

AGREEMENT IN PRINCIPLE

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TAURANGA

Tēnā koutou

I would now like to make a formal offer on behalf of the Crown for consideration by Ngāti Rehua-Ngāti Wai ki Aotea. This offer contains the redress the Crown is willing to provide in settlement of all historical claims of Ngāti Rehua-Ngāti Wai ki Aotea for Crown breaches of the Treaty of Waitangi and its principles. This is the Crown's best and final offer.

If Ngāti Rehua-Ngāti Wai ki Aotea agrees to the offer outlined in this letter (**the Offer Letter**) I invite you to counter-sign it. This letter, including the schedules, will then take effect as an Agreement in Principle between the Crown and Ngāti Rehua-Ngāti Wai ki Aotea, as set out below.

The next step will be for the parties to develop the necessary detail to give effect to the redress set out in this offer and to translate that detail into a Deed of Settlement.

Elements of Crown's Offer

The Crown's offer is made up of the following three broad elements:

- a. an Historical Account, Crown Acknowledgements and Crown Apology;
- b. cultural redress; and
- c. financial and commercial redress.

Historical Account, Crown Acknowledgements and Crown Apology

The Historical Account, Crown Acknowledgments and Crown Apology will outline the basis on which the Crown is settling the historical claims of Ngāti Rehua-Ngāti Wai ki Aotea.

Cultural Redress

Following the strong representations by your negotiating team at your meeting with me in December 2009 the cultural redress offer has been substantially revised with respect to the offers at the Mokohinau Islands Scenic and Nature Reserves, Rakitu Island Scenic Reserve, Hirakimatā/Mt Hobson and Okiwi Recreation Reserve.

Commercial and Financial Redress

A summary of the financial and commercial redress offer is attached. This includes an offer to explore the sale and leaseback of one Ministry of Education property (land only).

AGREEMENT IN PRINCIPLE

Conditions of the Crown's Offer

This Offer Letter, once signed by the parties, will represent a high-level agreement in principle between the Crown and Ngāti Rehua-Ngāti Wai ki Aotea. It is not legally binding and does not create legal relations between the parties. The Crown's offer is also subject to the Crown confirming any overlapping claims or interests by other groups have been addressed to the satisfaction of the Crown.

The next step following the signing of the Offer Letter will be for the parties to develop the necessary detail to give effect to the redress set out in the offer and to translate that detail into a Deed of Settlement. Ratification by Ngāti Rehua-Ngāti Wai ki Aotea and approval of relevant Ministers and Cabinet will be required before the signing of the Deed of Settlement.

Nāku noa, nā

SIGNED for and on behalf of **THE CROWN** by -



The Minister for Treaty of Waitangi Negotiations
Hon Christopher Finlayson

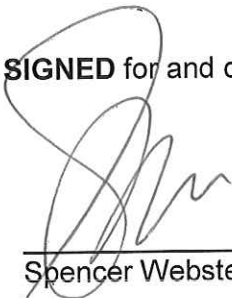
SIGNED on 14/6/2011



The Minister of Māori Affairs
Hon Dr Pita Sharples

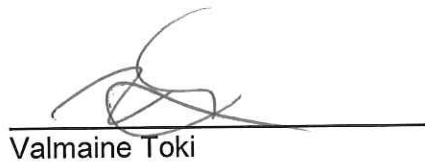
SIGNED on 18/6/2011

SIGNED for and on behalf of Ngāti Rehua-Ngāti Wai ki Aotea by the mandated negotiators:



Spencer Webster

SIGNED on 18/6/2011



Valmaine Toki

SIGNED on 18/6/2011



Michael Beazley


SIGNED on 18/6/2011

D. Hole

S. Ngawaka
R.M. Beazley

S. Ngawaka.

Pita Hone Pita Kiro



Ketiri

 Cheyenne Whaanga

Kiri Kiri



S. Ngawaka

Keme Keme



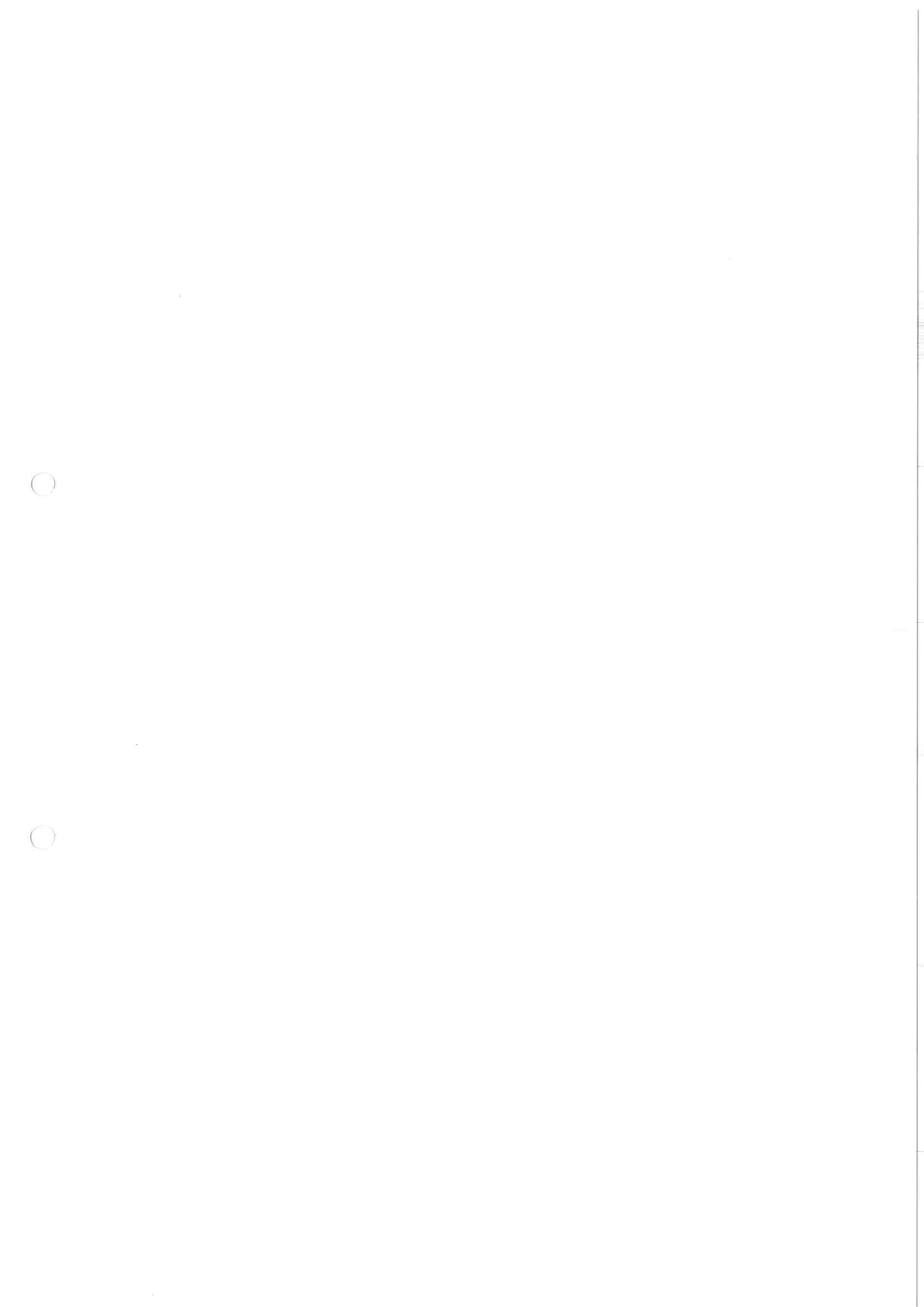


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SCHEDULES

- 1. DEFINITIONS**
- 2. SETTLEMENT TERMS**
- 3. VALUATION PROCESS FOR COMMERCIAL REDRESS PROPERTIES**
- 4. POTENTIAL RFR PROPERTIES/ LAND**

