

NGĀTI WHĀTUA O KAIPARA

AND

THE CROWN

**DEED OF SETTLEMENT SCHEDULE:
GENERAL MATTERS**

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1 IMPLEMENTATION OF SETTLEMENT

- 1.1 The trustees of the Development Trust must use best endeavours to ensure that any historical claim proceedings made in a court, tribunal, or judicial body other than the Waitangi Tribunal, is discontinued –
- 1.1.1 by the settlement date; or
 - 1.1.2 if not by the settlement date, as soon as practicable afterwards.
- 1.2 The Crown may, after the settlement date, do all or any of the following:
- 1.2.1 advise the Waitangi Tribunal (or any other tribunal, court, or judicial body) of the settlement:
 - 1.2.2 request the Waitangi Tribunal to amend its register of claims, and adapt its procedures, to reflect the settlement:
 - 1.2.3 from time to time propose for introduction to the House of Representatives a bill or bills for either or both of the following purposes:
 - (a) terminating an historical claim proceedings:
 - (b) giving further effect to this deed, including achieving –
 - (i) certainty in relation to a party's rights and/or obligations; and/or
 - (ii) a final and durable settlement.
- 1.3 The Crown may cease, in relation to Ngāti Whātua o Kaipara or a representative entity, any land bank arrangements, except to the extent necessary to comply with its obligations under this deed.
- 1.4 Ngāti Whātua o Kaipara, and the trustees of each Ngā Maunga Whakahii o Kaipara trust, must –
- 1.4.1 support a bill that they are satisfied meets the requirements of paragraph 1.2.3; and
 - 1.4.2 not object to a bill removing resumptive memorials from any certificate of title or computer register.

2 TAX

INDEMNITY

- 2.1 The provision of Crown redress, or an indemnity payment, to the trustees of a Ngā Maunga Whakahii o Kaipara trust, is not intended to be -
- 2.1.1 a taxable supply for GST purposes; or
 - 2.1.2 assessable income for income tax purposes; or
 - 2.1.3 a dutiable gift for gift duty purposes.
- 2.2 The Crown must, therefore, indemnify the trustees of each Ngā Maunga Whakahii o Kaipara trust for -
- 2.2.1 any GST payable by them in respect of the provision of Crown redress or an indemnity payment; and
 - 2.2.2 any income tax payable by them as a result of any Crown redress, or an indemnity payment, being treated as their assessable income; and
 - 2.2.3 any gift duty payable by them in respect of the provision of Crown redress that is –
 - (a) cultural redress; or
 - (b) a right under the settlement documentation to purchase –
 - (i) a non-forest commercial property; or
 - (ii) an available Riverhead forest property; or
 - (iii) the Paremoremo Housing Block; or
 - (iv) RFR land; and
 - 2.2.4 any reasonable cost or liability incurred by them in taking, at the Crown's direction, action –
 - (a) relating to an indemnity demand; or
 - (b) under paragraph 2.13 or paragraph 2.14.1(b).

LIMITS

- 2.3 The tax indemnity does not apply to the following (which are subject to normal tax treatment):

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- 2.3.1 interest paid under clauses 10.1 to 10.3:
- 2.3.2 any of the amounts paid or distributed by the Crown Forestry Rental Trust in relation to Woodhill Forest, or purchased Riverhead Forest, including rental proceeds and interest on rental proceeds:
- 2.3.3 an obligation under the settlement documentation to transfer –
- (a) a purchased non-forest commercial property; or
 - (b) purchased Riverhead Forest, if the purchased Riverhead Forest is not a commercial redress property; or
 - (c) the Paremoremo Housing Block; or
 - (d) RFR land:
- 2.3.4 either of the following by the trustees of a Ngā Maunga Whakahii o Kaipara trust:
- (a) use of Crown redress or an indemnity payment:
 - (b) payment of costs, or any other amounts, in relation to Crown redress.

ACKNOWLEDGEMENTS

- 2.4 To avoid doubt, the parties acknowledge -
- 2.4.1 the Crown redress is provided -
- (a) to settle the historical claims; and
 - (b) with no other consideration being provided; and
- 2.4.2 in particular, the following are not consideration for the Crown redress:
- (a) an agreement under this deed to –
 - (i) enter into an encumbrance, or other obligation, in relation to Crown redress; or
 - (ii) pay costs (such as rates, or other outgoings, or maintenance costs) in relation to Crown redress:
 - (b) the performance of that agreement; and
- 2.4.3 nothing in this part is intended to imply that -

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- (a) the provision of Crown redress, or an indemnity payment, is –
 - (i) a taxable supply for GST purposes; or
 - (ii) assessable income for income tax purposes; or
 - (iii) a dutiable gift for gift duty purposes; or
- (b) if a Ngā Maunga Whakahii o Kaipara trust is a charitable trust, or other charitable entity, the trustees of that trust receive -
 - (i) redress, assets, or rights other than for charitable purposes; or
 - (ii) income other than as exempt income for income tax purposes; and

2.4.4 the transfer after the settlement date of any of the following under the settlement documentation is a taxable supply for GST purposes:

- (a) a purchased non-forest commercial property:
- (b) purchased Riverhead Forest:
- (c) the Paremoremo Housing Block:
- (d) RFR land; and

2.4.5 each Ngā Maunga Whakahii o Kaipara trust is the only entity that this deed contemplates performing a function described in section HF 2(2)(d)(i) or section HF 2(3)(e)(i) of the Income Tax Act 2007.

CONSISTENT ACTIONS

2.5 None of the trustees of a Ngā Maunga Whakahii o Kaipara trust, nor a person associated with them, nor the Crown, will act in a manner that is inconsistent with this part 2.

