 of the Crown Minerals Act 1991 shall be amended by:

- (a) Adding a new subsection (5) as follows:

“(5) *No person may, without the consent of the Ngāti Awa Governance Entity (as defined in section [ ] of the [ ] Act [ ]), enter on any land that is both:*

## AWANUIARANGI II TITLE

(a) *Registered in the name of Awanuiarangi II as Protected land under section [ ] of that Act; and*

(b) *Regarded as waahi tapu by the Ngāti Awa Governance Entity,*

*for the purpose of carrying out a minimum impact activity.”; and*

(b) Adding a new subsection (6) as follows:

*“(6) Subsection (1)(b) of this section shall apply in relation to land registered in the name of Awanuiarangi II as Protected land under section [ ] of the [ ] Act [ ] as if that land were Maori land and as if the Ngāti Awa Governance Entity were the local iwi authority of that land.”.*

**9.4.9 Maori Land Court has jurisdiction in respect of certain matters**

Land to which this *clause 9.4* applies shall be regarded as Maori freehold land for the purpose of sections 18(1)(c) and (d), 19(1)(a), 20, 24 and 26 of the 1993 Act.

**9.4.10 Application of section 194 of the 1993 Act**

Section 194 of the 1993 Act shall apply to land to which this *clause 9.4* applies as if the land were Maori freehold land.

19/10  
[Signature]

**SECTION 10: RIGHT OF FIRST REFUSAL****10.1 DEFINITION**

In this *Section 10*, **RFR Area** means the area shown on SO 306422 South Auckland Land District and that land known as Te Teko School described in *Attachment 10.1*.

**10.2 NATURE OF RFR AREA**

The RFR Area is an area agreed by the Crown and Ngāti Awa solely for the purpose of specifying the properties covered by the Deed of Grant of Right of First Refusal (defined in *clause 10.3*).

**10.3 DELIVERY OF DEED OF GRANT OF RIGHT OF FIRST REFUSAL BY THE CROWN**

The Crown must, by or on the Settlement Date, provide the Ngāti Awa Governance Entity with a deed:

- (a) In the form specified in *Schedule 10.1* (a “Deed of Grant of Right of First Refusal”); and
- (b) Signed in duplicate by the Crown.

**10.4 TERM OF DEED**

The Deed of Grant of Right of First Refusal shall be in force for a period of 50 years from the Settlement Date.

**10.5 AREA COVERED BY THE DEED OF GRANT OF RIGHT OF FIRST REFUSAL**

The Deed of Grant of Right of First Refusal relates to the RFR Area.

**10.6 EXECUTION BY THE NGĀTI AWA GOVERNANCE ENTITY**

The Ngāti Awa Governance Entity must:

- (a) Sign the Deed of Grant of Right of First Refusal in duplicate; and
- (b) Return one copy to the Crown by no later than the date which is 10 Business Days after the Settlement Date.

**10.7 PARTIES BOUND FROM SETTLEMENT DATE**

The Deed of Grant of Right of First Refusal shall have effect from the Settlement Date as if it had been validly executed by both the Crown and the Ngāti Awa Governance Entity on the Settlement Date.



**ATTACHMENT 10.1**  
**TE TEKO SCHOOL**

*(clause 10.1)*

South Auckland Land District – Whakatāne District

3.0865 hectares, more or less, being Part Allotments 123, 72A and 72B3A Matata Parish. All Gazette Notice B.103897.



## SECTION 11: THE SETTLEMENT LEGISLATION AND EFFECT OF SETTLEMENT ON HISTORICAL CLAIMS

### 11.1 NGĀTI AWA'S AGREEMENTS

Ngāti Awa agree to support the passing of the Settlement Legislation referred to in *clause 12.3.1* and any other legislation required to:

- (a) Give effect to this Deed;
- (b) Achieve certainty in respect of the obligations undertaken by each Party to this Deed; and
- (c) Achieve a final and durable Settlement.

### 11.2 CONTENT OF THE SETTLEMENT LEGISLATION

Ngāti Awa agree:

11.2.1 That the Settlement Legislation will, with effect from the Settlement Date:

- (a) Declare that, without limiting the acknowledgements expressed in, or any of the provisions of, this Deed, the Settlement is final and the Crown is released and discharged from any obligations, liabilities and duties in respect of the Ngāti Awa Historical Claims; and
- (b) Provide that the Courts, the Waitangi Tribunal, and any other judicial body or tribunal will not have jurisdiction (including, without limitation, the jurisdiction to inquire, or to further inquire into, or to make any finding or recommendation) in respect of:
  - (i) The Ngāti Awa Historical Claims;
  - (ii) This Deed;
  - (iii) The redress provided to Ngāti Awa or to the Ngāti Awa Governance Entity under this Deed; and
  - (iv) The Settlement Legislation,

## THE SETTLEMENT LEGISLATION AND EFFECT OF SETTLEMENT ON HISTORICAL CLAIMS

(but not for the removal of such jurisdiction in respect of the implementation or interpretation of this Deed or the Settlement Legislation);

11.2.2 That the Settlement Legislation will, with effect from the Settlement Date, remove certain statutory protections of existing and future claims by Maori and rights in respect of those claims to the extent those protections relate to land in the Specified Area and that *clause 11.2.3* (which, in the case of any inconsistency, has precedence over the description of its effect under this clause) sets out how the Settlement Legislation will remove those protections. The protections to be removed are:

- (a) The power of the Waitangi Tribunal to make binding recommendations to return to Maori ownership certain categories of land, being:
  - (i) Land transferred to or vested in a State enterprise under the State-Owned Enterprises Act 1986 (whether or not the land is owned by the State enterprise);
  - (ii) Land transferred to or vested in certain tertiary education institutions under the Education Act 1989 (whether or not the land is still owned by the institution);
  - (iii) Land held by the Crown under the Crown Forest Assets Act 1989 which is subject to a Crown Forestry Licence; and
  - (iv) Land vested in a Crown transferee company under the New Zealand Railways Corporation Restructuring Act 1990 (whether or not the land is still owned by the company);
- (b) The obligation of the Crown to resume any land that is the subject of any such binding recommendation from the person who owns the land;
- (c) The obligation of the Crown to transfer any land that is the subject of any such binding recommendation to Maori ownership in accordance with the recommendation;
- (d) In the case of land held under the Crown Forest Assets Act 1989:
  - (i) The obligation of the Crown to pay compensation; and

## THE SETTLEMENT LEGISLATION AND EFFECT OF SETTLEMENT ON HISTORICAL CLAIMS

- (ii) Certain restrictions on sale or other disposition;
- (e) The existence of Memorials on the certificate or certificates of title or computer freehold register or registers to the land which give notice that those protections apply;

11.2.3 That accordingly, to give effect to the removal of the protections referred to in *clause 11.2.2*, the Settlement Legislation will, with effect from the Settlement Date:

- (a) Provide that the following legislation does not apply to land in the Specified Area:
  - (i) Sections 8A to 8HJ of the Treaty of Waitangi Act 1975;
  - (ii) Sections 27A to 27C of the State-Owned Enterprises Act 1986;
  - (iii) Sections 211 to 213 of the Education Act 1989;
  - (iv) Part III of the Crown Forest Assets Act 1989; and
  - (v) Part III of the New Zealand Railways Corporation Restructuring Act 1990; and
- (b) Provide a mechanism that will ensure the removal of Memorials from land in the Specified Area.

### 11.3 NGĀTI AWA WILL NOT OBJECT TO REMOVAL OF STATUTORY PROTECTIONS ELSEWHERE

#### 11.3.1 Ngāti Awa will not object to removal of protections

Ngāti Awa agree that, except in respect of Claims excluded under *clause 1.3.2*, Ngāti Awa and any Representative Entity no longer have the benefit of any of the protections and rights described generally in *clause 11.2.2* wherever they apply with effect from the Settlement Date and so neither Ngāti Awa nor any Representative Entity will object to their removal in relation to land outside the Specified Area.

#### 11.3.2 Ngāti Awa to assist in removing protections in Specified Area

Ngāti Awa agree to assist in any process aimed at removing the protections and rights described generally in *clause 11.2.2* insofar as they relate to land in the Specified Area including, without limitation, promptly giving a consent in relation

to that land under sections 8D(1)(b)(ii) and 8HE(1)(b)(ii) of the Treaty of Waitangi Act 1975.

#### 11.4 LAND BANK ARRANGEMENTS

Ngāti Awa and the Crown agree that any land bank arrangement will continue in relation to Ngāti Awa and any Representative Entity until the Settlement Date and the Crown agrees that any land in the RFR Area which becomes land banked before the Settlement Date will be held by the Crown so that the land is subject to the Deed of Grant of Right of First Refusal to be entered into under *Section 10* on the Settlement Date.

#### 11.5 LEGISLATION TO EFFECT SETTLEMENT AGREEMENTS

The Crown records that:

- (a) The provisions of *clause 8.3.4*, *clause 8.3.5* and *clause 11.2.3* are to be included in the Settlement Legislation to give effect to specific items of redress or to the agreements in *clause 11.2.2*;
- (b) The provisions of those clauses are to be included in the Settlement Legislation as a result of the Settlement; and
- (c) It does not follow from the fact that the Crown and Ngāti Awa have chosen to affect land and other assets through the mechanism described in those clauses that the Waitangi Tribunal could lawfully have made a binding recommendation to return or not to return to Maori under the Treaty of Waitangi Act 1975 in respect of that land or other assets.

#### 11.6 WAITANGI TRIBUNAL

Ngāti Awa agree that the Crown:

- (a) Will, at any time after the Settlement Date, advise the Waitangi Tribunal by written memorandum of the Settlement, and the terms on which the Settlement has been reached; and
- (b) May, at any time after the Settlement Date, request that the Waitangi Tribunal amend its register, and adapt its procedures, to reflect the effect of the Settlement on the Ngāti Awa Historical Claims.

## 11.7 DISCONTINUANCE OF PROCEEDINGS

### 11.7.1 Notice of discontinuance

The Ngāti Awa Governance Entity must, on or before the Settlement Date, obtain from any applicant or plaintiff in respect of proceedings brought in relation to Ngāti Awa Historical Claims, and deliver to the Crown, a notice of discontinuance of the proceedings in respect of those proceedings, signed by the solicitor for the applicant or plaintiff to those proceedings.

### 11.7.2 Discontinuance or termination through Settlement Legislation

In the event that the Ngāti Awa Governance Entity is unable to provide any notice of discontinuance under *clause 11.7.1* prior to the Settlement Date:

- (a) The Ngāti Awa Governance Entity must continue to use its best endeavours to secure a notice of discontinuance from the relevant applicant or plaintiff in the proceedings; and
- (b) Ngāti Awa acknowledge that the Crown may through the Settlement Legislation or any other legislation terminate such proceedings on the same basis as if they had been discontinued by the applicant or plaintiff.

*Handwritten initials/signature*

**SECTION 12: CONDITIONS AND SETTLEMENT LEGISLATION****12.1 CONDITIONAL DEED****12.1.1 This Deed and the Settlement are conditional**

This Deed and the Settlement are conditional on:

- (a) The establishment of the Ngāti Awa Governance Entity and the execution of a Deed of Covenant within 6 months of the date of this Deed in accordance with *clause 2.1*; and
- (b) The passing of the Settlement Legislation and the coming into force of those provisions of the Settlement Legislation which are required to give effect to this Deed within 24 months of the date of this Deed.