1 BACKGROUND

Mandate and terms of negotiation

- 1.1 Ngāti Rehua-Ngāti Wai ki Aotea (the **settling group**) through a series of hui in September 2009 gave the mandated negotiators a mandate to negotiate with the Crown a deed of settlement settling the historical claims of the settling group.
- 1.2 The Crown recognised this mandate on 16 December 2009.

Nature and scope of deed of settlement agreed

- 1.3 The mandated negotiators and the Crown have agreed, in principle, the nature and scope of the deed of settlement.
- 1.4 This agreement in principle records that agreement.

Approval and signing of this agreement in principle

- 1.5 The settling group have –
 - 1.5.1 approved this agreement in principle; and
 - 1.5.2 authorised the mandated negotiators to sign it on their behalf.

2 AGREEMENT IN PRINCIPLE

- 2.1 The settling group and the Crown agree –
 - 2.1.1 that, in principle, the nature and scope of the deed of settlement is to be as provided in this agreement in principle; and
 - 2.1.2 to work together in good faith to develop, as soon as reasonably practicable, a deed of settlement based on this agreement in principle; and
 - 2.1.3 the deed of settlement is to be signed by or on behalf of the settling group, the governance entity, and the Crown.

3 HISTORICAL ACCOUNT, ACKNOWLEDGEMENT, AND APOLOGY

- 3.1 The deed of settlement is to include –
 - 3.1.1 an agreed account of the historical relationship between the settling group and the Crown based on the headings set out in Table 1 to be developed by the parties; and

3.1.2 the Crown's acknowledgement of its breaches of the Treaty of Waitangi referred to in the Historical Account; and

3.1.3 a Crown apology for those breaches of the Treaty of Waitangi.

TABLE 1: Headings for Ngāti Rehua- Ngāti Wai ki Aotea Historical Account

1	Ngāti Rehua – Ngāti Wai ki Aotea
2	Old Land Claims
3	Pre-emption Waiver Claims
4	Crown Purchases 1854-1856
5	Native Land Court and Land Alienation 1871-1900
6	Socio-Economic Consequences - Ngāti Rehua-Ngāti Wai ki Aotea to present
7	Twentieth Century Land Administration and other issues

4 SETTLEMENT

Settlement of historical claims

4.1 The deed of settlement is to provide that, on and from the settlement date, -

4.1.1 the historical claims of the settling group are settled; and

4.1.2 the Crown is released and discharged from all obligations and liabilities in respect of the historical claims; and

4.1.3 the settlement is final.

4.2 The definitions of the historical claims, and of the settling group, are to be based on the definitions of those terms in schedule 1.

Redress

4.3 The deed of settlement is to provide for redress in accordance with this agreement in principle.

- 4.4 However, the deed of settlement will include –
- 4.4.1 redress contemplated by this agreement in principle (and, in particular, the Right of First Refusal) only if any overlapping claim issues with the Marutūāhu iwi, or any other iwi, in relation to the redress have been addressed to the Crown's satisfaction; and
 - 4.4.2 a property that this agreement in principle specifies as a potential cultural property or a potential commercial redress property, only if the Crown provides final written confirmation to the settling group that the property is available for settlement.
- 4.5 The final area of sites available for transfer as potential cultural redress properties will be determined between agreement in principle and deed of settlement.
- 4.6 If a property is not available, the Crown will not necessarily offer another property.

