

NGĀTI RANGITEAORERE

and

NGĀTI RANGITEAORERE KOROMATUA COUNCIL TRUST

and

THE CROWN

**DEED OF SETTLEMENT SCHEDULE:
GENERAL MATTERS**

*MR
MA*

GENERAL MATTERS

TABLE OF CONTENTS

1 IMPLEMENTATION OF SETTLEMENT.....2
2 INTEREST.....3
3 TAX.....4
4 NOTICE.....9
5 MISCELLANEOUS.....11
6 DEFINED TERMS.....12
7 INTERPRETATION.....20



1 IMPLEMENTATION OF SETTLEMENT

- 1.1 The governance entity must use best endeavours to ensure that every historical claim proceeding 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; and/or
 - 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 a historical claim proceedings; and/or
 - (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 Rangiteaorere or a representative entity, any land bank arrangements, except to the extent necessary to comply with its obligations under this deed.
- 1.4 Ngāti Rangiteaorere and every representative entity must:
- 1.4.1 support a bill referred to in 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 INTEREST

- 2.1 The Crown must pay interest on the financial and commercial redress amount less the on-account payment to the governance entity on the settlement date.
- 2.2 The interest is payable:
- 2.2.1 for the period:
- (a) beginning on the date of the agreement in principle; and
 - (b) ending on the day before the settlement date; and
- 2.2.2 at the rate from time to time set as the official cash rate by the Reserve Bank, calculated on a daily basis but not compounding.
- 2.3 The interest is:
- 2.3.1 subject to any tax payable in relation to it; and
- 2.3.2 payable after withholding any tax required by legislation to be withheld.

3 TAX

INDEMNITY

- 3.1 The provision of Crown redress, or an indemnity payment, to the governance entity is not intended to be:
- 3.1.1 a taxable supply for GST purposes; or
 - 3.1.2 assessable income for income tax purposes.
- 3.2 The Crown must, therefore, indemnify the governance entity for:
- 3.2.1 any GST payable by the governance entity in respect of the provision of Crown redress or an indemnity payment;
 - 3.2.2 any income tax payable by the governance entity as a result of any Crown redress, or an indemnity payment, being treated as assessable income of the governance entity; and
 - 3.2.3 any reasonable cost or liability incurred by the governance entity in taking, at the Crown's direction, action:
 - (a) relating to an indemnity demand; or
 - (b) under paragraph 3.13 or paragraph 3.14.1(b).

LIMITS

- 3.3 The tax indemnity does not apply to the following (which are subject to normal tax treatment):
- 3.3.1 interest paid under part 2;
 - 3.3.2 the transfer of RFR land under the settlement documentation; and
 - 3.3.3 the governance entity's:
 - (a) use of Crown redress or an indemnity payment; or
 - (b) payment of costs, or any other amounts, in relation to Crown redress.

⁴

M. J. M.

GENERAL MATTERS

3: TAX

ACKNOWLEDGEMENTS

3.4 To avoid doubt, the parties acknowledge:

3.4.1 the Crown redress is provided:

- (a) to settle the historical claims; and
- (b) with no other consideration being provided; and

3.4.2 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

3.4.3 nothing in this part is intended to imply that:

- (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;
- (b) if the governance entity is a charitable trust, or other charitable entity, it receives:
 - (i) redress, assets, or rights other than for charitable purposes; or
 - (ii) income other than as exempt income for income tax purposes;

3.4.4 the transfer of RFR land under the settlement documentation is a taxable supply for GST purposes; and

3.4.5 the governance entity 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.

GENERAL MATTERS

3: TAX

CONSISTENT ACTIONS

- 3.5 Neither the governance entity, nor a person associated with it, nor the Crown will act in a manner that is inconsistent with this part 3.
- 3.6 In particular, the governance entity agrees that:
- 3.6.1 from the settlement date, it will be a registered person for GST purposes, unless it is not carrying on a taxable activity; and
- 3.6.2 neither it, nor any person associated with it, 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.

INDEMNITY DEMANDS

- 3.7 The governance entity and the Crown must give notice to the other, as soon as reasonably possible after becoming aware that the governance entity may be entitled to an indemnity payment.
- 3.8 An indemnity demand:
- 3.8.1 may be made at any time after the settlement date; but
- 3.8.2 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;
 - (b) a date for the payment of provisional tax; or
 - (c) otherwise determined; and
- 3.8.3 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.

GENERAL MATTERS

3: TAX

INDEMNITY PAYMENTS

- 3.9 If the governance entity is entitled to an indemnity payment, the Crown may make the payment to:
- 3.9.1 the governance entity; or
 - 3.9.2 the Commissioner of Inland Revenue, on behalf of, and for the account of, the governance entity.
- 3.10 The governance entity must pay an indemnity payment received by it to the Commissioner of Inland Revenue, by the later of:
- 3.10.1 the due date for payment of the tax; or
 - 3.10.2 the next business day after receiving the indemnity payment.