**12.1.2 Some provisions not conditional**

Although this Deed and the Settlement are conditional on the matters specified in *clause 12.1.1*, where any provision of this Deed says that any provision is not conditional as described in *clause 12.1.1*:

- (a) The provision concerned shall be binding upon Ngāti Awa and the Crown unless and until termination of this Deed under *clause 12.2*; and
- (b) Any amount payable by one Party to the other under any such provision in relation to the period prior to the date of termination shall be paid notwithstanding such termination.

**12.2 TERMINATION IF DEED REMAINS CONDITIONAL****12.2.1 Notice of termination**

If the conditions referred to in *clause 12.1.1* have not been satisfied by the date for satisfaction of that condition (or such later date as Ngāti Awa and the Crown may agree in writing), then either Ngāti Awa or the Crown may, by notice in writing to the other, terminate this Deed.

**12.2.2 Without prejudice basis**

Except as provided in *clause 6.1.5*, Ngāti Awa and the Crown agree that this Deed will be treated as having been entered into on a “without prejudice” basis, in particular this Deed may not be used as evidence in any proceedings before, or presented to, any Court, the Waitangi Tribunal, or any other judicial body or tribunal (except for proceedings concerning the implementation or interpretation of this Deed or the Settlement Legislation), until it becomes unconditional.

### 12.2.3 Effect of notice of termination

- (a) If this Deed is terminated under *clause 12.2.1*, this Deed will be at an end and, except as provided in *clause 12.2.3(b)*, neither Ngāti Awa, nor any Representative Entity, will have any rights or obligations under it.
- (b) The rights and obligations of the Parties under *clauses 12.2.2* and *6.1.5* continue if this Deed is terminated.

## 12.3 INTRODUCTION OF SETTLEMENT LEGISLATION

### 12.3.1 Crown to propose legislation for introduction

The Crown agrees that it will, within 6 months after the date the Ngāti Awa Governance Entity executes the Deed of Covenant in accordance with *clause 2.1.1* (or such longer period as Ngāti Awa and the Crown may agree), propose for introduction legislation to give effect to the Settlement, and to achieve certainty in respect of, and to record the approval by Parliament of, the Settlement.

### 12.3.2 Content of Settlement Legislation

The proposed Settlement Legislation will, without limitation:

- (a) Provide for the settlement of Ngāti Awa Historical Claims;
- (b) Provide for those matters specifically required by this Deed to be provided for in the Settlement Legislation;
- (c) Include such provisions as are required to give effect to the Crown's obligations in respect of the Settlement Legislation under this Deed; and
- (d) Include any other provisions required to achieve certainty, finality and durability of the Settlement and to give effect to this Deed.

### 12.3.3 Participation of Ngāti Awa Governance Entity

The Crown must ensure that the Ngāti Awa Governance Entity has appropriate participation in the process of drafting of the Settlement Legislation proposed by the Crown for introduction.

### 12.3.4 Not conditional

*Clause 12.1.1* (which provides that this Deed is conditional) does not apply to *clauses 12.3.1* or *12.3.3*.

**SECTION 13: TAX****13.1 DEFINITIONS AND INTERPRETATION****13.1.1 Definitions**

For the purposes of this Section, unless the context requires otherwise:

*RFR Properties* has the meaning given to it in *Schedule 10.1*;

*Other Properties/Rights* means those properties, interests, rights or assets which are to be transferred to the Ngāti Awa Governance Entity (the value of which is not taken into account under the Redress Amount), the particulars and/or arrangements in respect of which are specified in:

- (a) *Section 4*;
- (b) *Section 5* (other than in *clause 5.15*); and
- (c) *Clause 5.15* and *Section 10*, to the extent that those provisions relate to the grant of preferential rights or a right of first refusal to the Ngāti Awa Governance Entity;

*Redress Amount Properties* means those properties which are to be transferred to the Ngāti Awa Governance Entity, the Redress Value of which is taken into account under the Redress Amount (and the particulars and/or arrangements in respect of which are specified in *Section 8*); and

*Indemnified Redress* means:

- (a) The amounts referred to in *clause 6.1.1* or as described in *clause 8.4.2(1)*, *paragraph 10.4* and *paragraph 10.5(c)(ii)* of *Schedule 8.2* paid or payable by the Crown to the Ngāti Awa Governance Entity;
- (b) The Redress Amount Properties; and
- (c) The Other Properties/Rights.

**13.1.2 Interpretation**

For the purposes of this Section, unless the context requires otherwise:

- (a) The expression "*indemnity payment*" means any indemnity payment made by the Crown under or for the purposes of this Section;

## TAX

- (b) References to the payment, crediting or transferring of the “*Indemnified Redress*” (or any equivalent wording) include a reference to the payment, crediting, or transferring of any part (or the applicable part) of the Indemnified Redress;
- (c) The expression “*GST*” (unless the context requires otherwise) also extends to and includes any interest or penalties payable in respect of, or on account of the late or non-payment of, any GST;
- (d) The expression “*income tax*” (unless the context requires otherwise ) also extends to and includes any interest or penalties payable in respect of, or on account of the late or non-payment of, any income tax;
- (e) The expression “*gift duty*” (unless the context requires otherwise ) also extends to and includes any interest or penalty payable in respect of, or on account of the late or non-payment of, any gift duty;
- (f) The expression “*tax*” includes income tax, GST, and gift duty;
- (g) The word “*payment*” extends to the transferring or making available of cash amounts as well as to the transferring of non cash amounts (such as land);  
and
- (h) The word “*transferring*” includes recognising, creating, vesting, granting, licensing, leasing, or any other means by which the relevant properties, interests, rights or assets are disposed of or made available or are recognised as being available to the Ngāti Awa Governance Entity and “transfer” and “transferred” have corresponding meanings.

