NGĀTI PĀHAUWERA

and

THE CROWN

DEED OF SETTLEMENT: PROVISIONS SCHEDULE

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1 ADDRESSES AND OTHER DETAILS OF THE PARTIES AND THE TRUSTEES

Address of Trustees and Ngāti Pāhauwera until settlement date	C/- Powell Webber Associates Level 11 Peace Tower 2 St Martins Lane Auckland City PO Box 37661 Parnell, Auckland DXCP27025 Auckland Facsimile No (09) 3074301
Address of Trustees and Ngāti Pāhauwera after settlement date	68 Queen Street Wairoa Hawke's Bay PO Box 374 Wairoa 4160 Hawke's Bay Facsimile No (06) 838 6870
Crown's address	The Solicitor-General Crown Law Office Level 10 Unisys House 56 The Terrace Wellington PO Box 2858 Wellington 6140 Facsimile No (04) 473 3482

2 SETTLEMENT

SETTLEMENT AND OTHER LEGISLATION TO BE SUPPORTED

2.1 Ngāti Pāhauwera and the Trustees must support the passage through Parliament of:

2.1.1 the settlement legislation; and

2.1.2 a bill proposed by the Crown for introduction to clarify rights or obligations under this Deed or the settlement legislation.

WAITANGI TRIBUNAL TO BE ADVISED

2.2 The Crown will, on or after the settlement date:

2.2.1 advise the Waitangi Tribunal of the settlement; and

2.2.2 request it to amend its register of claims, and adapt its procedures, to reflect the settlement.

LAND BANK TO CEASE

2.3 The Crown may, on and after the settlement date, cease to operate a land bank arrangement in relation to Ngāti Pāhauwera or a representative entity.

2.4 Ngāti Pāhauwera acknowledge that any regional land banks that continue after the settlement date no longer apply for the benefit of Ngāti Pāhauwera.

SETTLEMENT DOES NOT LIMIT OTHER SETTLEMENTS

2.5 Ngāti Pāhauwera agree that the Crown may at any time propose for introduction to the House of Representatives, and neither Ngāti Pāhauwera, nor a representative entity, will object to, a bill that:

2.5.1 removes resumptive memorials from land; and/or

2.5.2 provides that legislation enabling the creation of resumptive memorials does not apply to land, or for the benefit of persons, specified by the legislation.

3 CULTURAL REDRESS

GIFT BY NGĀTI PĀHAUWERA OF TE HERU O TŪREIA GIFT AREA

3.1 Schedule 1 of the co-management charter sets out a statement of values by Ngāti Pāhauwera concerning Te Heru o Tūreia.

3.2 The Crown recognises that Te Heru o Tūreia is extremely important to Ngāti Pāhauwera, and acknowledges Ngāti Pāhauwera's statement of values referred to in paragraph 3.1 and the statements in paragraph 3.3, and the significance of the gift of the Te Heru o Tūreia Gift Area to the people of New Zealand.

3.3 Ngāti Pāhauwera consider that -

3.3.1 Te Heru o Tūreia Gift Area is gifted to the Crown on the basis that it continues to be held for conservation purposes; and

3.3.2 statutory authorisations under conservation legislation and access arrangements for permits under the Crown Minerals Act 1991 should not be granted in respect of Te Heru o Tūreia Gift Area.

3.4 If the Crown proposes that Te Heru o Tūreia Gift Area will no longer be required for conservation purposes under conservation legislation then the Crown must take into account the statement of values referred to in paragraph 3.1 and statements in paragraph 3.3 when considering the application to Te Heru o Tūreia Gift Area of any policy of the Crown that applies to the return of land gifted to the Crown for specified purposes.

3.5 The Crown agrees that the following will be treated as Taonga statutory authorisations under the co-management charter:

3.5.1 applications for statutory authorisations under conservation legislation for activities within Te Heru o Tūreia Gift Area; and

3.5.2 applications for access to Te Heru o Tūreia Gift Area under the Crown Minerals Act 1991.

3.6 The Crown agrees that the Minister of Energy and Resources will treat the statement of values referred to in paragraph 3.1 and the statements in paragraph 3.3 as a request by Ngāti Pāhauwera under section 15(3) of the Crown Minerals Act 1991 that Te Heru o Tūreia Gift Area:

3.6.1 is excluded from the operation of minerals programmes; and

3.6.2 should not be included in any permits.

3.7 The Minister of Energy and Resources will consider that request on each occasion that the Minister either:

3.7.1 reviews a minerals programme under section 20 of the Crown Minerals Act 1991; or

3.7.2 considers an application for any permit under sections 22 to 25 of that Act.

VESTING OF CULTURAL REDRESS PROPERTIES

Inspection

3.8 Ngāti Pāhauwera and the Trustees acknowledge that they have had the opportunity to inspect, and form their own opinion of:

3.8.1 the cultural redress properties; and

3.8.2 the disclosure information.

Same management regime and condition

3.9 Until the settlement date, the Crown must:

3.9.1 continue to manage and administer each cultural redress property in accordance with its existing practices for the property; and

3.9.2 maintain each cultural redress property in substantially the same condition.

3.10 Paragraph 3.9 does not:

3.10.1 apply to a cultural redress property that is not managed and administered by the Crown; or

3.10.2 require the Crown to restore or repair a cultural redress property damaged by events beyond the Crown's control except damage caused by fair wear and tear resulting from exposure to usual weather conditions.

Warranty in relation to disclosure information

3.11 The Crown warrants that the disclosure information contains all the material information about the cultural redress properties that the Crown had, at the date of disclosure, in its records as owner.

Limits

3.12 Other than under paragraphs 3.9 and 3.11, no representation or warranty (whether express or implied) is given in relation to:

3.12.1 the cultural redress properties, including in relation to:

(a) their state, condition, fitness for use, ownership, occupation, or management; or

(b) their compliance with:

(i) legislation, including bylaws; or

(ii) any enforcement or other notice, requisition, or proceedings; or

3.12.2 the disclosure information about the cultural redress properties, including in relation to its completeness or accuracy.

3.13 The Crown has no liability in relation to the state or condition of a cultural redress property, except for any liability arising as a result of a breach of paragraph 3.9 or paragraph 3.11.

Access

3.14 The Crown is not required to enable access to a cultural redress property for the Trustees or members of Ngāti Pāhauwera, except under paragraph 3.8.

Required encumbrances

3.15 The required encumbrances for the cultural redress properties must be:

3.15.1 provided by the Crown to the Trustees before the settlement date; and

3.15.2 duly signed by the trustees of the Ngāti Pāhauwera Tiaki Trust and returned by the Trustees to the Crown before the settlement date.

Survey

3.16 The Crown must arrange, and pay for:

3.16.1 the preparation, approval, and where applicable the deposit, of a cadastral survey dataset of a cultural redress property to the extent it is required to enable the issue, under the settlement legislation, of a computer freehold register for the property; and

3.16.2 the registration on the computer freehold register for each cultural redress property of its vesting in the trustees of the Ngāti Pāhauwera Tiaki Trust under the settlement legislation.