REPAYMENT

- 3.11 If it is determined that some or all of the tax to which an indemnity payment relates is not payable, the governance entity must promptly repay to the Crown any amount that:
- 3.11.1 the Commissioner of Inland Revenue refunds or credits to the governance entity; or
 - 3.11.2 the governance entity has received but has not paid, and is not required to pay, to the Commissioner of Inland Revenue.
- 3.12 The governance entity has no right of set-off or counterclaim in relation to an amount payable by it under paragraph 3.11.

RULINGS

- 3.13 The governance entity 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.

CONTROL OF DISPUTES

- 3.14 If the governance entity is entitled to an indemnity payment, the Crown may:
- 3.14.1 by notice to the governance entity, require it 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:

GENERAL MATTERS

3: TAX

- (i) a tax assessment; and/or
 - (ii) a notice in relation to the tax, including a notice of proposed adjustment; or
- 3.14.2 nominate and instruct counsel on behalf of the governance entity whenever it exercises its rights under paragraph 3.14.1; and
- 3.14.3 recover from the Commissioner of Inland Revenue any tax paid that is refundable.

DEFINITIONS

3.15 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.

4 NOTICE

APPLICATION

- 4.1 Unless otherwise provided in this deed, or a settlement document, this part applies to a notice under this deed or a settlement document.
- 4.2 In particular, this part is subject to the provisions of part 3 of the property redress schedule which provides for notice to the Crown in relation to, or in connection with, a cultural redress property.

REQUIREMENTS

- 4.3 A notice must be:
- 4.3.1 in writing;
 - 4.3.2 signed by the person giving it (but, if the governance entity is giving the notice, it is effective if not less than three trustees sign it);
 - 4.3.3 addressed to the recipient at its address or facsimile number as provided:
 - (a) in paragraph 4.6; 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
 - 4.3.4 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
 - (c) by faxing it to the recipient's facsimile number.

TIMING

- 4.4 A notice is to be treated as having been received:
- 4.4.1 at the time of delivery, if personally delivered; or
 - 4.4.2 on the second day after posting, if posted; or
 - 4.4.3 on the day of transmission, if faxed.

GENERAL MATTERS

4: NOTICE

- 4.5 However, if a notice is treated under paragraph 4.4 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

- 4.6 The address of:

- 4.6.1 Ngāti Rangiteaorere and the governance entity is –

Tai Eru
Co-Chairman
Ngati Rangiteaorere Koromatua Council
PO Box 7116
Te Ngae
ROTORUA 3041

- 4.6.2 the Crown is –

C/- The Solicitor-General
Crown Law Office
Level 10
Unisys House
56 The Terrace
PO Box 2858
WELLINGTON 6140

Facsimile No. 04 473 3482

5 MISCELLANEOUS

AMENDMENTS

- 5.1 This deed may be amended only by written agreement signed by the governance entity and the Crown.

ENTIRE AGREEMENT

- 5.2 This deed, and each of the settlement documents, in relation to the matters in it:

5.2.1 constitutes the entire agreement; and

5.2.2 supersedes all earlier representations, understandings, and agreements.

NO ASSIGNMENT OR WAIVER

- 5.3 Paragraph 5.4 applies to rights and obligations under this deed or a settlement document.

- 5.4 Except as provided in this deed or a settlement document, a party:

5.4.1 may not transfer or assign its rights or obligations;

5.4.2 does not waive a right by:

(a) failing to exercise it; or

(b) delaying in exercising it; and

5.4.3 is not precluded by a single or partial exercise of a right from exercising:

(a) that right again; or

(b) another right.

6 DEFINED TERMS

6.1 In this deed:

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

Affiliate Te Arawa Iwi/Hapū has the meaning given to it in clause 1.5 of the Affiliate Te Arawa Iwi/Hapū settlement deed; and

Affiliate Te Arawa Iwi/Hapū settlement deed means the deed of settlement of historical claims dated 11 June 2008 between the Affiliate Te Arawa Iwi/Hapū, the Trustees of the Te Pumautanga o Te Arawa Trust and the Crown; and

agreement in principle means the agreement in principle referred to in clause 1.11.2; and

area of Interest means the area identified as the area of interest in the attachments; and

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

attachments means the attachments to this deed, being the area of interest, the deed plans, the RFR land, and the draft settlement bill; and

business day means a day that is not:

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

GENERAL MATTERS

6: DEFINED TERMS

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 protocol means the conservation protocol in the documents schedule; and