## 13.2 STATEMENT OF AGREED TAX PRINCIPLES

### 13.2.1 Principles

The Crown and Ngāti Awa agree to the following:

- (a) The payment, crediting or transferring of Indemnified Redress by the Crown to or in the Ngāti Awa Governance Entity (as redress provided by the Crown) is not intended to be, or to give rise to, a taxable supply for GST purposes;
- (b) The payment, crediting or transferring of Indemnified Redress to or in the Ngāti Awa Governance Entity (as redress provided by the Crown) is not intended to be, or to give rise to, gross income for income tax purposes;

## TAX

- (c) Neither the Ngāti Awa Governance Entity nor any associated person will claim an input credit (for GST purposes) or a deduction (for income tax purposes) with reference to:
- (i) the payment, crediting or transferring by the Crown of any Indemnified Redress; or
  - (ii) any payment described in *paragraph 10.5(c)(i)* of *Schedule 8.2* and *clause 10.4.2(l)* payable by the Ngāti Awa Governance Entity.
- (d) The transferring of the Other Properties/Rights to or in the Ngāti Awa Governance Entity (as redress provided by the Crown) is not intended to be, or to give rise to, a dutiable gift;
- (e) The transferring of the RFR Properties or the purchase of Authorisations under an exercise of the rights under *Section 10* and *clause 5.15* respectively are intended to be a taxable supply for GST purposes;
- (f) Any interest paid by the Crown under any provision of this Deed is either gross income or exempt income, for income tax purposes, depending on the recipient's status for income tax purposes; and, furthermore, the receipt or payment of such interest is not subject to indemnification for tax by the Crown under this Deed. (For the avoidance of doubt, any indemnity payment or any part of an indemnity payment that is calculated by reference to a use of money interest liability imposed on the Ngāti Awa Governance Entity shall not be treated as "interest" for purposes of this clause 13.2.1(f));
- (g) The payment of any indemnity payment by the Crown is not intended to be, or to give rise to, a taxable supply for GST purposes or to be, or to give rise to, gross income for income tax purposes;
- (h) The Ngāti Awa Governance Entity (at all applicable times) is or will be a registered person for GST purposes; and
- (i) The receipt by the Ngāti Awa Governance Entity of any Crown Forestry Licence fees (and any accumulated interest on them) from the Crown Forestry Rental Trust or from the Crown is to be treated in accordance with ordinary taxation principles, and is not to be subject to indemnification for tax by the Crown under this Deed.

### 13.2.2 Acknowledgements

For the avoidance of doubt, the Parties acknowledge:



## TAX

- (a) That the tax indemnities given by the Crown in this *Section 13* and the principles and acknowledgements in *clauses 13.2.1* and *13.2.2* apply only to the receipt by the Ngāti Awa Governance Entity of the Indemnified Redress or indemnity payments and do not apply to any subsequent dealings, distributions, payments, uses or applications by the Ngāti Awa Governance Entity with or of the Indemnified Redress or indemnity payments;
- (b) Each obligation to be performed by the Crown in favour of the Ngāti Awa Governance Entity under this Deed is performed as redress and without charge to, or consideration to be provided by, the Ngāti Awa Governance Entity or any other person but this *clause 13.2.2(b)* does not affect the obligation of the Ngāti Awa Governance Entity to pay the purchase price relating to an RFR Property under a contract for the Disposal of the RFR Property (as those terms are defined in *Schedule 10.1* or for an Authorisation acquired under *clause 5.15*);
- (c) Without limiting *clause 13.2.2(b)*, the payment of amounts and the bearing of costs from time to time by the Ngāti Awa Governance Entity in relation to the Other Properties/Rights and the Redress Amount Properties (including without limitation rates/charges/fees, the apportionment of outgoings and incomings, maintenance/repair/upgrade costs and rubbish/pests/weed control costs) is not intended to be consideration for the transfer of those properties for GST or other purposes; and, furthermore (and without limiting *clause 13.2.2(a)*) the payment of such amounts and the bearing of such costs is not subject to indemnification for tax by the Crown under this Deed; and
- (d) Without limiting *clause 13.2.2(b)*, the agreement to enter into, the entering into and the performance by the Ngāti Awa Governance Entity of the documents set out in *Schedules 4.2, 8.3* and *8.4* is not consideration for GST or other purposes for the transfer of those properties by the Crown to the Ngāti Awa Governance Entity.

**13.2.3 Act consistent with principles**

Neither the Ngāti Awa Governance Entity (nor any associated person) nor the Crown shall act in a manner that is inconsistent with the principles or acknowledgements set out in *clauses 13.2.1 and 13.2.2*.

**13.2.4 Matters not to be implied from principles**

Nothing in *clause 13.2.1* is intended to suggest or imply:

- (a) That the payment, crediting or transferring of Indemnified Redress, or the payment of an indemnity payment, is or will be chargeable with GST;

## TAX

- (b) If the Ngāti Awa Governance Entity is a charitable trust or other charitable entity, that payments, properties, interests, rights or assets the Ngāti Awa Governance Entity receives or derives from the Crown under this Deed are received or derived other than exclusively for charitable purposes;
- (c) If the Ngāti Awa Governance Entity is a charitable trust or other charitable entity, that the Ngāti Awa Governance Entity derives or receives amounts, for income tax purposes, other than as exempt income; or
- (d) That gift duty should or can be imposed on any payment to or transaction with the Ngāti Awa Governance Entity under this Deed.