MEETINGS WITH THE MINISTRY FOR THE ENVIRONMENT

3.17 The Crown and the Trustees agree that:

3.17.1 meetings will be held to discuss:

(a) issues in relation to the application of the Resource Management Act 1991 in the core area of interest;

(b) the performance of local government in the core area of interest in implementing Te Tiriti o Waitangi/the Treaty of Waitangi provisions of the Resource Management Act 1991; and

(c) any other matters that are the responsibility of the Ministry for the Environment in the core area of interest;

3.17.2 participants at a meeting are to be:

(a) officials nominated by the Secretary for the Environment; and

(b) representatives nominated by the Trustees;

3.17.3 the Crown and the Trustees will each meet the costs and expenses of its representatives attending a meeting; and

3.17.4 the first meeting must be held within 12 months after settlement date, and meetings must be held annually after that (unless the Crown and the Trustees otherwise agree in writing).

3.18 The Trustees and the Secretary for the Environment may agree in writing to vary or terminate the provisions of paragraph 3.17.

REGIONAL PLANNING COMMITTEE

Background

3.19 Ngāti Pāhauwera, the Crown and the regional council have been discussing the appointment of a committee to be established by legislation deeming it to be a committee under schedule 7 of the Local Government Act 2002.

3.20 It is intended that:

3.20.1 the committee will comprise an equal number of elected members of the regional council and of representatives of Treaty settlement claimant groups (whether or not in any case the group has established a post-settlement governance entity) with interests in the management of natural resources in the regional council's region; and

3.20.2 the committee's role will relate to natural resource planning processes that affect the region, in particular the Mohaka, Waihua and Waikari Rivers and include drafting, and recommending to the regional council, plan and policy changes that affect natural resources in the region; and

3.20.3 the committee's role will be consistent with the regional council retaining final decision-making powers; and

3.20.4 legislation is required to ensure that the committee, as appointed, is permanent and to establish its role and procedures.

3.21 The details of the committee, including its terms of reference, roles, and membership, may or may not be determined before the settlement date.

Establishment of the committee

3.22 Paragraph 3.23 applies if the Crown is satisfied that Ngāti Pāhauwera, the Crown and the regional council have agreed the details of the committee consistent with paragraphs 3.20.1 to 3.20.3.

3.23 As soon as reasonably practicable after this paragraph applies, the Crown must propose a bill for introduction to the House of Representatives that, if enacted, will give effect to the committee referred to in paragraph 3.22.

Exploring alternative arrangements

3.24 Paragraphs 3.25 and 3.26 apply if either:

3.24.1 the regional council resolves not to appoint a committee that addresses the matters set out in paragraphs 3.20.1 to 3.20.3; or

3.24.2 the bill has not been introduced under paragraph 3.23 before 30 June 2013; or

3.24.3 the bill has been introduced by that date, but it is not enacted by 30 June 2015.

3.25 As soon as reasonably practical after this paragraph applies the Crown must, in good faith, enter into negotiations with the Trustees in an attempt to establish alternative participation arrangements in respect of the Mohaka, Waihua and Waikari Rivers.

3.26 As part of the good faith negotiations the parties will, in consultation with relevant local authorities, develop a regime that, to the extent possible, recognises:

3.26.1 the relevant principles of clauses 22 to 27 of the Agreement in Principle; and

3.26.2 the attributes of the committee described in paragraphs 3.19 and 3.20.

General

3.27 The Crown affirms its preference for the committee to be established under paragraph 3.23 and that the negotiations towards a participation regime are included only as an alternative if the committee cannot be established.

3.28 Ngāti Pāhauwera acknowledge that:

3.28.1 the redress under paragraphs 3.19 to 3.26 is the Crown's commitment to:

(a) introduce legislation under paragraph 3.23 if it applies; and

(b) negotiate in good faith under paragraph 3.25 if it applies; and

3.28.2 the Crown is not in breach of this Deed if:

(a) the legislation introduced is not enacted; or

(b) if an effective participation regime has not been established by any particular date if the Crown is still negotiating in good faith at that date.

4 COMMERCIAL PROPERTY REDRESS

TABLE A

DESCRIPTION OF NIL CONSIDERATION COMMERCIAL PROPERTIES

Site	Description – Hawke's Bay Land District	Specific conditions or encumbrances	Land Holding Agency
Rāwhiti Station Farm, Raupunga	50.4684 hectares, more or less, being Part Mohaka B4 Block Maori Land Plan 2571. All Computer Freehold Register HBP2/1299. 54.1780 hectares, more or less, being Mohaka B7 Block Maori Land Plan 2574. All Computer Freehold Register HBM2/382. 50.1655 hectares, approximately, being Parts Mohaka B9 Block Maori Land Plan 2572. Balance Computer Freehold Register HBV3/1348. 63.9660 hectares, more or less, being Parts Mohaka B11 Block Maori Land Plan 2594. Balance Computer Freehold Register HBV3/1349. 54.8677 hectares, more or less, being Mohaka B12 Block Maori Land Plan 2589. All Computer Freehold Register HBM2/376. 50.1100 hectares, more or less, being Mohaka B19 Block Maori Land Plan 2589. All Computer Freehold Register HBM2/377. 37.3375 hectares, more or less, being Part Mohaka B21 Block Maori Land Plan 2552 and Section 5 Survey Office Plan 10105. All Computer Freehold Register HBP2/1298. 29.4640 hectares, more or less, being Mohaka B22 Block Maori Land Plan 2552. All Computer	Subject to unregistered lease, with a final expiry date of 28 February 2012.	Ministry of Justice

	Freehold Register HBM2/385. 47.3480 hectares, more or less, being Part Mohaka B24 Block Maori Land Plan 2552. All Computer Freehold Register HBP2/1300. 46.1630 hectares, more or less, being Part Mohaka B25 Block Maori Land Plan 2553. All Computer Freehold Register HBP2/1301. 46.3891 hectares, more or less, being Mohaka B26X Block Maori Land Plan 2553. All Computer Freehold Register HBW1/500. 0.5673 hectares, more or less, being Section 2 Survey Office Plan 10105. All Computer Freehold Register HBP3/322. 137.1870 hectares, more or less, being Section 1 Block I Waihua Survey District, Section 2 Block IV Mohaka Survey District, Section 2 Block VIII Mohaka Survey District and Defined on SO 7737. All Computer Freehold Register HBW1/499.		
Vacant Section 3505 State Highway 2, Raupunga	0.1122 hectares, more or less, being Section 15 SO 8798. All Computer Freehold Register HBW3/14.		Ministry of Justice
Residential Section State Highway 2, Raupunga	0.1337 hectares, more or less, being Lot 2 DP 14638. All Computer Freehold Register HBM1/1329.	Together with rights of way and a right to drain sewage specified in Easement Certificate 325214.2 Subject to a right of way and a right to drain sewage over part specified in Easement Certificate 325214.2	Ministry of Justice

Bare Section State Highway 2, Raupunga	0.3060 hectares, more or less, being Lot 1 DP 27011. All Computer Freehold Register HBW3/252.		Ministry of Justice
Residential Section, State Highway 2, Waihua	1.3964 hectares, more or less, being Lot 1 DP 314480. All Computer Freehold Register 57432.	Subject to a right (in gross) to convey telecommunications over part marked A on DP 314480 in favour of Telecom Central Limited created by Transfer 597596.1 Subject to a right of way over part marked C on DP 314480 created by Easement Instrument 5478489.2 and subject to Section 243(a) Resource Management Act 1991.	Ministry of Justice
Mohaka Pound Site	0.2125 hectares, more or less, being Section 17 Block XIII Waihua Survey District. All GN252993.		Department of Conservation
Kotemāori Site	2.0234 hectares, approximately, being Section 18 Block X Mohaka Survey District. All *Gazette* 1933 page 3198. Subject to survey.		Department of Conservation
Raupunga Stock Resting Reserve Site	0.8501 hectares, more or less, being Section 11 Block IX Waihua Survey District. All GN K177084.		Department of Conservation
Mohaka Coach Road Site	4.1531 hectares, more or less, being Section 15 Block XII Mohaka Survey District. All GN13180.		Department of Conservation
Pūtere Road Site	2.0234 hectares, more or less, being Section 1 Block IV Mohaka Survey District. All *Gazette* 1940 page 285.		Department of Conservation