2.6 In particular, the trustees of each Ngā Maunga Whakahii o Kaipara trust agree that –

2.6.1 from the settlement date, they will be registered persons for GST purposes, unless they are not carrying on a taxable activity; and

2.6.2 neither they, nor any person associated with them, will claim with respect to the provision of Crown redress, or an indemnity payment, -

- (a) an input credit for GST purposes; or
- (b) a deduction for income tax purposes.

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2: TAX

INDEMNITY DEMANDS

- 2.7 The trustees of a Ngā Maunga Whakahii o Kaipara trust and the Crown must give notice to the other, as soon as reasonably possible after becoming aware that the trustees may be entitled to an indemnity payment.
- 2.8 An indemnity demand –
- 2.8.1 may be made at any time after the settlement date; but
- 2.8.2 must not be made more than 20 business days before the due date for payment of the tax, whether that date is –
- (a) specified in an assessment; or
 - (b) a date for the payment of provisional tax; or
 - (c) otherwise determined; and
- 2.8.3 must be accompanied by -
- (a) evidence of the tax, and of any other amount sought, which is reasonably satisfactory to the Crown; and
 - (b) if the demand relates to GST and the Crown requires, a GST tax invoice.

INDEMNITY PAYMENTS

- 2.9 If the trustees of a Ngā Maunga Whakahii o Kaipara trust are entitled to an indemnity payment, the Crown may make the payment to -
- 2.9.1 them; or
- 2.9.2 the Commissioner of Inland Revenue, on their behalf, and for their account.
- 2.10 The trustees of a Ngā Maunga Whakahii o Kaipara trust must pay an indemnity payment received by them to the Commissioner of Inland Revenue, by the later of –
- 2.10.1 the due date for payment of the tax; or
- 2.10.2 the next business day after receiving the indemnity payment.

REPAYMENT

- 2.11 If it is determined that some or all of the tax to which an indemnity payment relates is not payable, the trustees of the Ngā Maunga Whakahii o Kaipara trust who were entitled to the indemnity payment must promptly repay to the Crown any amount that-

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- 2.11.1 the Commissioner of Inland Revenue refunds or credits to them; or
- 2.11.2 they have received but have not paid, and are not required to pay, to the Commissioner of Inland Revenue.
- 2.12 The trustees of a Ngā Maunga Whakahii o Kaipara trust have no right of set-off or counterclaim in relation to an amount payable by them under paragraph 2.11.

RULINGS

- 2.13 The trustees of a Ngā Maunga Whakahii o Kaipara trust must assist the Crown with an application to the Commissioner of Inland Revenue for a ruling, whether binding or not, in relation to the provision of Crown redress to them.

CONTROL OF DISPUTES

- 2.14 If the trustees of a Ngā Maunga Whakahii o Kaipara trust are entitled to an indemnity payment, the Crown may -
- 2.14.1 by notice to them, require them to -
- (a) exercise a right to defer the payment of tax; and/or
 - (b) take any action specified by the Crown, and confirmed by expert legal tax advice as appropriate action in the circumstances, to respond to, and/or contest, -
 - (i) a tax assessment; and/or
 - (ii) a notice in relation to the tax, including a notice of proposed adjustment; or
- 2.14.2 nominate and instruct counsel on their behalf whenever it exercises its rights under paragraph 2.14.1; and
- 2.14.3 recover from the Commissioner of Inland Revenue any tax paid that is refundable.

DEFINITIONS AND INTERPRETATION

- 2.15 In this part, unless the context requires otherwise -

provision, in relation to redress, includes its payment, credit, transfer, vesting, making available, creation, or grant; and

use, in relation to redress or an indemnity payment, includes dealing with, payment, transfer, distribution, or application.

3 NOTICE

APPLICATION

- 3.1 Unless otherwise provided in this deed, or a settlement document, this part applies to notices under this deed or a settlement document.
- 3.2 In particular, this part is subject to part 11 of the property redress schedule which provides for notice to the Crown in relation to, or in connection with, any of the following:
- 3.2.1 a redress property:
 - 3.2.2 a non-forest commercial property:
 - 3.2.3 a purchased non-forest commercial property:
 - 3.2.4 a Riverhead Forest property:
 - 3.2.5 the Paremoremo Housing Block:
 - 3.2.6 24 Commercial Road, Helensville.

REQUIREMENTS

- 3.3 A notice must be -
- 3.3.1 in writing; and
 - 3.3.2 signed by the person giving it (but, if the trustees of a Ngā Maunga Whakahii o Kaipara trust, are giving the notice, it is effective if not less than three trustees of the trust sign it); and
 - 3.3.3 addressed to the recipient at its address or facsimile number as provided -
 - (a) in paragraph 3.6; or
 - (b) if the recipient has given notice of a new address or facsimile number, in the most recent notice of a change of address or facsimile number; and
 - 3.3.4 given by -
 - (a) personal delivery (including by courier) to the recipient's street address; or
 - (b) sending it by pre-paid post addressed to the recipient's postal address; or

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- (c) faxing it to the recipient's facsimile number.

TIMING

- 3.4 A notice is to be treated as having been received -
- 3.4.1 at the time of delivery, if personally delivered; or
- 3.4.2 on the second day after posting, if posted; or
- 3.4.3 on the day of transmission, if faxed.
- 3.5 However, if a notice is treated under paragraph 3.4 as having been received after 5pm on a business day, or on a non-business day, it is to be treated as having been received on the next business day.