### **13.3 INDEMNITY FOR GST IN RESPECT OF INDEMNIFIED REDRESS AND INDEMNITY PAYMENTS**

#### **13.3.1 Indemnified redress provided exclusive of GST**

If and to the extent that:

- (a) The making of redress through the payment, crediting or transferring of Indemnified Redress; or
- (b) The payment of an indemnity payment,

by the Crown to or in the Ngāti Awa Governance Entity is chargeable with GST, the Crown must, in addition to the payment, crediting or transferring of Indemnified Redress or the payment of the indemnity payment, pay the Ngāti Awa Governance Entity the amount of GST payable in respect of the Indemnified Redress or the indemnity payment.

#### **13.3.2 Indemnification**

If and to the extent that:

- (a) The making of redress through the payment, crediting or transferring of Indemnified Redress; or
- (b) The payment of an indemnity payment,

is chargeable with GST and the Crown does not, for any reason, pay the Ngāti Awa Governance Entity an additional amount equal to that GST at the time the Indemnified Redress or the indemnity payment is paid, credited or transferred, the Crown shall, on demand in writing, indemnify the Ngāti Awa Governance Entity for any GST that is or may be payable by the Ngāti Awa Governance Entity or for which the Ngāti Awa Governance Entity is liable in respect of the making of the

## TAX

redress and/or the payment, crediting or transferring of Indemnified Redress and/or the payment of the indemnity payment.

#### **13.4 INDEMNITY FOR INCOME TAX IN RESPECT OF INDEMNIFIED REDRESS OR INDEMNITY PAYMENTS**

The Crown agrees to indemnify the Ngāti Awa Governance Entity on demand against any income tax that the Ngāti Awa Governance Entity is liable to pay if and to the extent that receipt of the payment, crediting or transferring of the Indemnified Redress or of an indemnity payment is treated as, or as giving rise to, gross income of the Ngāti Awa Governance Entity for income tax purposes.

#### **13.5 INDEMNIFICATION FOR GIFT DUTY IN RESPECT OF OTHER PROPERTIES/RIGHTS**

The Crown agrees to pay, and to indemnify the Ngāti Awa Governance Entity against any liability that the Ngāti Awa Governance Entity has to pay in respect of, any gift duty assessed as payable by the Commissioner of Inland Revenue in respect of the transfer of the Other Properties/Rights by the Crown under this Deed.

#### **13.6 DEMANDS FOR INDEMNIFICATION**

##### **13.6.1 Notification of indemnification event**

The Ngāti Awa Governance Entity and the Crown agree to notify the other as soon as reasonably possible after becoming aware of an event or occurrence in respect of which the Ngāti Awa Governance Entity is or may be entitled to be indemnified by the Crown for or in respect of tax under this Section.

##### **13.6.2 How demands are made**

Demands for indemnification for tax by the Ngāti Awa Governance Entity in accordance with this Section must be made in accordance with the provisions of *clause 14.7 (Notices)* and may be made at any time, and from time to time, after the Settlement Date.

##### **13.6.3 When demands are to be made**

Except with the agreement of the Crown or where this Deed specifies otherwise, no demand for payment by way of indemnification for tax under this *Section 13* may be made by the Ngāti Awa Governance Entity more than five Business Days before the due date for the Ngāti Awa Governance Entity to pay or account for the applicable tax (whether such date is specified in an assessment or is a date for the payment of provisional tax or otherwise).

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**13.6.4 Evidence to accompany demand**

Without prejudice to *clause 13.6.1*, each demand for indemnification by the Ngāti Awa Governance Entity under this Section must be accompanied by:

- (a) Appropriate evidence (which may be a notice, notice of proposed adjustment, assessment, a certificate issued by the Ngāti Awa Governance Entity and confirmed or certified by the Ngāti Awa Governance Entity's tax advisers or accountants for the time being, or any other evidence which is reasonably satisfactory to the Crown) setting out with reasonable detail the amount of the loss, cost, expense, liability or tax that the Ngāti Awa Governance Entity claims to have suffered or incurred or be liable to pay, and in respect of which indemnification is sought from the Crown under this Deed; and
- (b) Where the demand is for indemnification for GST, if the Crown requires, an appropriate GST tax invoice.

**13.6.5 Repayment of amount on account of tax**

If payment is made by the Crown on account of tax to the Ngāti Awa Governance Entity or the Commissioner of Inland Revenue (for the account of the Ngāti Awa Governance Entity) and it is subsequently determined or held that no such tax (or an amount of tax that is less than the payment which the Crown made on account of tax) is or was payable or properly assessed, to the extent that the Ngāti Awa Governance Entity has retained the payment made by the Crown or has been refunded the amount of that payment by the Inland Revenue Department or has had the amount of that payment credited or applied to its account with the Inland Revenue Department, the Ngāti Awa Governance Entity must repay the applicable amount to the Crown free of any set-off or counterclaim.

**13.6.6 Payment of amount on account of tax**

The Ngāti Awa Governance Entity must pay to the Inland Revenue Department any payment made by the Crown to the Ngāti Awa Governance Entity on account of tax on the latter of:

- (a) The "due date" for payment of that amount to the Inland Revenue Department as provided for by the applicable tax legislation; or
- (b) The next Business Day following receipt of that payment by the Ngāti Awa Governance Entity from the Crown.

**13.6.7 Payment of costs**

The Crown will indemnify the Ngāti Awa Governance Entity for any reasonable costs or expenses which the Ngāti Awa Governance Entity incurs or is liable to

## TAX

pay as a result of actions undertaken by the Ngāti Awa Governance Entity, at the Crown's direction, in connection with:

- (a) Any demand for indemnification made by the Ngāti Awa Governance Entity under or for the purposes of this Section; and
- (b) Any steps or actions taken by the Ngāti Awa Governance Entity in accordance with the Crown's requirements under *clause 13.8*.