4 COMMERCIAL PROPERTY REDRESS

TABLE B

DESCRIPTION OF CROWN FOREST LICENSED LAND

Name	Legal Description	Document	Encumbrances	Land Holding Agency
Mohaka Forest	1577.0947 hectares, more or less, being Lot 1 DP 6809, Lots 1, 2, 3 and 4 DP 7983 and Lots 1 and 2 DP 7985. Gisborne Land District. All Computer Freehold Register GS4D/1292, Part Computer Freehold Register GS5A/1250, All Gazette Notices 183301.1, 184074.1 and 184075.1.	GS6A/1	Subject to Crown forestry licence (Part in Gisborne Registry)	LINZ
	13,907.6842 hectares, more or less, being Lots 1, 2, 3 and 4 DP 21817, Lot 1 DP 21899, Lot 1 DP 21991, Lots 1 and 2 DP 21992, Lots 1, 2, 3 and 4 DP 21996 and Lot 1 DP 22028. Hawke's Bay Land District. All Computer Freehold Registers HBL3/284, HBL4/598, HBP2/1204, HBP2/1297, Part Computer Freehold Registers HBL2/736 and HBK4/1385, HBL1/942 and HBL3/515 (cancelled), Part Provisional Computer Interest Register HBPRP1/637, Part Proclamations 165878, 175843 and 539179.1, Part Gazette Notices 554143.1 and 539178.1 and Part Transfers 258264 and 313229.3	HBP1/1404	Subject to Crown forestry licence (Part in Hawke's Bay Registry)	
		GS6A/2	Subject to protective covenant – archaeological	
		GS6A/2	Subject to protective covenant – forest research	
		580859.1	Subject to protective covenant – archaeological	
		580859.1	Subject to Protective covenant – conservation over areas A, B and C on DP	

			21991 and B on DP 21992	
		580859.1	Subject to protective covenant - forest research	
		580859.2	Subject to a public access easement over areas D on DP 21991, A on DP 21992 and A, B, C and D on DP 21996	
		To be created	Subject to an easement for a right of way in favour of Part Section 2 Block XXII Waiau Survey District over area marked A on DP 7983.	
		632911.1	Subject to a telecommunications easement in gross over part Lot 1 DP 22028 in favour of Telecom Central Limited.	
		To be created	Subject to an easement in gross for a public right of way. Refer clause 6.7.3 Deed of Settlement.	

4 COMMERCIAL PROPERTY REDRESS

TABLE C

DESCRIPTION OF VALUED COMMERCIAL PROPERTIES

Site	Description – Hawke's Bay Land District	Specific conditions or encumbrances	Land Holding Agency
Waipapa B3	20.0067 hectares, more or less, being Waipapa B3 Block Maori Land Plan 2676. All Computer Freehold Register HBV1/373		Te Puni Kōkiri
Kotemaori Railway Site	1.8670 hectares, approximately, being Lot 1 LT Plan 409027. Former railway land. Subject to survey.	Subject to an unregistered lease over part, expiry 31 May 2015.	LINZ

D TERMS OF TRANSFER FOR COMMERCIAL REDRESS PROPERTIES

APPLICATION OF THIS SUBPART

4.1 This subpart applies to the transfer by the Crown to the Trustees of each commercial redress property except that paragraphs 4.9, 4.18.5, 4.19.2, 4.19.3 and 4.24 to 4.33 do not apply to each nil consideration commercial property.

TRANSFER

4.2 The Crown must transfer the fee simple estate in a commercial redress property to the Trustees subject to, and where applicable with the benefit of –

4.2.1 the disclosed encumbrances affecting or benefiting the property (as they may be varied by a non-material variation, or a material variation entered into under paragraph 4.18.4(a));and

4.2.2 any additional encumbrances affecting or benefiting the property entered into by the Crown under paragraph 4.18.4(b); and

4.2.3 any encumbrances in relation to that property that the Trustees are required to provide to the Crown on or by the settlement date under this Deed.

4.3 The Crown must pay any survey and registration costs required to transfer the fee simple estate in a commercial redress property to the Trustees.

POSSESSION

4.4 Possession of a commercial redress property must, on the settlement date, –

4.4.1 be given by the Crown; and

4.4.2 taken by the Trustees; and

4.4.3 be vacant possession subject only to any encumbrances referred to in paragraph 4.2 that prevent vacant possession being given and taken.

SETTLEMENT

4.5 Subject to paragraphs 4.6 and 4.40.3, the Crown must provide the Trustees with the following in relation to a commercial redress property on the settlement date:

4.5.1 evidence of –

(a) a registrable transfer instrument; and

(b) any other registrable instrument required by this Deed in relation to the property:

4.5.2 all contracts and other documents (but not public notices such as proclamations and Gazette notices) that create unregistered rights or obligations affecting the registered proprietor's interest in the property after the settlement date.

4.6 If the fee simple estate in the commercial redress property may be transferred to the Trustees electronically under the relevant legislation, –

4.6.1 paragraph 4.5.1 does not apply; and

4.6.2 the Crown must ensure its solicitor,

(a) a reasonable time before the settlement date, –

(i) creates a Landonline workspace for the transfer to the Trustees of the fee simple estate in the property; and

(ii) prepares, certifies, signs and pre-validates in the Landonline workspace the transfer instrument, and all other instruments, necessary, to effect the transfer electronically (the **electronic transfer instruments**); and

(b) on the settlement date, releases the electronic transfer instruments, so that the Trustees' solicitor may submit them for registration under the relevant legislation; and

4.6.3 the Trustees must ensure their solicitor, a reasonable time before the settlement date, certifies and signs the transfer instrument for the property prepared in the Landonline workspace under paragraph 4.6.2(a)(ii); and

4.6.4 paragraphs 4.6.2 and 4.6.3 are subject to paragraph 4.40.3.

4.7 The **relevant legislation** for the purposes of paragraph 4.6 is –

4.7.1 the Land Transfer Act 1952; and

4.7.2 the Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002.

4.8 The Crown must, on the settlement date for a commercial redress property, provide the Trustees with any key or electronic opener to a gate or door on, and any security code to an alarm for, the property that are held by the Crown.

4.9 The redress value of or the amount payable by the Trustees for a commercial redress property is not affected by –

4.9.1 a non-material variation, or a material variation entered into under paragraph 4.18.4(a), of a disclosed encumbrance affecting or benefiting the property; or

4.9.2 an additional encumbrance affecting or benefiting the property entered into by the Crown under paragraph 4.18.4(b).

APPORTIONMENT OF OUTGOINGS AND INCOMINGS

4.10 If, as at the settlement date for a commercial redress property, –

4.10.1 the outgoings for the property pre-paid by the Crown for any period after that date exceed the incomings received by the Crown for any period after that date, the Trustees must pay the amount of the excess to the Crown; or

4.10.2 the incomings for the property received by the Crown for any period after that date exceed the outgoings for the property pre-paid by the Crown for any period after that date, the Crown must pay the amount of the excess to the Trustees.