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

Crown minerals protocol means the Crown minerals protocol in the documents schedule; and

Crown redress:

(a) means redress:

(i) provided by the Crown to the governance entity; or

(ii) vested by the settlement legislation in the governance entity that was, immediately prior to the vesting, owned by or vested in the Crown; and

(b) includes the right of the governance entity under the settlement documentation of first refusal in relation to RFR land; and

(c) includes any part of the Crown redress; and

(d) does not include:

(i) an obligation of the Crown under the settlement documentation to transfer RFR land;

(ii) RFR land; or

(iii) any on-account payment made to entities other than the governance entity; and

cultural redress means the redress provided by or under:

(a) clauses 5.1 to 5.18; or

(b) the settlement legislation giving effect to any of those clauses; and

cultural redress property means each property described in schedule 2 of the draft settlement bill; and

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

GENERAL MATTERS

6: DEFINED TERMS

deed of recognition means the deed of recognition in the documents schedule; and

deed of settlement and deed means the main body of this 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

Director-General of the Ministry for Primary Industries has the same meaning as Chief Executive in section 2 of the Ministries of Agriculture and Forestry (Restructuring) Act 1997; and

documents schedule means the documents schedule to this deed; and

draft settlement bill means the draft settlement bill in the attachments; and

effective date means a date that is 6 months after the settlement date; and

eligible member of the settling group means a member of Ngāti Rangiteaorere who on 27 May 2013 was -

- (a) aged 18 years or over; and
- (b) registered on the register of members of Ngāti Rangiteaorere kept by the Ngāti Rangiteaorere Claims Committee for the purpose of voting on:
 - (i) the ratification, and signing, of this deed; and
 - (ii) the approval of the governance entity to receive the redress; 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

financial and commercial redress means the redress provided by or under:

- (a) clauses 6.1 to 6.3; and
- (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

general matters schedule means this schedule; and

GENERAL MATTERS

6: DEFINED TERMS

governance entity means the trustees for the time being of the Ngāti Rangiteaorere Koromatua Council Trust, in their capacity as trustees of the trust; and

Ngāti Rangiteaorere Koromatua Council Trust means the trust known by that name and established by a trust deed dated 14 June 2013 and signed by:

- (a) Taiwhanake Eru Morehu, Rotorua, Councillor;
- (b) Kereama Pene, Auckland;
- (c) Donna Hall, Lawyer, Wellington (resident at Ohinemutu Village Rotorua);
- (d) Rangimahutu Easthope, Maori Land Trustee, Hinemoa Point, Rotorua;
- (e) Wirimu Kingi, Accountant, Rotorua;
- (f) Herbert Hapeta, Consultant, Tititere, Rotorua; and
- (g) Waereti Rolleston Tait, Health Consultant, Hoiohoro, Rotorua; 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 3 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 an historical claim made in any court, tribunal, or other judicial body; and

historical claims has the meaning given to it by clauses 8.2 to 8.4; and

income tax means income tax imposed under the Income Tax Act 2007 and includes, for the purposes of part 3 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 governance entity to the Crown under part 3 of this schedule for an indemnity payment; and

indemnity payment means a payment made by the Crown under part 3 of this schedule; and

land holding agency, in relation to, a cultural redress property, means Department of Conservation, and Land Information New Zealand; and

letters of introduction means each letter of introduction in the documents schedule; and

GENERAL MATTERS

6: DEFINED TERMS

letter of recognition means the letter of recognition in the documents schedule; and

LINZ means Land Information New Zealand; and

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

mandated negotiators means the individuals identified as the mandated negotiators by clause 8.7.1; and

mandated signatories means the individuals identified as the mandated signatories by clause 8.7.2; and

member of Ngāti Rangiteaorere means an individual referred to in clause 8.5.1; and

Minister means a Minister of the Crown; and

month means a calendar month; and

New Zealand Conservation Authority means the authority established under section 6A of the Conservation Act 1987; and

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

Ngāti Rangiteaorere Claims Committee means the entity mandated to negotiate with the Crown the comprehensive settlement of the historical Treaty of Waitangi claims of Ngāti Rangiteaorere; and

notice means a notice given under part 4 of this schedule, or any other applicable provisions of this deed, and **notify** has a corresponding meaning; and

on-account payment means the amount paid by the Crown on account of the settlement referred to in clause 6.1.1; and

party means each of the following:

- (a) Ngāti Rangiteaorere;
- (b) the governance entity; and
- (c) the Crown; and

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

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

protocol means a protocol issued under clause 5.6 and the settlement legislation; and

GENERAL MATTERS

6: DEFINED TERMS

redress means:

- (a) the acknowledgements and the apology made by the Crown under clauses 3.1 to 3.8; and
- (b) the cultural redress; and
- (c) the financial and commercial redress; and

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

representative entity means:

- (a) the governance entity; and
- (b) a person (including any trustee or trustees) acting for or on behalf of:
 - (i) the collective group referred to in clause 8.5.1;
 - (ii) any one or more members of Ngāti Rangiteaorere; or
 - (iii) any one or more of the whānau, hapū, or groups of individuals referred to in clause 8.5.2; and

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

responsible Minister has the meaning given to it by section 22 of the draft settlement bill; 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; or
- (c) 38 of the New Zealand Railways Corporation Restructuring Act 1990; and

RFR land means land listed in the attachments as RFR land that, on the settlement date:

- (a) is vested in the Crown; or
- (b) the fee simple for which is held by the Crown or New Zealand Transport Agency; and

GENERAL MATTERS

6: DEFINED TERMS

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

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

settlement date means the date defined in the draft settlement bill; and

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

settlement documentation means this deed and the settlement legislation; and

settlement legislation means, if the bill proposed by the Crown for introduction to the House of Representatives under clause 7.1 is passed, the resulting Act; and

statement of association means each statement of association in the documents schedule; and

statutory acknowledgment has the meaning given to it by section 30 of the draft settlement bill; and

taonga tūturu protocol means the taonga tūturu protocol in Part 3 of the documents schedule; and

tax includes income tax and GST; 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

tax indemnity means an indemnity given by the Crown under part 3 of this schedule; and

terms of negotiation means the terms of negotiation referred to in clause 1.11.1; and

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

trustees of the Ngāti Rangiteaorere Koromatua Council Trust means the trustees from time to time of that trust; and

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

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

GENERAL MATTERS

6: DEFINED TERMS

writing means representation in a visible form and on a tangible medium (such as print on paper).

Handwritten signature

7 INTERPRETATION

- 7.1 This part applies to this deed's interpretation, unless the context requires a different interpretation.
- 7.2 Headings do not affect the interpretation.
- 7.3 A term defined by:
- 7.3.1 this deed has the meaning given to it by this deed; and
 - 7.3.2 the draft settlement bill, but not by this deed, has the meaning given to it by that bill, where used in this deed.
- 7.4 All parts of speech, and grammatical forms, of a defined term have corresponding meanings.
- 7.5 The singular includes the plural and vice versa.
- 7.6 One gender includes the other genders.
- 7.7 Any monetary amount is in New Zealand currency.
- 7.8 Time is New Zealand time.
- 7.9 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.
- 7.10 A period of time specified as:
- 7.10.1 beginning on, at, or with a specified day, act, or event includes that day or the day of the act or event;
 - 7.10.2 beginning from or after a specified day, act, or event does not include that day or the day of the act or event;
 - 7.10.3 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;
 - 7.10.4 ending before a specified day, act or event does not include that day or the day of the act or event; or
 - 7.10.5 continuing to or until a specified day, act, or event includes that day or the day of the act or event.

GENERAL MATTERS

7: INTERPRETAION

- 7.11 A reference to:
- 7.11.1 an agreement or document, including this deed or a document in the documents schedule, means that agreement or that document as amended, novated, or replaced;
 - 7.11.2 legislation, including the settlement legislation, means that legislation as amended, consolidated, or substituted;
 - 7.11.3 a party includes a permitted successor of that party; and
 - 7.11.4 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.
- 7.12 An agreement by two or more persons binds them jointly and severally.
- 7.13 If the Crown must endeavour to do something or achieve some result, the Crown:
- 7.13.1 must use reasonable endeavours to do that thing or achieve that result; but
 - 7.13.2 is not required to propose for introduction to the House of Representatives any legislation, unless expressly required by this deed.
- 7.14 Provisions in:
- 7.14.1 the main body of this deed are referred to as clauses;
 - 7.14.2 the property redress, and general matters, schedules are referred to as paragraphs;
 - 7.14.3 the documents in the documents schedule are referred to as clauses; and
 - 7.14.4 the draft settlement bill are referred to as sections.
- 7.15 If there is a conflict between a provision that is:
- 7.15.1 in the main body of this deed and a provision in a schedule or an attachment, the provision in the main body of the deed prevails; and
 - 7.15.2 in English and a corresponding provision in Māori, the provision in English prevails.
- 7.16 The deed plans in the attachments that are referred to in the statutory acknowledgement indicate the general locations of the relevant sites and areas but not their precise boundaries.
- 7.17 The deed plans in the attachments that show the cultural redress properties indicate the general locations of the relevant properties but are for information purposes only and do not show their precise boundaries. The legal descriptions for the cultural redress properties are shown in schedule 2 of the draft settlement bill.

21 
MM