### 13.7 DIRECT PAYMENT OF TAX: CONTROL OF DISPUTES

Where any liability arises to the Crown under this Section, the following provisions shall also apply:

- (a) If the Crown so requires and notifies the Ngāti Awa Governance Entity in writing of that requirement, the Crown may, instead of paying the requisite amount on account of tax, pay that amount to the Commissioner of Inland Revenue, such payment to be effected on behalf, and for the account, of the Ngāti Awa Governance Entity;
- (b) Subject to the Ngāti Awa Governance Entity being indemnified to its reasonable satisfaction against any reasonable cost, loss, expense or liability or any tax which it may suffer, incur or be liable to pay, the Crown shall have the right, by notice in writing to the Ngāti Awa Governance Entity, to require the Ngāti Awa Governance Entity to do either or both of the following things, namely:
  - (i) To take into account any right permitted by any relevant law to defer the payment of any tax; and/or
  - (ii) To take all steps the Crown may specify to respond to and/or contest any notice, notice of proposed adjustment or assessment for tax, where expert legal tax advice indicates that it is reasonable to do so; and
- (c) The Crown reserves the right:
  - (i) To nominate and instruct counsel on behalf of the Ngāti Awa Governance Entity whenever it exercises its rights under *clause 13.7(b)*; and
  - (ii) To recover from the Commissioner of Inland Revenue the amount of any tax paid and subsequently held to be refundable (being an amount of tax in respect of which the Crown has made an indemnity payment).

### 13.8 RULINGS, APPLICATIONS

If the Crown requires, the Ngāti Awa Governance Entity will consult and/or collaborate with the Crown in the Crown's preparation (for the Crown, the Ngāti Awa Governance Entity or any other person) of an application for a non binding or binding ruling from the Commissioner of Inland Revenue with respect to any part of the arrangements relating to the payment, crediting or transferring of Indemnified Redress.

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**SECTION 14 : MISCELLANEOUS MATTERS****14.1 DEFINITIONS**

In this Section, unless the context requires otherwise:

*Anniversary Date* means the first Business Day after the expiry of each period of 12 months commencing on the date of this Deed or on the previous Anniversary Date (as the case may be);

*Calculation Date* means:

- (a) The date of this Deed, in respect of the period commencing on the date of this Deed and expiring on the date before the first Anniversary Date; and
- (b) Each Anniversary Date, in respect of the period commencing on the first Anniversary Date and expiring on the Settlement Date.

**14.2 NO ASSIGNMENT**

Except as expressly provided in this Deed or any other document entered into under this Deed, neither the Crown, the Ngāti Awa Governance Entity nor Ngāti Awa may transfer or assign any rights or obligations arising under or from this Deed.

**14.3 AMENDMENT**

No amendment to this Deed will be effective unless it is in writing and signed on behalf of Ngāti Awa and the Crown.

**14.4 ENTIRE AGREEMENT**

This Deed constitutes the entire agreement between the Parties in relation to the matters referred to in this Deed. This Deed supersedes all earlier negotiations, representations, warranties, understandings and agreements, whether oral or written, between Ngāti Awa, and/or any Representative Entity and/or any Member of Ngāti Awa and the Crown relating to such matters but not the Mātaatua Agreement or Te Tiriti o Waitangi/the Treaty of Waitangi itself.

**14.5 NO WAIVER**

A failure, delay or indulgence by any Party in exercising any power or right shall not operate as a waiver of that power or right. A single exercise or partial exercise

of any power or right shall not preclude further exercises of that power or right or the exercise of any other power or right.

#### 14.6 INTEREST

The Crown will pay interest ("*Settlement Interest*") on \$38,750,000 (being the Redress Amount less the amounts and agreed value referred to in clauses 6.1.1(a)(ii) and 6.1.1(b)) from the date of this Deed until payment of the Cash Settlement Amount. Settlement Interest will:

- (a) Be calculated on each Calculation Date and will be at a rate, expressed as a percentage per annum, equal to the weighted average of the successful yield for 1 year Treasury Bills resulting from the Treasury Bill tender process that takes place during the week prior to each Calculation Date or, if no such rate is then available, such equivalent rate reasonably determined by the Crown;
- (b) Not compound;
- (c) Be payable for the period from (and including) the date of this Deed to (but excluding) the date on which the Cash Settlement Amount is paid;
- (d) Be paid to the Ngāti Awa Governance Entity on the Settlement Date; and
- (e) Be subject to normal taxation law.

#### 14.7 NOTICES

##### 14.7.1 Address for notices

Except as expressly provided in this Deed, any notice or other communication given under this Deed to a Party (or to the agent appointed under *clause 2.3*) must be in writing addressed to that Party at the address or facsimile number from time to time notified by that Party in writing to the other party. Until any other address or facsimile number of a Party is notified, they will be as follows:

## MISCELLANEOUS MATTERS

**Crown:**

C/- The Solicitor-General  
Crown Law Office  
St Pauls Square  
45 Pipitea Street  
(PO Box 5012)  
WELLINGTON

Facsimile: 04 473 3482

**Ngāti Awa:**

General Manager  
Te Runanga o Ngāti Awa  
Louvain House  
Louvain Street  
(PO Box 76)  
WHAKATĀNE

Facsimile: 07 307 0762

**14.7.2 Delivery**

Delivery may be effected by hand, by post with postage prepaid, or by facsimile.

**14.7.3 Delivered notice**

A notice or other communication delivered by hand will be deemed to have been received at the time of delivery. However, if the delivery is not made on a Business Day or is made after 5.00 p.m. on a Business Day, then the notice or other communication will be deemed to have been delivered on the next Business Day.