4.11 The outgoings for a commercial redress property for the purposes of paragraph 4.10 do not include insurance premiums and the Trustees are not required to take over from the Crown any contract of insurance in relation to the property.

4.12 The incomings for the Crown forest licensed land for the purposes of paragraph 4.10 do not include licence fees under the Crown forestry licence.

4.13 An amount payable under paragraph 4.10 in relation to a commercial redress property must be paid on the settlement date.

4.14 The Crown must, before the settlement date for a commercial redress property, provide the Trustees with a written statement calculating the amount payable by the Trustees or the Crown under paragraph 4.10.

FIXTURES, FITTINGS, AND CHATTELS

4.15 The transfer of a commercial redress property includes all fixtures and fittings that were owned by the Crown, and located on the property, on the date of this Deed.

4.16 Fixtures and fittings transferred under paragraph 4.15 are transferred free of any mortgage or charge.

4.17 The transfer of a commercial redress property does not include chattels.

OBLIGATIONS AND RIGHTS FROM THE DATE OF THIS DEED

4.18 The Crown must, from the date of this Deed until the settlement date (the **transfer period**), –

4.18.1 ensure each commercial redress property is maintained in substantially the same condition, fair wear and tear excepted, as it was in at the date of this Deed; and

4.18.2 pay the charges for electricity, gas, water, and other utilities that the Crown owes as owner of the property, except where those charges are payable by a tenant or occupier to the supplier; and

4.18.3 ensure the Crown's obligations under the Building Act 2004 are complied with in respect of any works carried out on the property during the period –

(a) by the Crown; or

(b) with the Crown's written authority; and

4.18.4 obtain the prior written consent of the Trustees before –

(a) materially varying a disclosed encumbrance affecting or benefiting the property; or

(b) entering into an encumbrance affecting or benefiting the property; or

(c) procuring a consent, giving an approval under the Resource Management Act 1991, or any other legislation, that materially affects the property; and

4.18.5 use reasonable endeavours to obtain permission for the Trustees to enter and inspect the property under paragraph 4.19.2 if Trustees are prevented from doing so by the terms of an encumbrance referred to in paragraph 4.2; and

4.18.6 if it receives a written notice in relation to a commercial redress property from the Crown, a territorial authority, or a tenant, comply with it or provide it promptly to the Trustees or their solicitor.

4.19 The Trustees, during the transfer period in relation to a commercial redress property, –

4.19.1 must not unreasonably withhold or delay any consent sought under paragraph 4.18.4 in relation to the property; and

4.19.2 may enter and inspect the property on one occasion –

(a) after giving reasonable notice; and

(b) subject to the terms of the encumbrances referred to in paragraph 4.2; and

4.19.3 must comply with all reasonable conditions imposed by the Crown in relation to entering and inspecting the property.

PRE-TRANSFER OBLIGATIONS AND RIGHTS IN RELATION TO CROWN FOREST LICENSED LAND

4.20 During the transfer period for the Crown forest licensed land, the Crown –

4.20.1 must prudently manage the licensor's rights under the Crown forestry licence in relation to the Crown forest licensed land; and

4.20.2 in reviewing the licence fee under the Crown forestry licence must ensure that, so far as reasonably practicable, the Trustees' interests as licensor after the settlement date are not prejudiced; and

4.20.3 must provide the Trustees with all material information so far as is reasonably practicable, in sufficient time to enable the Trustees to make written submissions on the performance of the Crown's obligations under paragraphs 4.20.1 and 4.20.2; and

4.20.4 must have regard to the Trustees' written submissions, in relation to the performance of the Crown's obligations under paragraphs 4.20.1 and 4.20.2; but

4.20.5 is not required to provide information to the Trustees under paragraph 4.20.3 if that would result in the Crown breaching a confidentiality obligation.

OBLIGATIONS AFTER SETTLEMENT

4.21 The Crown must –

4.21.1 give the relevant territorial authority notice of the transfer of a commercial redress property immediately after the settlement date; and

4.21.2 if it receives a written notice in relation to a commercial redress property from the Crown, a territorial authority, or a tenant after the settlement date, –

(a) comply with it; or

(b) provide it promptly to the Trustees or their solicitor; or

4.21.3 pay any penalty incurred by the Trustees to the person providing the written notice as a result of the Crown not complying with paragraph 4.21.2.

4.22 The Trustees must, from the settlement date, comply with the licensor's obligations under the Crown forestry licence in relation to the Crown forest licensed land, including the obligation to –

4.22.1 repay any overpayment of licence fees by the licensee; and

4.22.2 pay interest arising on or after the settlement date on that overpayment.

RISK AND INSURANCE

4.23 A commercial redress property is at the sole risk of –

4.23.1 the Crown, until the settlement date; and

4.23.2 the Trustees, from the settlement date.

DAMAGE AND DESTRUCTION

4.24 Paragraphs 4.25 to 4.33 apply if, before the settlement date for a commercial redress property, –

4.24.1 the property is destroyed or damaged; and

4.24.2 the destruction or damage has not been made good.

4.25 Paragraph 4.26 applies if the commercial redress property is not tenantable as a result of the destruction or damage.

4.26 Where this paragraph applies the Trustees may cancel its transfer by written notice to the Crown.

4.27 Notice under paragraph 4.26 must be given before the settlement date.

4.28 Paragraph 4.29 applies if the property is –

4.28.1 Crown forest licensed land; or

4.28.2 a commercial redress property (other than licensed land) that –

(a) despite the destruction or damage, is tenantable; or

(b) as a result of the damage or destruction, is not tenantable but its transfer is not cancelled under paragraph 4.26 before the settlement date.

4.29 Where this paragraph applies –

4.29.1 the Trustees must complete the transfer of the commercial redress in accordance with this Deed; and

4.29.2 the Crown must pay the Trustees –

(a) the amount by which the value of the property has diminished, as at the settlement date for the property, as a result of the destruction or damage;

(b) plus GST if any.

4.30 The value of the property for the purposes of paragraph 4.29.2 is its redress value.

4.31 An amount paid by the Crown under paragraph 4.29 is redress.

4.32 Each party may give the other notice –

4.32.1 requiring a dispute as to the application of paragraphs 4.26 to 4.31 be determined by an arbitrator appointed by the Arbitrators' and Mediators' Institute of New Zealand; and

4.32.2 referring the dispute to the arbitrator so appointed for determination under the Arbitration Act 1996.

4.33 If a dispute as to the application of paragraphs 4.26 to 4.31 is not determined by the settlement date, that date is to be –

4.33.1 the fifth business day following the determination of the dispute; or

4.33.2 if an arbitrator appointed under paragraph 4.32 so determines, another date including the original settlement date.

BOUNDARIES AND TITLE

4.34 The Crown is not required to point out the boundaries of a commercial redress property.

4.35 If a commercial redress property is subject only to the encumbrances referred to in paragraph 4.2, the Trustees –

4.35.1 are to be treated as having accepted the Crown's title to the property as at the settlement date; and

4.35.2 may not make any objections to, or requisitions on, it.

4.36 An error or omission in the description of a commercial redress property or its title does not annul its transfer.

FENCING

4.37 The Crown is not liable to pay for, or contribute towards, the erection or maintenance of a fence between a commercial redress property and any contiguous land of the Crown, unless the Crown requires the fence.