ADDRESSES

- 3.6 The address of -
- 3.6.1 Ngāti Whātua o Kaipara, and the trustees of each Ngā Maunga Whakahii o Kaipara trust, is –
- (a) until the settlement date -
- C/- Powell Webber & Associates
Level 11 Peace Tower
2 St Martins Lane
Grafton
AUCKLAND 1010
- PO Box 37-661, Parnell
AUCKLAND 1151
- Facsimile No. 09 307 4301
- (b) after the settlement date –
- 96 Commercial Road
HELENSVILLE 0800
- PO Box 41
HELENSVILLE 0840
- Facsimile No. 09 420 8410
- 3.6.2 the Crown is –

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3: NOTICE

C/- The Solicitor-General
Crown Law Office
Level 10
Unisys House
56 The Terrace
WELLINGTON 6011

PO Box 2858
WELLINGTON 6140

Facsimile No. 04 473 3482

WAIATA TAUTOKO – He Aha Te Hau

*He aha te hau e wawa rā mai, he tiu he raki
Nāna I a mai te pupu tarakihi ki uta.
E tikina atu e au te kotiu.
Ko ia te pou, te pou whakairo ka tu ki Waitemata.
I ōku wai rangi e, e. Kōkiri.*

4 MISCELLANEOUS

CERTAIN CULTURAL REDRESS NON-EXCLUSIVE

- 4.1 The Crown may not do anything that is inconsistent with Te Kawenata Taiao o Ngāti Whātua o Kaipara, the statutory acknowledgements, or the culture and heritage protocol, including entering into, and giving effect to, another settlement that provides for the same type of, or similar, cultural redress.

MOTUREMU ISLAND NOT OFFICIAL GEOGRAPHIC NAME

- 4.2 Moturemu Island, which is used in this deed to describe a cultural redress property, is not the official geographic name of the geographic feature, or Crown protected area, to which the name applies.

AMENDMENTS

- 4.3 This deed may be amended only by written agreement signed by the trustees of the Development Trust and the Crown.

ENTIRE AGREEMENT

- 4.4 This deed, and each of the settlement documents, in relation to the matters in it, –
- 4.4.1 constitutes the entire agreement; and
 - 4.4.2 supersedes all earlier representations, understandings, and agreements.

NO ASSIGNMENT OR WAIVER

- 4.5 Paragraph 4.6 applies to rights and obligations under this deed or a settlement document.
- 4.6 Except as provided in this deed or a settlement document, a party –
- 4.6.1 may not transfer or assign its rights or obligations; and
 - 4.6.2 does not waive a right by –
 - (a) failing to exercise it; or
 - (b) delaying in exercising it; and
 - 4.6.3 is not precluded by a single or partial exercise of a right from exercising –
 - (a) that right again; or
 - (b) another right.

5 DEFINED TERMS

5.1 In this deed-

acquired Crown property has the meaning given to it by paragraph 1.1.1 of the property redress schedule; and

actual property settlement date, in relation to a transfer property, means the date on which settlement of the property takes place; and

administering body has the meaning given to it by section 2(1) of the Reserves Act 1977; and

agreement in principle means the document referred to in clause 1.21, being the letter, and attachments, signed by the Minister for Treaty of Waitangi Negotiations, and counter-signed by Ngāti Whātua o Kaipara, on 22 December 2009; and

altered geographic name -

(a) means a geographic name to which an existing geographic name is altered under the section of the settlement legislation made in accordance with paragraph 12.1.2 of the legislative matters schedule; and

(b) includes an alteration to a geographic name under the section of the settlement legislation made in accordance with paragraph 12.4 of the legislative matters schedule; and

approving TKaM deed of settlement has the meaning given it by paragraph 7.1.1 of the property redress schedule; and

approving Marutuahu settlement legislation has the meaning given it by paragraph 15.1.1 of the legislative matters schedule; and

approving TKaM settlement legislation has the meaning given it by paragraph 15.1.2 of the legislative matters schedule; and

arbitration commencement date, in relation to the determination of the market value of a selected Riverhead Forest property, or the Paremoremo Housing Block, means the date the determination is referred to a valuation arbitrator under paragraph 9.10.2 of the property redress schedule; and

arbitration meeting, in relation to the determination of the market value of a selected Riverhead Forest property, or the Paremoremo Housing Block, means the meeting notified by the valuation arbitrator under paragraph 9.11.1 of the property redress schedule; and

area of interest has the meaning given to it by clause 11.6 and means the area identified as the area of interest in the attachments; and

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assessable income has the meaning given to it by section YA 1 of the Income Tax Act 2007; and

assigned geographic name means a geographic name assigned to a location under the section of the settlement legislation made in accordance with paragraph 12.1.1 of the legislative matters schedule; and

attachments means the attachments to this deed, being the area of interest, the deed plans, the Tauhoa School House site, the exclusive RFR land, the Paremomo Prison, and the non-exclusive RFR land; and

Auckland conservancy means the area determined from time to time by the Director-General of Conservation as the Auckland conservancy; and

authorised person means, in relation to –

- (a) a cultural redress property, a person authorised by the Director-General of Conservation; and
- (b) a transfer property, a person authorised by the chief executive of the land holding agency; and
- (c) 24 Commercial Road, Helensville, a person authorised by the Chief Executive of LINZ; and

available Riverhead Forest property has the meaning given to it by paragraph 6.4 of the property redress schedule; and

board of trustees has the meaning given to it by clause 6.13; and

business day means a day that is not -

- (a) a Saturday or a Sunday; or
- (b) Waitangi Day, Good Friday, Easter Monday, ANZAC Day, the Sovereign's Birthday, or Labour Day; or
- (c) a day in the period commencing with 25 December in any year and ending with 15 January in the following year; and
- (d) a day that is observed as the anniversary of the province of -
 - (i) Wellington; or
 - (ii) Auckland; and

commercial redress property has the meaning given to it by clause 6.4; and

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24 Commercial Road, Helensville means the land described by that name in schedule 3 of the legislative matters schedule; and

Commissioner of Crown Lands has the same meaning as Commissioner in section 2 of the Land Act 1948; and