**14.7.4 Posted notice**

A notice or other communication delivered by pre-paid post will be deemed to have been received on the 2nd Business Day after posting.

**14.7.5 Facsimile notice**

A notice or other communication sent by facsimile will be deemed to have been received on the day of transmission. However, if the date of transmission is not a Business Day or the transmission is sent after 5.00 p.m. on a Business Day then the notice or other communication will be deemed to have been given on the next Business Day after the date of transmission.

**SECTION 15: DEFINITIONS AND INTERPRETATION****15.1 DEFINITIONS**

In this Deed, unless the context requires otherwise:

*Act* means an Act of the Parliament of New Zealand or of the General Assembly;

*Area of Interest* has the meaning set out in *clause 1.2.2*;

*Ancillary Claims* means:

- (a) Wai 79 (Awakeri Springs) received by the Waitangi Tribunal on 19 February 1988;
- (b) Wai 247 (Waiohau C26, metal extraction) received by the Waitangi Tribunal on 2 August 1987; and
- (c) Wai 248 (Omataroa Rangitaiki, metal extraction) received by the Waitangi Tribunal on 4 March 1988;

*Business Day* means the period of 9am to 5pm on any day of the week other than:

- (a) Saturday, Sunday, Good Friday, Easter Monday, Anzac Day, the Sovereign's Birthday, Labour Day, and Waitangi 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 days observed as the anniversaries of the provinces of Wellington and Auckland;

*Cash Settlement Amount* means the amount specified in *clause 6.1.1* to be paid by the Crown to the Ngāti Awa Governance Entity under *clause 6.2*;

*Claim* includes the right to make a claim;

*Commercial Redress Property* has the meaning set out in *clause 8.1*;

*Conservation* has the meaning given to it in section 2 of the Conservation Act 1987;

*Crown*



## DEFINITIONS AND INTERPRETATION

- (a) means Her Majesty the Queen in right of New Zealand; and
- (b) includes all Ministers of the Crown and all Departments; but
- (c) does not include:
  - (i) an Office of Parliament (as defined in the Public Finance Act 1989);
  - (ii) a Crown entity (as defined in the Public Finance Act 1989);
  - (iii) a State enterprise (as defined in the State-Owned Enterprises Act 1986);

***Crown Agency*** means:

- (a) A Crown entity (as defined in the Public Finance Act 1989) and includes the New Zealand Railways Corporation;
- (b) A State enterprise (as defined in the State-Owned Enterprises Act 1986); or
- (c) Any company or body which is wholly-owned or controlled by:
  - (i) The Crown, a Crown entity or a State enterprise; or
  - (ii) A combination of the Crown, a Crown entity, Crown entities, a State enterprise or State enterprises, and includes any subsidiary of or related company to, any such company or body;

***Crown Forestry Licence*** has the meaning given to it in *clause 8.1*;

***Crown Forestry Rental Trust*** means the forestry rental trust established under section 34 of the Crown Forest Assets Act 1989;

***Cultural Redress Property*** means each property to be vested in the Ngāti Awa Governance Entity under *clauses 4.2 to 4.9*;

***Customary Rights*** has the meaning set out in *clause 1.2*;

***Date of this Deed*** means the date this Deed is signed by the Parties;

***Deed*** means this Deed of Settlement, including the Schedules and Attachments to it;

## DEFINITIONS AND INTERPRETATION

**Deed of Covenant** means the Deed of Covenant referred to in *clause 2.1.1*;

**Department** means a department or instrument of the Government, or a branch or division of the Government, but does not include a body corporate, or other legal entity that has the power to contract, or an Office of Parliament (as defined in the Public Finance Act 1989);

**Fisheries Legislation** means the Fisheries Act 1983 or the Fisheries Act 1996 (as the case may be);

**GST** means goods and services tax chargeable under the Goods and Services Tax Act 1985;

**Heads of Agreement** means the Heads of Agreement signed on 21 December 1998 by the Crown and Te Runanga o Ngāti Awa as amended on 4 October 2000;

**Licensed land** has the same meaning as in section 2 of the Crown Forest Assets Act 1989;

**Mātaatua Agreement** means the Deed of Settlement Concerning the Wharenui Mātaatua dated 30 August 1996 between the Crown and Te Runanga o Ngāti Awa;

**Mandated Negotiators** means each person who signs this Deed on behalf of Ngāti Awa who collectively have Ngāti Awa's authority to sign this Deed;

**Member of Ngāti Awa** has the meaning set out in *clause 1.2*;

**Memorials** means resumptive memorials imposed on land under the State-Owned Enterprises Act 1986, the New Zealand Railways Corporation Restructuring Act 1990 or the Education Act 1989;

**Ngāti Awa** has the meaning set out in *clause 1.2*;

**Ngāti Awa Antiquities Protocol Area** has the meaning set out in *clause 5.7.1*;

**Ngāti Awa DOC Protocol Area** has the meaning set out in *clause 5.7.1*;

**Ngāti Awa Fisheries Protocol Area** has the meaning set out in *clause 5.7.1*;

**Ngāti Awa Governance Entity** has the meaning set out in *clause 2.1*;

**Ngāti Awa Historical Claims** has the meaning set out in *clause 1.3*;

## DEFINITIONS AND INTERPRETATION

**Ngāti Awa Tipuna** has the meaning set out in *clause 1.2*;

**Offshore Islands** means the following islands situated in the Bay of Plenty, and includes any islands, islets or rocks adjacent to those islands:

- (a) Motiti Island;
- (b) Tokata Island;
- (c) Rurima Island;
- (d) Moutoki Island;
- (e) Moutohorā Island;
- (f) Whakaari/White Island; and
- (g) Volkner Rocks (to be re-named under *clause 5.10*);