4.38 Paragraph 4.37 does not continue for the benefit of a purchaser from the Crown of land contiguous to a commercial redress property.

4.39 The Crown may require a fencing covenant to the effect of paragraphs 4.37 and 4.38 to be registered against the title to a commercial redress property.

DELAYED TRANSFER OF TITLE

4.40 The Crown covenants for the benefit of the Trustees that it will –

4.40.1 arrange for the creation of one computer freehold register for parcels of Crown forest licensed land situated in a single land registration district that is subject to a single Crown forestry licence if that land –

(a) is not contained in one computer freehold register; or

(b) is contained in one computer freehold register but together with other land; and

4.40.2 arrange for the creation of a computer freehold register for the land of a commercial redress property for land that –

(a) is not Crown forest licensed land; and

(b) is not contained in a computer freehold register; or

(c) is contained in a computer freehold register or registers but together with other land; and

4.40.3 transfer (in accordance with paragraph 4.5 or 4.6, whichever is applicable) the fee simple estate in a commercial redress property to which paragraph 4.40.1 or 4.40.2 applies as soon as reasonably practicable after complying with that paragraph in relation to the property, but not later than five years after the settlement date.

4.41 If paragraph 4.40.3 applies to a commercial redress property, and paragraph 4.6 is applicable, the Trustees must comply with their obligations under paragraph 4.6.3 by a date specified by written notice to the Crown.

4.42 The covenant given by the Crown under paragraph 4.40 has effect and is enforceable, despite:

4.42.1 being positive in effect; and

4.42.2 there being no dominant tenement.

4.43 If paragraph 4.40 applies then, for the period from the settlement date until the date that the Crown transfers the fee simple estate in the commercial redress property to the Trustees –

4.43.1 the Trustees will be the beneficial owner of the property; and

4.43.2 all obligations and rights will be performed and arise as if the fee simple estate had been transferred to the Trustees on the settlement date; and

4.43.3 the Trustees may not serve a settlement notice under paragraph 4.46.

FURTHER ASSURANCES

4.44 Each party must, at the request of the other, sign and deliver any further documents or assurances, and do all acts and things, that the other may reasonably require to give full force and effect to this part.

NON-MERGER

4.45 On transfer of a commercial redress property to the Trustees –

4.45.1 the provisions of this subpart will not merge; and

4.45.2 to the extent any provision of this subpart has not been fulfilled, it will remain in force.

NOTICE

4.46 If this subpart requires the Trustees to give notice to the Crown in relation to or in connection with a commercial redress property, the Trustees must give the notice in accordance with this Deed except the notice must be addressed to the land holding agency for the property at its address or facsimile number provided –

4.46.1 in paragraph 4.47; or

4.46.2 if the land holding agency has given notice of a new address or facsimile number, in the most recent notice of a change of address or facsimile number.

4.47 Until any other address or facsimile number of a land holding agency is given by notice to the Trustees, the address of each land holding agency is as follows for the purposes of giving notice to that agency in accordance with this part.

Land holding agency	Address and facsimile number
Department of Conservation	Wellington Hawke's Bay Conservancy 181 Thorndon Quay PO Box 5086 Wellington 6143 Facsimile No (04) 499 0077
Ministry of Justice	The Vogel Centre 19 Aitken Street PO Box 180 Wellington 6140 Facsimile No (04) 918 8820
LINZ	Lambton House 160 Lambton Quay PO Box 5501 Wellington 6140 Facsimile No (04) 472 2244
Te Puni Kōkiri	Te Puni Kōkiri House 143 Lambton Quay PO Box 3943 Wellington 6140 Facsimile No (04) 819 6299

5 TAX

STATEMENT OF AGREED TAX PRINCIPLES

5.1 The parties agree that:

5.1.1 the payment, credit, or transfer of redress by the Crown to the Trustees or the trustees of the Ngāti Pāhauwera Tiaki Trust (**Recipients**) is made as redress to settle the historical claims and is not intended to be, or to give rise to:

(a) a taxable supply for GST purposes; or

(b) assessable income for income tax purposes; or

(c) a dutiable gift for gift duty purposes; and

5.1.2 neither the Recipients, nor any person associated with a Recipient, will claim an input credit (for GST purposes) or a deduction (for income tax purposes) with reference to the payment, credit, or transfer by the Crown of redress; and

5.1.3 the transfer of any property under the right of first refusal in clause 6.15 is intended to be a taxable supply for GST purposes and neither the exercise by a Recipient of a right to acquire such a property nor the transfer or acquisition of such a property by a Recipient is subject to indemnification for tax by the Crown under this Deed; and

5.1.4 interest paid by the Crown under this Deed:

(a) is to be treated in accordance with ordinary taxation principles; and

(b) the receipt or payment of that interest is not subject to indemnification for tax by the Crown under this Deed;

5.1.5 any amounts payable to or received by a Recipient under or in respect of a Crown forestry licence (irrespective of whether such amounts are payable by or received from the Crown, the Crown Forestry Rental Trust or any other person) and any accumulated interest thereon:

(a) are to be treated in accordance with ordinary taxation principles; and

(b) the receipt or payment of any such amounts is not subject to indemnification for tax by the Crown under this Deed;

5.1.6 any amounts payable to or received by a Recipient under or in respect of the lease, licence or other use of any property or site referred to in this Deed:

(a) are to be treated in accordance with ordinary taxation principles; and

(b) the receipt or derivation of any such amounts is not subject to indemnification for tax by the Crown under this Deed;

5.1.7 the Recipients (at all applicable times) are or will be a registered person for GST purposes (except if a Recipient is not carrying on a taxable activity as that term is defined by the Goods and Services Tax Act 1985); and

5.1.8 any indemnity payment by the Crown to a Recipient is not intended to be, or to give rise to:

(a) a taxable supply for GST purposes; or

(b) assessable income for income tax purposes.

ACKNOWLEDGEMENTS

5.2 To avoid doubt, the parties acknowledge:

5.2.1 that the tax indemnities given by the Crown in this part, and the principles and acknowledgements in paragraph 5.1 and this paragraph 5.2:

(a) apply only to the receipt by the Recipients of redress and indemnity payments; and

(b) do not apply to a subsequent dealing, distribution, payment, use, or application by a Recipient, or any other person, with or of redress or an indemnity payment;

5.2.2 each obligation to be performed by the Crown in favour of the Recipients under this Deed is performed without charge to, or consideration to be provided by, the Recipients or any other person;

5.2.3 paragraph 5.2.2 does not:

(a) extend to an obligation of the Crown in respect of the transfer of property under the right of first refusal in clause 6.15; or

(b) affect an obligation of the Recipient to pay the purchase price relating to that property;

5.2.4 without limiting paragraph 5.2.2, the agreement under this Deed to enter into, or the entry into, granting or performance of, a covenant, easement, lease, licence or other right or obligation in relation to an item of redress is not consideration (for GST or any other purpose) for the transfer of the item of redress by the Crown to the Recipient; and

5.2.5 without limiting paragraph 5.2.2, the payment of amounts, and the bearing of costs from time to time, by a Recipient in relation to any item of redress (including:

(a) rates, charges, and fees; or

(b) the whole or a portion of outgoings and incomings; or

(c) maintenance, repair, or upgrade costs and rubbish, pest and weed control costs),

is not consideration for the transfer of that item of redress for GST or any other purpose; and (without limiting paragraph 5.2.1), the payment of those amounts and the bearing of those costs is not subject to indemnification for tax by the Crown under this Deed.