Commissioner of Inland Revenue includes, where applicable, the Inland Revenue Department; and

consent authority has the meaning given to it by section 2(1) of the Resource Management Act 1991; and

conservation area has the meaning given to it by section 2(1) of the Conservation Act 1987; and

conservation board means a board established under section 6L of the Conservation Act 1987; and

conservation document means a national park management plan, a conservation management strategy, a conservation management plan, or a freshwater fisheries management plan; and

conservation management plan has the meaning given to it by section 2(1) of the Conservation Act 1987; and

conservation management strategy has the meaning given to it by section 2(1) of the Conservation Act 1987; and

control, for the purposes of paragraph (d) of the definition of Crown body, means—

- (a) in relation to a company, control of the composition of its board of directors; and
- (b) in relation to another body, control of the composition of the group that would be its board of directors if the body were a company; and

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

Crown body means -

- (a) a Crown entity (as defined in section 7(1) of the Crown Entities Act 2004); and
- (b) a State enterprise (as defined in section 2 of the State-Owned Enterprises Act 1986); and
- (c) the New Zealand Railways Corporation; and
- (d) a company or body which is wholly owned or controlled by any 1 or more of the following:

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- (i) the Crown;
- (ii) a Crown entity;
- (iii) a State enterprise;
- (iv) the New Zealand Railways Corporation; and
- (e) a subsidiary of, or related company to, a company or body referred to in paragraph (d); and

Crown forest land has the meaning given to it by section 2(1) of the Crown Forest Assets Act 1989; and

Crown forestry licence -

- (a) has the meaning given to it by section 2(1) of the Crown Forest Assets Act 1989; and
- (b) in relation to Woodhill Forest or a Riverhead Forest property, means the licence described in relation to that land in part 3 or part 4, as the case may be, of the property redress schedule; and

Crown Forestry Rental Trust means the trust established by the Crown forestry rental trust deed; and

Crown forestry rental trust deed means the trust deed made on 30 April 1990 establishing the Crown Forestry Rental Trust under section 34(1) of the Crown Forest Assets Act 1989; and

Crown leaseback, in relation to a leaseback property, means the lease clause 6.15 requires the Crown and the trustees of the Development Trust to enter into; and

Crown protected area has the meaning given it by section 4 of the New Zealand Geographic Board (Ngā Pou Taunaha o Aotearoa) Act 2008; and

Crown redress –

- (a) means redress –
 - (i) provided by the Crown to the trustees of a Nga Maunga Whakahii o Kaipara trust; and
 - (ii) vested by the settlement legislation in the trustees of a Nga Maunga Whakahii o Kaipara trust that was, immediately prior to the vesting, owned by or vested in the Crown; and

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- (b) includes the right of the trustees of the Development Trust, under the settlement documentation, –
 - (i) to acquire a non-forest commercial property, a Riverhead Forest property, or the Paremoremo Housing Block; and
 - (ii) of first refusal in relation to exclusive RFR land, Paremoremo Prison, and non-exclusive RFR land; and
- (c) includes the purchased Riverhead Forest, if the purchased Riverhead Forest is a commercial redress property; and
- (d) includes any part of the Crown redress; but
- (e) does not include –
 - (i) an obligation of the Crown under the settlement documentation to transfer-
 - (I) a purchased non-forest commercial property; or
 - (II) the purchased Riverhead Forest, if the purchased Riverhead Forest is not a commercial redress property; or
 - (III) the Paremoremo Housing Block; or
 - (IV) RFR land; or
 - (ii) a purchased non-forest commercial property; or
 - (iii) the purchased Riverhead Forest if the purchased Riverhead Forest is not a commercial redress property; or
 - (iv) the Paremoremo Housing Block; or
 - (v) RFR land; and

cultural redress, in relation to redress provided under the settlement documentation, means the redress provided by or under -

- (a) clauses 5.1 to 5.17; or
- (b) the settlement legislation giving effect to any of those clauses; and

cultural redress property has the meaning given to it by paragraph 5.1.1 of the legislative matters schedule; and

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culture and heritage protocol means the culture and heritage protocol in part 3 of the documents schedule, as it may be amended from time to time in accordance with the settlement legislation; and

date of commitment has the meaning given to it by paragraph 1.1.2 of the property redress schedule; and

date of this deed means the date this deed is signed by the parties; and

deed of settlement and **deed** means the main body of the deed, the schedules, and the attachments; and

deed plan means a deed plan in the attachments; and

Director-General of Conservation has the same meaning as Director-General in section 2(1) of the Conservation Act 1987; and

disclosed encumbrance, in relation to an acquired property, means an encumbrance affecting or benefiting the property that is disclosed in the disclosure information about the property; and

disclosure information has the meaning given to it by paragraph 1.1.3 of the property redress schedule; and

documents schedule means the documents schedule to this deed; and

dutiable gift has the meaning given to it by section 2 of the Estate and Gift Duties Act 1968; and

effective date means the date that is six months after the settlement date; and

effective Paremoremo notice of interest has the meaning given to it by paragraph 7.1.2 of the property redress schedule; and

effective Paremoremo purchase notice has the meaning given to it by paragraph 7.1.3 of the property redress schedule; and

effective Riverhead Forest property notice of interest has the meaning given to it by paragraph 6.1.1 of the property redress schedule; and

effective Riverhead Forest property purchase notice has the meaning given to it by paragraph 6.1.2 of the property redress schedule; and

eligible member of Ngāti Whātua o Kaipara, in relation to each ratification process referred to in clause 1.30 or 1.38, means a member of Ngāti Whātua o Kaipara who, on the last date for voting on the relevant ratification process, was -

(a) aged 18 years or over; and

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- (b) registered on the register of members of Ngāti Whātua o Kaipara -
- (i) in the case of the ratification process referred to in clause 1.30, kept by the Ngati Whatua o Kaipara Claims Committee referred to in clause 1.9 (the membership of the committee, at the time of the ratification process, is set out in clause 1.30); and
 - (ii) in the case of the ratification process referred to in clause 1.38, kept by the trustees of the Development Trust; and

encumbrance, in relation to a property, means a lease, tenancy, licence, licence to occupy, easement, covenant, or other right or obligation, affecting that property; and