**Part Ōhiwa Harbour** means the part of the harbour known as Ōhiwa Harbour marked "A" on SO 61441 South Auckland Land District, being the foreshore, seabed, and coastal water (as those terms are defined in the Resource Management Act 1991) and the air space above the water and, where the boundary of the area marked "A" on SO 61441 is shown as a landward boundary, the landward boundary is the line of mean high water springs, except that where that line crosses a river, the landward boundary at that point is whichever is the lesser of:

- (a) One kilometre upstream from the mouth of the river; or
- (b) The point upstream that is calculated by multiplying the width of the river mouth by 5;

**Parties** means Ngāti Awa and the Crown;

**Redress Amount** is the amount specified in *clause 6.1*;

**Redress Value** has the meaning set out in *clause 8.1*;

**Regulation** means a regulation, rule, order, proclamation, notice, bylaw, warrant or other statutory instrument made, issued or given under an Act;

**Representative Entity** has the meaning set out in *clause 1.2*;

## DEFINITIONS AND INTERPRETATION

**RFR Area** has the meaning set out in *clause 10.1*;

**Settlement** means the settlement of the Ngāti Awa Historical Claims to be effected under this Deed;

**Settlement Date** means the date which is 20 Business Days after this Deed becomes unconditional;

**Settlement Legislation** means the bill to give effect to the Settlement referred to in *clause 12.3* and, where the bill has become law, means, if the context requires, the Act resulting from the passing of such bill;

**Settlement Property** means each Cultural Redress Property and each Commercial Redress Property;

**Specified Area** means the RFR Area;

**Te Runanga o Ngāti Awa** means the Maori Trust Board constituted by section 4 of Te Runanga o Ngāti Awa Act 1988, as amended from time to time; and

**Undertaking** means, in relation to a person, the assets, property, rights and liabilities of the person.

## 15.2 INTERPRETATION

In the interpretation of this Deed, unless the context otherwise requires:

- (a) The Background is intended to set out the background to this Deed but is not to affect the interpretation of this Deed;
- (b) Headings appear as a matter of convenience and are not to affect the interpretation of this Deed;
- (c) Words or phrases (other than proper names) appearing in this Deed with capitalised initial letters are defined terms and bear the meanings given to them in this Deed;
- (d) Where a word or expression is defined in this Deed, other parts of speech and grammatical forms of that word or expression have corresponding meanings;
- (e) The singular includes the plural and vice versa, and words importing one gender include the other genders;

## DEFINITIONS AND INTERPRETATION

- (f) A reference to the Background, Recitals, Sections, clauses, Schedules and Attachments is to the Background, Recitals, Sections, clauses, Schedules and Attachments to this Deed. A Recital is a paragraph in the Background to this Deed;
- (g) A reference within a Schedule or Attachment to a paragraph or an Appendix means the paragraph in, or the Appendix to, that Schedule or Attachment;
- (h) A reference to an enactment or any regulations is a reference to that enactment or those regulations as amended, or to any enactment or regulations substituted for, or that replaces, that enactment or those regulations;
- (i) A reference to a party to this Deed or any other document or agreement includes that party's permitted successors;
- (j) A reference to any document or agreement, including this Deed, includes a reference to that document or agreement as amended, novated or replaced from time to time;
- (k) A reference to monetary amounts is to New Zealand currency;
- (l) A reference to written or in writing includes all modes of presenting or reproducing words, figures and symbols in a tangible and permanently visible form;
- (m) A reference to a person includes a corporation sole and also a body of persons, whether corporate or unincorporate;
- (n) A reference in this Deed to the Crown or a Crown Agency endeavouring to do something or to achieve some result means reasonable endeavours to do that thing or achieve that result and, in particular, does not oblige the Crown or the Government of New Zealand to promote any legislation, except as so far as this Deed anticipates Settlement Legislation;
- (o) Where a clause includes a preamble, that preamble is intended to set out the background to, and intention of, the clause, but is not to affect the interpretation of the clause;
- (p) In the event of a conflict between the terms of the main body of the Deed and the Schedules or Attachments, then the terms of the main body of the Deed shall prevail;

## DEFINITIONS AND INTERPRETATION

- (q) A reference to any document being in the form specified in a Schedule or Attachment includes that document with such amendments as may be agreed in writing between Ngāti Awa and the Crown;
- (r) A reference to a date on which something must be done includes any other date which may be agreed in writing between Ngāti Awa and the Crown;
- (s) A reference to something being subsequently agreed is a reference to the thing being agreed in writing;
- (t) Where something is required to be done on a day which is not a Business Day, that thing must be done on the next Business Day after that day;
- (u) A reference to the Settlement Legislation including a provision set out in this Deed includes that provision with any amendment:
- (i) where the amendment results in a provision that is similar to that provided in this Deed and does not have a material adverse effect on either of the parties; or
  - (ii) as may be agreed in writing between Ngāti Awa and the Crown;
- (v) A reference in this Deed to a particular Minister of the Crown includes any Minister of the Crown who, under authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of the relevant Act or matter;
- (w) Where the name of a reserve or other place is amended under this Deed, either the existing name or new name is used to mean that same reserve or other place;
- (x) Where an area of land is defined by reference to a plan in an Attachment to this Deed but there is an SO Plan for the same area, then the plan in the Attachment is for identification only and the SO Plan prevails;
- (y) References to SO Plans where the SO Plans have been prepared for the purposes of this Deed are to plans included in a bundle of plans identified as such by the Crown and Ngāti Awa on the date of this Deed and they form part of this Deed; and
- (z) A reference in this Deed to a clause or section of this Deed is also a reference to the provision in the Settlement Legislation that gives effect to that clause or section.