5 TAX

ACT CONSISTENT WITH TAX PRINCIPLES

5.3 None of Ngāti Pāhauwera, the Recipients, or a person associated with a Recipient, or the Crown will act in a matter that is inconsistent with the principles or acknowledgements set out in paragraphs 5.1 and 5.2.

MATTERS NOT TO BE IMPLIED FROM TAX PRINCIPLES

5.4 Nothing in this part is intended to suggest or imply that:

5.4.1 the payment, credit, or transfer of redress, or an indemnity payment, by the Crown to the Recipients is chargeable with GST; or

5.4.2 if a Recipient is a charitable trust or other charitable Recipient:

(a) the payments, properties, interests, rights, or assets the Recipient receives or derives from the Crown under this Deed are received or derived other than exclusively for charitable purposes; or

(b) the Recipient derives or receives amounts other than as exempt income for income tax purposes; or

5.4.3 gift duty is imposed on any payment to, or transaction with, the Recipients under this Deed.

AMOUNTS PROVIDED WITH ANY APPLICABLE GST

5.5 If and to the extent that:

5.5.1 the payment, credit, or transfer of redress; or

5.5.2 an indemnity payment;

by the Crown to a Recipient is chargeable with GST, the Crown must, in addition to the payment, credit, or transfer of the redress or the indemnity payment, pay the Recipient the amount of GST payable in respect of the redress or the indemnity payment.

INDEMNITY FOR GST IN RESPECT OF REDRESS AND INDEMNITY PAYMENTS

5.6 If and to the extent that:

5.6.1 the payment, credit, or transfer of redress; or

5.6.2 an indemnity payment;

by the Crown to a Recipient is chargeable with GST, and the Crown does not pay the Recipient an additional amount equal to that GST at the time the amount is paid, credited, or transferred and/or the indemnity payment is made, the Crown will, on demand in writing, indemnify the Recipient for that GST within 10 working days of that demand.

5 TAX

INDEMNITY FOR INCOME TAX IN RESPECT OF REDRESS AND INDEMNITY PAYMENTS

5.7 The Crown agrees to indemnify the Recipients, against any income tax that the Recipients are liable to pay if and to the extent that receipt of:

5.7.1 the payment, credit, or transfer of redress; or

5.7.2 an indemnity payment;

from the Crown is treated as, or as giving rise to, assessable income of the Recipients for income tax purposes and the Crown will, on demand in writing, make the indemnity payment within 10 working days of that demand.

INDEMNITY FOR GIFT DUTY IN RESPECT OF REDRESS

5.8 The Crown agrees to pay, and to indemnify the Recipients against any liability that the Recipients have in respect of any gift duty assessed as payable by the Commissioner of Inland Revenue in respect of the payment, credit, or transfer by the Crown to the Recipients of redress.

NOTICE OF DEMANDS FOR INDEMNIFICATION

5.9 Each of:

5.9.1 the Recipients; and

5.9.2 the Crown;

shall give notice to the other as soon as reasonably possible after becoming aware of an event or occurrence in respect of which a Recipient is or may be entitled to be indemnified by the Crown for or in respect of tax under this part.

HOW DEMANDS ARE MADE

5.10 Demands for indemnification for tax by a Recipient in accordance with this part shall be made by the Recipient in accordance with the provisions of paragraphs 5.11 and 5.12 and may be made at any time, and from time to time, after the settlement date.

WHEN DEMANDS ARE TO BE MADE

5.11 Except:

5.11.1 with the written agreement of the Crown; or

5.11.2 if this Deed provides otherwise;

no demand for payment by way of indemnification for tax under this part may be made by a Recipient more than 20 business days before the due date for payment by the Recipient of the applicable tax (whether such date is specified in an assessment, is a date for the payment of provisional tax, or otherwise).

EVIDENCE TO ACCOMPANY DEMAND

5.12 Without limiting paragraph 5.10, a demand for indemnification by a Recipient under this part must be accompanied by:

5.12.1 appropriate evidence (which may be notice of proposed adjustment, assessment, 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 Recipient 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

5.12.2 where the demand is for indemnification for GST, if the Crown requires, an appropriate GST tax invoice.

REPAYMENT OF AMOUNT ON ACCOUNT OF TAX

5.13 If payment is made by the Crown on account of tax to a Recipient or to the Commissioner of Inland Revenue (for the account of a Recipient) and it is 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 a Recipient:

5.13.1 has retained the payment (which, to avoid doubt, includes a situation where the Recipient has not transferred the payment to the Inland Revenue Department but has instead paid, applied, or transferred the whole or any part of the payment to any other person or persons); or

5.13.2 has been refunded the amount of the payment by the Inland Revenue Department; or

5.13.3 has had the amount of the payment credited or applied to its account with the Inland Revenue Department;

the Recipient shall repay the applicable amount to the Crown free of any set-off or counterclaim by the Recipient.

PAYMENT OF AMOUNT ON ACCOUNT OF TAX

5.14 The Recipients shall pay to the Inland Revenue Department any payment made by the Crown to the Recipients on account of tax, on the later of:

5.14.1 the "due date" for payment of that amount to the Inland Revenue Department under the applicable tax legislation; or

5.14.2 the next business day following receipt by the Recipients of that payment from the Crown.

PAYMENT OF COSTS

5.15 The Crown will indemnify the Recipients against any reasonable costs incurred by the Recipients or for actions undertaken by the Recipients at the Crown's direction, in connection with:

5.15.1 any demand for indemnification of the Recipients under or for the purposes of this part; and

5.15.2 any steps or actions taken by the Recipients in accordance with the Crown's requirements under paragraph 5.17.

DIRECT PAYMENT OF TAX: CONTROL OF DISPUTES

5.16 Where any liability arises to the Crown under this part, the following provisions also apply:

5.16.1 if the Crown so requires and gives a Recipient notice of that requirement, the Crown may, instead of payment of 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 Recipient); and

5.16.2 subject to a Recipient 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 may, by notice to the Recipient, require the Recipient to:

(a) take into account any right permitted by any relevant law to defer the payment of any tax; and/or

(b) 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

5.16.3 the Crown reserves the right to:

(a) nominate and instruct counsel on behalf of the Recipients whenever it exercises its rights under paragraph 5.16.2; and

(b) recover from the Commissioner of Inland Revenue the amount of any tax paid and subsequently held to be refundable.

RULINGS, APPLICATIONS

5.17 If the Crown requires, the Recipients will consult, and/or collaborate, with the Crown in the Crown's preparation (for the Crown, the Recipients and/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, credit, or transfer of redress or other amounts.

DEFINITIONS AND INTERPRETATION

5.18 In this part, unless the context requires otherwise:

assessable income has the meaning given to that term in section YA 1 of the Income Tax Act 2007;

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

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

indemnity payment means any indemnity payment made by the Crown under or for the purposes of this part, and **indemnify**, **indemnification** and **indemnity** have a corresponding meaning;

payment includes the transfer or making available of cash amounts as well as to the transfer of non-cash amounts (such as land); and

transfer 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 recognised as being available, to a Recipient.

5.19 In the interpretation of this part, a reference to the **payment, credit, transfer**, or **receipt** of an amount (or any equivalent wording) includes a reference to the payment, credit, transfer, or receipt of any part (or the applicable part) of the amount.