Environment Court means the court referred to in section 247 of the Resource Management Act 1991; and

exclusive RFR area has the meaning given to it by paragraph 15.1.4 of the legislative matters schedule; and

exclusive RFR land has the meaning given to it by paragraph 15.1.5 of the legislative matters schedule; and

existing valuation reports has the meaning given to it by paragraph 6.8 of the property redress schedule; and

financial and commercial redress, in relation to redress provided under the settlement documentation, means the redress provided by or under -

- (a) clauses 6.1 to 6.26; or
- (b) the settlement legislation giving effect to any of those clauses; and

financial and commercial redress amount means the amount referred to in clause 6.1 as the financial and commercial redress amount; and

freshwater fisheries management plan has the meaning given to it by section 2(1) of the Conservation Act 1987; and

general matters schedule means this schedule; and

geographic feature has the meaning given to it by section 4 of the New Zealand Geographic Board (Ngā Pou Taunaha o Aotearoa) Act 2008; and

gift duty means gift duty imposed under the Estate and Gift Duties Act 1968 and includes, for the purposes of part 2 of this schedule, any interest or penalty payable in respect of, or on account of, the late or non-payment of, gift duty; and

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governance entity, in part 7 of the property redress schedule, has the meaning given to it by paragraph 7.1.4 of that schedule and, in part 15 of the legislative matters schedule, has the meaning given to in by paragraph 15.1.7 of that schedule; and

GST-

- (a) means goods and services tax chargeable under the Goods and Services Tax Act 1985; and
- (b) includes, for the purposes of part 2 of this schedule, any interest or penalty payable in respect of, or on account of, the late or non-payment of GST; and

historical claim proceedings means proceedings in any court, tribunal, or other judicial body in relation to an historical claim; and

historical claims has the meaning given to it by clauses 11.1 to 11.3; and

income tax means income tax imposed under the Income Tax Act 2007 and includes, for the purposes of part 2 of this schedule, any interest or penalty payable in respect of, or on account of, the late or non-payment of, income tax; and

indemnity demand means a demand made by the trustees of a Nga Maunga Whakahii o Kaipara trust to the Crown under part 2 of this schedule for an indemnity payment; and

indemnity payment means a payment made by the Crown under part 2 of this schedule; and

land holding agency means, in relation to -

- (a) a cultural redress property, the Department of Conservation; and
- (b) Woodhill Forest, LINZ; and
- (c) each non-forest commercial property, the department listed in relation to that property in the 5th column of the table in subpart A of part 3 of the property redress schedule; and
- (d) a Riverhead Forest property, LINZ; and
- (e) the Paremoremo Housing Block, the Department of Corrections; and
- (f) 24 Commercial Road, Helensville, LINZ; and

leaseback property means each of the following properties described in subpart A of part 3 of the property redress schedule:

- (a) Kaipara College:

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(b) Kaukapakapa School:

(c) Parakai School:

(d) Tauhoa School (which will include Tauhoa School House site if clause 6.14 applies):

(e) Waimauku School:

(f) Woodhill School; and

legislative matters schedule means the legislative matters schedule to this deed; and

lessee's improvements, in relation to a leaseback property, has the meaning given to it in the Crown leaseback for the property; and

licence-splitting process has the meaning given to it by paragraph 10.22 of the property redress schedule; and

licensed land means -

(a) Woodhill Forest; and

(b) the purchased Riverhead Forest; and

licensee, in relation to Woodhill Forest and a Riverhead Forest property, means the registered holder for the time being of the Crown forestry licence in relation to the forest or property, as the case may be; and

licensor, in relation to Woodhill Forest and a Riverhead Forest property, means the licensor for the time being of the Crown forestry licence in relation to the forest or property, as the case may be; and

LINZ means Land Information New Zealand; and

local authority has the meaning given to it by section 5(1) of the Local Government Act 2002; and

main body of the deed means this deed, other than the schedules and attachments; and

market value, in relation to a selected Riverhead Forest property and the Paremoro Housing Block, has the meaning provided in the valuation instructions in appendices 1 or 2, as the case may be, to part 9 of the property redress schedule; and

Marutūāhu deed of settlement has the meaning given to it by paragraph 15.1.8 of the legislative matters schedule; and

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Marutūāhu governance entity has the meaning given to it by paragraph 15.1.9 of the legislative matters schedule; and

Marutūāhu settlement legislation has the meaning given to it by paragraph 15.1.10 of the legislative matters schedule; and

member of Ngāti Whātua o Kaipara means an individual referred to in clause 11.4.1; and

Minister means a Minister of the Crown; and

month means a calendar month; and

New Zealand Geographic Board Ngā Pou Taunaha o Aotearoa means the board continued by section 7 of the New Zealand Geographic Board (Ngā Pou Taunaha o Aotearoa) Act 2008; and

New Zealand Historic Places Trust means the trust referred to in section 38 of the Historic Places Act 1993; and

Ngā Maunga Whakahii o Kaipara Development Trust means the trust established with that name by Ngā Maunga Whakahii o Kaipara Development Trust deed; and

Ngā Maunga Whakahii o Kaipara Development trust deed means the deed of trust establishing Ngā Maunga Whakahii o Kaipara Development Trust dated 4 April 2011 and signed by Takutaimoana Wikiriwhi, Gloria May Timoti, Waata Herewini Richards, Haahi Rangi Walker, Rangimarie Nadia Glavish, Te Kahui-iti Morehu, Margaret Anne Kawharu, and Rhys Charles Freeman, as it may be amended from time to time; and

Ngā Maunga Whakahii o Kaipara Tari Pupuritaonga Trust means the trust established with that name by Ngā Maunga Whakahii o Kaipara Tari Pupuritaonga trust deed; and