6 NOTICE

APPLICATION OF THIS PART

6.1 Unless otherwise provided in this Deed or a settlement document, this part applies to notices under this Deed or a settlement document to or by:

6.1.1 Ngāti Pāhauwera; or

6.1.2 the Trustees; or

6.1.3 the Crown.

REQUIREMENTS

6.2 A notice must be:

In writing and signed

6.2.1 in writing and signed by the person giving it (and where given by the Trustees, by a minimum of three of the Trustees); and

Addressed

6.2.2 addressed to the recipient at its address or facsimile number as provided:

(a) in part 1 of this schedule; or

(b) if the recipient has given notice of a new address or facsimile number, as provided in the most recent notice of a change of address or facsimile number; and

Delivered

6.2.3 given by:

(a) delivering it by hand to the recipient's address; or

(b) posting it in an envelope with pre-paid postage addressed to the recipient's address; or

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

TIMING

6.3 A notice is to be treated as having been received:

6.3.1 at the time of delivery, if delivered by hand before 5pm ; or

6.3.2 on the second day after posting, if given by pre-paid post; or

6.3.3 on the day of transmission, if faxed and received by 5pm; but

6.3.4 on the next business day, if under paragraphs 6.3.1 and 6.3.3 it is treated as having been received after 5pm on a business day, or on a non-business day.

7 GENERAL PROVISIONS

THIS DEED WITHOUT PREJUDICE UNTIL UNCONDITIONAL

7.1 Until this Deed becomes unconditional after the satisfaction of the conditions under clause 7.1 of the Deed, it:

7.1.1 is entered into on a without prejudice basis; and

7.1.2 in particular, may not be used as evidence in any proceedings before, or presented to, a court, tribunal (including the Waitangi Tribunal), or other judicial body.

7.2 Paragraph 7.1 does not exclude any jurisdiction of a court, tribunal, or other judicial body in respect of the interpretation or enforcement of this Deed.

7.3 Despite clause 7.1 of the Deed, the following provisions are binding from the date of this Deed:

7.3.1 clauses 7.3 to 7.5, and clauses 7.6 to 7.8; and

7.3.2 paragraph 2.1, and part 6, and this part 7, of this schedule.

ENTIRE AGREEMENT

7.4 This Deed and the settlement documents:

7.4.1 constitute the entire agreement in relation to the matters in each of them; and

7.4.2 supersede all earlier negotiations, representations, warranties, understandings and agreements in relation to the historical claims including the Terms of Negotiation and the Agreement in Principle; but

7.4.3 do not supersede Te Tiriti o Waitangi/the Treaty of Waitangi; and

7.4.4 do not address or resolve the matters in paragraphs 73 to 78 of the Agreement in Principle (Foreshore and Seabed Redress).

NO WAIVER OR ASSIGNMENT

7.5 Except as provided in this Deed or a settlement document:

7.5.1 a failure, delay, or indulgence in exercising a right or power under this Deed, or a settlement document, does not operate as a waiver of that right or power; and

7.5.2 a single, or partial, exercise of a right or power under this Deed, or a settlement document, does not preclude:

(a) a further exercise of that right or power; or

(b) the exercise of another right or power; and

7.5.3 a person may not transfer or assign a right or obligation under this Deed or a settlement document.

8 DEFINED TERMS AND INTERPRETATION

DEFINED TERMS

8.1 In this Deed:

Agreement in Principle is the agreement referred to in the background section of this Deed;

business day means a day other than:

(a) Saturday, Sunday, Waitangi Day, Good Friday, Easter Monday, ANZAC Day, the Sovereign's Birthday, and Labour Day; or

(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; or

(c) the days observed as the anniversaries of the provinces of Hawke's Bay and Wellington;

cash settlement amount means the sum of $7,953,000 payable to the Trustees under clause 6.2;

co-management charter means the co-management charter, in the form set out in part 2 of the documents schedule;

commercial redress property means:

(a) each nil consideration commercial property;

(b) the Crown forest licensed land; and

(c) each valued commercial property;

consent authority has the meaning set out in section 2(1) of the Resource Management Act 1991;

conservation legislation means the Conservation Act 1987 and the Acts listed in schedule 1 to that Act;

core area of interest means the area where Ngāti Pāhauwera have traditionally and most frequently held and exercised their strongest customary interests as set out in part 6 of the documents schedule;

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

Crown body means:

(a) a Crown entity; or

(b) a State enterprise; or

(c) the New Zealand Railways Corporation; or

(d) a company or body, that is wholly-owned or controlled by any one or more of the following:

(i) the Crown;

(ii) a Crown entity;

(iii) a State enterprise;

(iv) the New Zealand Railway Corporation; and

(e) a subsidiary of, or related company to, a company or body referred to in paragraph (d);

Crown entity has the meaning given to it in section 7(1) of the Crown Entities Act 2004;

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

Crown forest licensed land means the land described in subpart B of part 4 of this schedule, but excludes:

(a) all trees growing, standing or lying on that land; and

(b) all improvements that have been:

(i) acquired by a purchaser of the trees on that land; or

(ii) made, after that acquisition of the trees, by the purchaser or the licensee;

Crown forestry licence has the meaning given to it in section 2(1) of the Crown Forest Assets Act 1989 and, in relation to the Crown forest licensed land, means the licence described in the third column of the table in subpart B of part 4 of this schedule;

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

Crown Forestry Rental Trust deed means the trust deed made on 30 April 1990 establishing the Crown Forestry Rental Trust under section 34 of the Crown Forest Assets Act 1989;

cultural redress means the redress to be provided under part 5 of the Deed and the settlement legislation giving effect to that part;

cultural redress property means a site described in part 3 of schedule 2 and schedule 3 of the draft bill;

date of this Deed means the date this Deed is signed by Ngāti Pāhauwera, the Trustees and the Crown;

Deed and **Deed of Settlement** means this Deed of Settlement between Ngāti Pāhauwera, the Trustees and the Crown, including:

(a) the Deed, this schedule, the documents schedule and any attachment to the Deed or a schedule; and

(b) every amendment to the Deed or to a schedule or an attachment to it;

Director-General has the meaning given to it in section 2(1) of the Conservation Act 1987;

disclosed encumbrance means, in relation to a property, an encumbrance described in the description of the property in the Deed or in the disclosure information for that property;

disclosure information means the information provided by, or on behalf of, the Crown to Ngāti Pāhauwera before the date of this Deed, in relation to a cultural redress property or a commercial redress property;

documents schedule means the documents schedule to the Deed of Settlement;

draft bill means the draft bill set out in part 9 of the documents schedule;

eligible member of Ngāti Pāhauwera means a member of Ngāti Pāhauwera who was aged 18 years or over on 4 December 2010;

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

financial and commercial redress means:

(a) the cash settlement amount;

(b) the transfer of the commercial redress properties; and

(c) the right of any first refusal to purchase any RFR land (but not any RFR land);

GST:

(a) means goods and services tax chargeable under the Goods and Services Tax Act 1985; and

(b) includes, for the purposes of part 5 of this schedule, any interest or penalty payable in respect of, or on account of, the late or non-payment of, GST;

historical claims has the meaning given to it in clauses 8.4 and 8.5;

land holding agency means:

(a) in relation to a cultural redress property, the Department of Conservation; and