Ngā Maunga Whakahii o Kaipara Tari Pupuritaonga trust deed means the deed of trust establishing Ngā Maunga Whakahii o Kaipara Tari Pupuritaonga Trust dated 4 April 2011 and signed by Takutaimoana Wikiriwhi, Gloria May Timoti, Waata Herewini Richards, Haahi Rangi Walker, Rangimarie Naida Glavish, Te Kahui-iti Morehu, Margaret Anne Kawharu, and Rhys Charles Freeman, as it may be amended from time to time; and

Ngā Maunga Whakahii o Kaipara trust means each of the following trusts:

- (a) Ngā Maunga Whakahii o Kaipara Development Trust:
- (b) Ngā Maunga Whakahii o Kaipara Tari Pupuritaonga Trust; and

non-exclusive RFR land has the meaning given to it by paragraph 15.1.13 of the legislative matters schedule; and

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non-forest commercial property has the meaning given to it by clause 6.1.2(c); and

notice means a notice given under part 3 of this schedule, or any other applicable provisions of this deed, and **notify** has a corresponding meaning; and

notification date has the meaning given to it by paragraph 9.2.2 of the property redress schedule; and

NWOK condition has the meaning given to it by paragraph 7.1.5 of the property redress schedule; and

official geographic name has the meaning given to it by section 4 of the New Zealand Geographic Board (Ngā Pou Taunaha o Aotearoa) Act 2008; and

on-account payment means the payment of \$750,000.00 to be paid by the Crown to the trustees of the Development Trust under clause 6.1.1 on account of the financial and commercial redress amount; and

Paremoremo Housing Block means the Auckland (Paremoremo) On-Site Housing Village, being the property described in part 5 of the property redress schedule; and

Paremoremo nominee has the meaning given to it by paragraph 7.11.3 of the property redress schedule; and

Paremoremo notice period has the meaning given to it by paragraph 7.5 of the property redress schedule; and

Paremoremo Prison has the meaning given to it by paragraph 15.1.12 of the legislative matters schedule; and

Paremoremo settlement date, in relation to the Paremoremo Housing Block, means the date that is 20 business days after the date the Crown receives an effective Paremoremo purchase notice; and

party, except in part 10 of the property redress schedule where paragraph 10.1.3 of that schedule provides its meaning, means each of the following:

(a) Ngāti Whātua o Kaipara:

(b) the Crown; and

person includes an individual, a corporation sole, a body corporate, and an unincorporated body; and

potential transfer properties has the meaning given to it by paragraph 9.1 of the property redress schedule; and

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potential transferee has the meaning given to it by paragraph 9.2.1 of the property redress schedule; and

property redress schedule means the property redress schedule to this deed of settlement; and

property settlement date means, in relation to –

- (a) a commercial redress property, the settlement date (as defined in paragraph 5.1 of this schedule); and
- (b) a purchased non-forest commercial property, the purchased non-forest commercial property settlement date; and
- (c) the purchased Riverhead Forest, the Riverhead Forest settlement date; and
- (d) the Paremoremo Housing Block, the Paremoremo settlement date; and

protected site has the meaning given to it by paragraph 14.8.1 of the legislative matters schedule; and

public work has the meaning given to it by section 2 of the Public Works Act 1981; and

purchased non-forest commercial property has the meaning given to it by clause 6.2.2; and

purchased non-forest commercial property settlement date has the meaning given to it by clause 6.2.3(b); and

purchased Riverhead Forest means the selected Riverhead Forest property, or the selected Riverhead Forest properties, to which an effective Riverhead Forest property purchase notice relates; and

redress, in relation to redress provided under the settlement documentation, means -

- (a) the acknowledgement and the apology made by the Crown under clauses 3.1 to 3.21; and
- (b) the cultural redress; and
- (c) the financial and commercial redress; and

redress property means –

- (a) each cultural redress property; and
- (b) each commercial redress property; and

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registered bank has the meaning given to it by section 2(1) of the Reserve Bank of New Zealand Act 1989; and

registered valuer means a person registered as a valuer with the Valuers' Registration Board of New Zealand; and

Registrar-General of Land and **Registrar-General** means the Registrar-General of Land appointed under section 4 of the Land Transfer Act 1952; and

relevant consent authority means a consent authority of a region or district that contains, or is adjacent to, a statutory area; and

rental proceeds has the meaning given to it by the Crown forestry rental trust deed; and

representative entity means -

- (a) the trustees of the Development Trust; and
- (b) the trustees of the Tari Pupuritaonga Trust; and
- (c) a person (including any trustee or trustees) acting for or on behalf of:
 - (i) the collective group, referred to in clause 11.4.1; or
 - (ii) any one or more members of Ngāti Whātua o Kaipara; or
 - (iii) any one or more of the whānau, hāpu, or groups of individuals referred to in clause 11.4.3; and

reserve means a reserve under the Reserves Act 1977; and

reserve land has the meaning given to it by paragraph 7.3.1 of the legislative matters schedule; and

reserve site has the meaning given to it by paragraph 5.1.2 of the legislative matters schedule; and

resource consent has the meaning given to it by section 2 of the Resource Management Act 1991; and

responsible Ministry means -

- (a) the Ministry for Culture and Heritage; and

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- (b) any other department of State authorised by the Prime Minister to exercise powers, or perform functions and duties, under the provisions of the settlement legislation made in accordance with part 11 of the legislative matters schedule; and

responsible Minister means -

- (a) the Minister for Arts, Culture and Heritage; and
- (b) any other Minister of the Crown authorised by the Prime Minister to exercise powers, or perform functions and duties, under the provisions of the settlement legislation made in accordance with part 11 of the legislative matters schedule; and

resumptive memorial means a memorial entered on a certificate of title or computer register under any of the following sections:

- (a) 27A of the State-Owned Enterprises Act 1986;
- (b) 211 of the Education Act 1989;
- (c) 38 of the New Zealand Railways Corporation Restructuring Act 1990; and

RFR go-live date has the meaning given to it by paragraph 15.1.15 of the legislative matters schedule; and

RFR land has the meaning given to it by paragraphs 15.2 and 15.3 of the legislative matters schedule; and

RFR land nominee has the meaning given to it by paragraph 15.16.1 of the legislative matters schedule; and

RFR landowner has the meaning given to it by paragraph 15.1.18 of the legislative matters schedule; and

Riverhead Forest property means –

- (a) the land of each of the following five properties, being in each case the land described by that name in part 4 of the property redress schedule:
 - (i) Riverhead Forest selection unit 1:
 - (ii) Riverhead Forest selection unit 2:
 - (iii) Riverhead Forest selection unit 3:
 - (iv) Riverhead Forest selection unit 4:

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- (v) Riverhead Forest selection unit 5; but
- (b) excludes, to the extent provided by the Crown forestry licence in relation to the land, –
 - (i) all trees growing, standing, or lying on the land; and
 - (ii) all improvements that have been acquired by a purchaser of trees on the land or made, after the acquisition of the trees, by the purchaser or the licensee; and

Riverhead Forest settlement date, in relation to the purchased Riverhead Forest, means the later of the following dates after the date the effective Riverhead Forest purchase notice is received by the Crown:

- (a) 20 business days after the date the notice is received by the Crown;
- (b) the settlement date; and

schedules means the schedules to this deed, being the property redress schedule, the legislative matters schedule, the general matters schedule, and the documents schedule; and

selected Riverhead Forest property has the meaning given to it by paragraph 6.7.1 of the property redress schedule; and

settlement means the settlement of the historical claims under this deed and the settlement legislation; and

settlement date means the date that is 20 business days after the date on which the settlement legislation comes into force; and

settlement document means a document entered into by the Crown to give effect to this deed; and

settlement documentation means this deed and the settlement legislation; and

settlement legislation and **NWOK settlement legislation** means the bill proposed by the Crown for introduction to the House of Representatives under clause 9.1 and, if that bill is passed, the resulting Act; and

settlement notice has the meaning given to it by paragraph 10.51.1 of the property redress schedule; and

statement of association means a statement –

- (a) made by Ngāti Whātua o Kaipara of their particular cultural, spiritual, historical, and traditional association with each statutory area; and

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- (b) that is in the form set out in part 2 of the documents schedule of the deed of settlement at the settlement date; and

statutory acknowledgement means the acknowledgement to be made by the Crown in the settlement legislation on the terms provided for in part 10 of the legislative matters schedule; and

statutory area, except in paragraph 10.20.1 of the legislative matters schedule, means an area described in schedule 1 to the legislative matters schedule, the general location of which is indicated on the deed plan referred to in relation to that area in that schedule and included in the attachments, but which does not establish the precise boundaries of the statutory area; and

statutory plan -

- (a) means a district plan, regional coastal plan, regional plan, regional policy statement, or proposed policy statement as defined in section 43AA of the Resource Management Act 1991; and
- (b) includes a proposed plan as defined in section 43AAC of the Resource Management Act 1991; and

subsidiary has the meaning given in section 5 of the Companies Act 1993; and

taonga tūturu -

- (a) has the meaning given to it in section 2(1) of the Protected Objects Act 1975; and
- (b) includes ngā taonga tūturu (which has the meaning given in section 2(1) of that Act); and

Tauhoa School House site means the site described in subpart B of part 3 of the property redress schedule as the Tauhoa School House site; and

tax includes income tax, GST, and gift duty; and

tax indemnity means an indemnity given by the Crown under part 2 of this schedule; and

taxable activity has the meaning given to it by section 6 of the Goods and Services Tax Act 1985; and

taxable supply has the meaning given to it by section 2 of the Goods and Services Tax Act 1985; and

Te Kawenata Taiao o Ngāti Whātua o Kaipara means Te Kawenata Taiao o Ngāti Whātua o Kaipara entered into under clause 5.4, as it may be amended from time to time in accordance with its terms; and

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Te Kawerau ā Maki deed of settlement and **TKaM deed of settlement** means a deed of settlement between Te Kawerau ā Maki and the Crown settling the historical claims of Te Kawerau ā Maki; and

Te Kawerau ā Maki governance entity and **TKaM governance entity** means the entity that Te Kawerau ā Maki deed of settlement specifies is to have the rights of the Te Kawerau ā Maki governance entity under this deed; and

Te Kawerau ā Maki claims negotiations body means the person or persons from time to time recognised by the Crown to negotiate the Te Kawerau ā Maki deed of settlement; and

Te Kawerau ā Maki settlement legislation and **TKaM settlement legislation** means legislation settling the historical claims of Te Kawerau ā Maki; and

TKaM condition has the meaning given to it by paragraph 7.1.6 of the property redress schedule; and

TKaM Riverhead Forest property has the meaning given to it by paragraph 6.2.1 of the property redress schedule; and

terms of negotiation means the terms of negotiation referred to in clause 1.17; and

terms of transfer means the terms of transfer set out in part 10 of the property redress schedule; and

Te Uri o Hau deed of settlement has the same meaning as the term deed of settlement is given by section 12 of the Te Uri o Hau Claims Settlement Act 2002; and