(b) in relation to a commercial redress property, the agency named in the last column in the table in subpart A or subpart B or subpart C of part 4 of this schedule for the property;

licensee means the registered holder for the time being of the Crown forestry licence;

licensor means the licensor for the time being of the Crown forestry licence;

LINZ means Land Information New Zealand;

member of Ngāti Pāhauwera means an individual referred to in clause 8.1.1;

Minister means a Minister of the Crown;

Ngāti Pāhauwera has the meaning given to it in clause 8.1;

8 DEFINED TERMS AND INTERPRETATION

Ngāti Pāhauwera Tiaki Trust means the Ngāti Pāhauwera Tiaki Trust established by a deed of trust dated 27 September 2008;

nil consideration commercial property has the meaning given to it in clause 6.3;

notice means a notice in writing given under part 6 of this schedule and **notify** has a corresponding meaning;

official cash rate means the interest rate set as the official cash rate by the Reserve Bank of New Zealand from time to time;

party means a party to this Deed being:

(a) Ngāti Pāhauwera; or

(b) the Crown;

provisions schedule means this schedule;

redress means:

(a) the acknowledgements and the apology given by the Crown under part 3;

(b) the cultural redress; and

(c) the financial and commercial redress;

redress value means, in relation to a commercial redress property, the amount agreed to by the parties before the date of this Deed as the value of the property to be deducted from the financial and commercial redress amount of $20,000,000 to establish the cash settlement amount;

regional council means the Hawke's Bay Regional Council;

representative entity means:

(a) the Trustees; and

(b) a person (including any Trustee or Trustees) acting for or on behalf of:

(i) the collective group referred to in clause 8.1.1;

(ii) any one or more members of Ngāti Pāhauwera; or

(iii) any one or more of the whānau, hāpu, or groups of individuals referred to in clause 8.1.2;

required encumbrance means an encumbrance that the trustees of the Ngāti Pāhauwera Tiaki Trust must enter into under clauses 24(1), 30(3), 31(3), 32(3), 33(3), 34(6) and 35(6) of the draft bill;

resumptive memorial means a memorial entered under any of the following enactments:

(a) sections 8A to 8HJ of the Treaty of Waitangi Act 1975; or

(b) sections 27A to 27C of the State-Owned Enterprises Act 1986; or

(c) sections 211 to 213 of the Education Act 1989; or

(d) part 3 of the Crown Forest Assets Act 1989; or

(e) part 3 of the New Zealand Railways Corporation Restructuring Act 1990;

RFR area means the area as set out in part 7 of the document schedule;

RFR land means the land within the **RFR** area that, on the settlement date is:

(a) vested in the Crown; or

(b) held in fee simple by the Crown; or

(c) a reserve vested in an administering body that derived title from the Crown;

schedules means the provisions schedule and the documents schedule;

section 30 representatives means the 8 individuals appointed by the Maori Land Court under section 30 of the Te Ture Whenua Maori Act 1993, and referred to in the background section of this Deed;

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

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

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

settlement legislation means:

(a) the bill proposed by the Crown for introduction to the House of Representatives referred to in clauses 7.3 and 7.4; and

(b) if the bill is passed, the resulting Act;

statement of association means the statement made by Ngāti Pāhauwera in relation to the statutory area (as defined in the draft bill) as set out in part 1 of the documents schedule;

statutory acknowledgement means the acknowledgement made by the Crown in the settlement legislation of the statement of association made by Ngāti Pāhauwera in relation to the statutory area (as defined in the draft bill) on the terms provided by clause 5.17;

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

tax legislation means legislation that imposes, or provides for the administration of, tax;

Te Heru o Tūreia is described in part 1 of schedule 2 of the draft bill;

Te Heru o Tūreia Gift Area is described in part 2 of schedule 2 of the draft bill;

8 DEFINED TERMS AND INTERPRETATION

Te **Tiriti o Waitangi/Treaty of Waitangi** has the same meaning as the term "Treaty" in section 2 of the Treaty of Waitangi Act 1975;

Terms of Negotiation are those referred to in the background section of this Deed;

Trust means the Ngāti Pāhauwera Development Trust established by a deed of trust dated 27 September 2008;

Trustees means the trustees for the time being of the Trust, in their capacity as trustees of the Trust, the Trustees being the governance entity under this Deed;

trustees of the Ngāti Pāhauwera Tiaki Trust means the trustees for the time being of the Ngāti Pāhauwera Tiaki Trust, in their capacity as trustees of the Ngāti Pāhauwera Tiaki Trust;

valued commercial property has the meaning given to it in clause 6.11; and

Waitangi Tribunal has the meaning given to it in section 4 of the Treaty of Waitangi Act 1975.

INTERPRETATION

8.2 In the interpretation of this Deed, unless the context otherwise requires:

8.2.1 headings appear as a matter of convenience and do not affect the interpretation of this Deed; and

8.2.2 defined terms have the meanings given to them by this Deed; and

8.2.3 where a word or expression is defined in this Deed, any other part of speech or grammatical form of that word or expression has a corresponding meaning; and

8.2.4 a term that is defined in the draft bill, but not in this Deed, has the same meaning in this Deed; and

8.2.5 the singular includes the plural and vice versa; and

8.2.6 a word importing one gender includes the other genders; and

8.2.7 provisions in the Deed of Settlement (other than in the schedules) are referred to as clauses; and

8.2.8 provisions in the schedules are referred to as paragraphs; and

8.2.9 a reference to legislation includes a reference to that legislation as amended, consolidated, or substituted; and

8.2.10 a reference to a party in this Deed, or in any other document or agreement under this Deed, includes that party's permitted successors; and

8.2.11 an agreement on the part of two or more persons binds each of them jointly and severally; and

8.2.12 a reference to a document or agreement, including this Deed, includes a reference to that document or agreement as amended, novated, or replaced from time to time; and

8.2.13 a reference to a monetary amount is to New Zealand currency; and

8.2.14 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; and

8.2.15 a reference to a person includes a corporation sole and a body of persons, whether corporate or unincorporate; and

8.2.16 a reference to the Crown, or a Crown body, endeavouring to do something or to achieve some result means reasonable endeavours to do that thing or achieve that result but, in particular, does not oblige the Crown or the Government of New Zealand to propose for introduction to the House of Representatives any legislation, except if this Deed requires the Crown to introduce legislation; and

8.2.17 if 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 its interpretation; and

8.2.18 in the event of a conflict between a provision in the main body of this Deed (namely, any part of this Deed except the schedules or an attachment) and a schedule or an attachment, then the provision in the main body of this Deed prevails; and

8.2.19 a reference to a document as set out in, or on the terms and conditions contained in, a schedule or an attachment includes that document with such amendments as may be agreed in writing between Ngāti Pāhauwera and the Crown; and

8.2.20 the deed plan referred to in the statutory acknowledgement (a copy of which is included in part 8 of the documents schedule) is for the purpose of indicating the general locations of the relevant area and is not intended to establish its precise boundaries; and

8.2.21 a reference to a date on or by which something must be done includes any other date that may be agreed in writing between Ngāti Pāhauwera and the Crown; and

8.2.22 where something is required to be done by or on a day which is not a business day, that thing must be done on the next business day after that day; and

8.2.23 a reference to time is to New Zealand time; and

8.2.24 reference to a particular Minister includes any Minister who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of the relevant legislation or matter; and

8.2.25 where the name of a reserve or other place is amended under this Deed, either the existing name or new name may be used to mean that same reserve or other place.