Te Uri o Hau historical claims has the meaning given to it by section 15 of the Te Uri o Hau Claims Settlement Act 2002; and

transferee has the meaning given to it by paragraph 10.1.2 of the property redress schedule; and

transfer of ownership date means, in relation to –

- (a) a commercial redress property, the settlement date; and
- (b) a purchased non-forest commercial property, its actual property settlement date; and
- (c) the purchased Riverhead Forest if it is not a commercial redress property, its actual property settlement date; and
- (d) the Paremoremo Housing Block, its actual property settlement date; and

transfer period means, in relation to –

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- (a) a commercial redress property, the period from the date of this deed to its actual property settlement date; and
- (b) a purchased non-forest commercial property, the period from the date of this deed to its actual property settlement date; and
- (c) the purchased Riverhead Forest, if it is not a commercial redress property, the period from the notification date for that property to its actual property settlement date; and
- (d) the Paremoremo Housing Block, the period from the notification date for that property to its actual property settlement date; and

transfer property has the meaning given to it by paragraph 10.1.1 of the property redress schedule; and

transfer value, in relation to –

- (a) a commercial redress property (other than the purchased Riverhead Forest if it is a commercial redress property), a purchased non-forest commercial property, or the Tauhoa School house site, means the transfer value provided in part 3 of the property redress schedule in relation to that property; and
- (b) the purchased Riverhead Forest, means its transfer value determined or agreed in accordance with part 9 of the property redress schedule; and
- (c) the Paremoremo Housing Block, means its transfer value determined or agreed in accordance with part 9 of the property redress schedule; and

Treaty of Waitangi and **Treaty** means the Treaty of Waitangi as set out in schedule 1 to the Treaty of Waitangi Act 1975; and

trustees of a Ngā Maunga Whakahii o Kaipara trust means the trustees from time to time of a Ngā Maunga Whakahii o Kaipara trust, in their capacity as trustees of that trust; and

trustees of the Development Trust means the trustees from time to time of Ngā Maunga Whakahii o Kaipara Development Trust, in their capacity as trustees of that trust; and

trustees of the Tari Pupuritaonga Trust means the trustees from time to time of Ngā Maunga Whakahii o Kaipara Tari Pupuritaonga Trust, in their capacity as trustees of that trust; and

valuation arbitrator, in relation to a selected Riverhead Forest property, or the Paremoremo Housing Block, means the person appointed under paragraphs 9.3.2 or 9.4, as the case may be, of the property redress schedule in relation to the determination of its market value; and

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valuation date, in relation to a selected Riverhead Forest property, or the Paremoremo Housing Block, means the notification date in relation to the property; and

valuation exchange date has the meaning given it by paragraph 9.8 of the property redress schedule; and

vested property has the meaning given to it by paragraph 2.1 of the property redress schedule; and

vesting, in relation to a vested property, means its vesting under the settlement legislation; and

viewing platform has the meaning given to it by paragraph 2.8.1 of the property redress schedule; and

Waitangi Tribunal means the tribunal established by section 4 of the Treaty of Waitangi Act 1975; and

Woodhill Forest –

- (a) means the land described by that name in subpart A of part 3 of the property redress schedule;
- (b) excludes, to the extent provided by the Crown forestry licence in relation to the land, –
 - (i) all trees growing, standing, or lying on the land; and
 - (ii) all improvements that have been acquired by a purchaser of trees on the land or made, after the acquisition of the trees, by the purchaser or the licensee; and

writing means representation in a visible form on paper.

6 INTERPRETATION

- 6.1 This part applies to this deed's interpretation, unless the context requires a different interpretation.
- 6.2 Headings do not affect the interpretation.
- 6.3 A term defined by this deed has the meaning given to it by this deed.
- 6.4 All parts of speech, and grammatical forms, of a defined term have corresponding meanings.
- 6.5 The singular includes the plural and vice versa.
- 6.6 One gender includes the other genders.
- 6.7 Any monetary amount is in New Zealand currency.
- 6.8 Time is New Zealand time.
- 6.9 Something, that must or may be done on a day that is not a business day, must or may be done on the next business day.
- 6.10 A period of time specified as –
- 6.10.1 beginning on, at, or with a specified day, act, or event includes that day or the day of the act or event; or
 - 6.10.2 beginning from or after a specified day, act, or event does not include that day or the day of the act or event; or
 - 6.10.3 ending by, on, at, with, or not later than, a specified day, act, or event includes that day or the day of the act or event; or
 - 6.10.4 ending before a specified day, act or event does not include that day or the day of the act or event; or
 - 6.10.5 continuing to or until a specified day, act, or event includes that day or the day of the act or event.
- 6.11 A reference to –
- 6.11.1 an agreement or document, including this deed or a document in the documents schedule, means that agreement, this deed or that document as amended, novated, or replaced; and
 - 6.11.2 legislation, including the settlement legislation, means that legislation as amended, consolidated, or substituted; and

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- 6.11.3 a party includes any permitted successor of that party; and
- 6.11.4 a particular Minister includes any Minister who, under the authority of a warrant or with the authority of the Prime Minister, is responsible for the relevant matter.
- 6.12 An agreement by two or more persons binds them jointly and severally.
- 6.13 If the Crown must endeavour to do something or achieve some result, the Crown-
 - 6.13.1 must use reasonable endeavours to do that thing or achieve that result; but
 - 6.13.2 is not required to propose for introduction to the House of Representatives any legislation, unless expressly required by this deed.
- 6.14 Provisions in –
 - 6.14.1 the main body of the deed are referred to as clauses; and
 - 6.14.2 a schedule are referred to as paragraphs; and
 - 6.14.3 a schedule that refer to a paragraph are referring to a paragraph of that schedule, unless the provisions otherwise provide; and
 - 6.14.4 the documents in the documents schedule are referred to as clauses.
- 6.15 If there is a conflict between a provision that is in the main body of the deed and a provision in a schedule or an attachment, the provision in the main body of the deed prevails.
- 6.16 The deed plans, in the attachments that –
 - 6.16.1 are referred to in the statutory acknowledgement (including in the descriptions of each statutory area and in each statement of association), indicate the general locations of the relevant areas but not their precise boundaries; and
 - 6.16.2 show the cultural redress properties, indicate their general locations but do not give their precise boundaries and are for information purposes only.
- 6.17 The legal descriptions of the cultural redress properties are in schedule 2 of the legislative matters schedule.