Transfer or vesting of settlement properties

- 4.7 The settlement documentation is to provide that the vesting or transfer of –
- 4.7.1 a redress property will be subject to –
 - (i) any further identification and/or survey required; and
 - (ii) Part 4A of the Conservation Act 1987 (unless the settlement documentation provides otherwise); and
 - (iii) sections 10 and 11 of the Crown Minerals Act 1991; and
 - (iv) any relevant provisions included in the settlement documentation; and
 - (v) where that property is listed in Schedule 4 of the Crown Minerals Act 1991, protection from mining on terms similar to those in section 61(1A)(a) of the Crown Minerals Act 1991;
 - 4.7.2 a redress property will be subject to any encumbrance or right that –
 - (i) the disclosure information for that property provides will exist at the settlement date; or
 - (ii) the settlement documentation requires to be created on or before the settlement date; or
 - (iii) is entered into on or before the settlement date in accordance with the settlement documentation.

5 CULTURAL REDRESS

Potential cultural redress properties

- 5.1 The deed of settlement is to provide that the settlement legislation will vest in the governance entity at the settlement date those properties described in Table 2 as potential cultural redress properties that the parties agree are to be cultural redress properties.
- 5.2 If the parties agree a potential cultural redress property is to be vested as a cultural redress property, it will be vested in the governance entity on the basis provided in Table 2.

TABLE 2: Potential cultural redress properties

	Name of site	General description of redress	Basis on which property is to be vested
1.	Mokohinau Islands Scenic and Nature Reserves	Transfer and gift back	Transfer and gift back to be on similar terms to those in recent historical Treaty of Waitangi settlements
2.	Rakitu Island Scenic Reserve	The transfer of culturally significant sites. To explore co-governance.	Subject to conditions to protect its conservation values in perpetuity, including: Crown reversionary interest Scenic Reserve Status Protection from mining on terms similar to those in section 61(1A)(a) of the Crown Minerals Act 1991
3.	Hirakimatā/ Mt Hobson in the Great Barrier Forest Conservation Area and Hirakimatā / Kaitoke Swamp Ecological Area	The transfer of approximately 100 hectares encompassing Hirakimatā /Mount Hobson	Transfer subject to reaching an appropriate management agreement with the Department of Conservation
4.	Ōkiwi Recreation Reserve	The transfer of up to 50 hectares	Conservation covenant
5.	Te Atamira Scenic Reserve	The transfer of the site.	Scenic Reserve Status or covenant
6.	Pā Point Recreation Reserve	The transfer of the reserve.	Recreation Reserve Status
7.	Matarehu Pā – Great Barrier Conservation Area	The transfer of a pā site.	Conservation covenant Subject to identifying location of site
8.	Awana Bay Recreation Reserve	The transfer of a pā site	Site must not be within camping area Recreation Reserve Status or conservation covenant

9.	Pukerangiora Pā – Great Barrier Conservation Area	The transfer of a pā site	Conservation covenant Subject to identifying location of site
10.	Rangiwahakaea Bay pā sites – adjacent to Te Paparahi Conservation Area	The transfer of up to two pā sites	Conservation covenant Subject to identifying location of site

Statutory acknowledgements

5.3 The deed of settlement is to provide for the settlement legislation to -

5.3.1 provide the Crown's acknowledgement of the statements by the settling group of their particular cultural, spiritual, historical, and traditional association with each of the areas described in Table 3 as statutory areas, to the extent those areas are owned and managed by the Crown; and

5.3.2 require relevant consent authorities, the Environment Court, and the Historic Places Trust to have regard to the statutory acknowledgement; and require relevant consent authorities to forward to the governance entity summaries of resource consent applications affecting a statutory area; and require relevant consent authorities to forward to the governance entity a copy of a notice of a resource consent application served on the consent authority under section 145(1) of the Resource Management Act 1991; and enable the governance entity, and any member of the settling group, to cite the statutory acknowledgement as evidence of the settling group's association with a statutory area.

TABLE 3: Statutory Areas (being areas to which the Statutory Acknowledgement is to apply)

1.	Mokohinau Islands Scenic and Nature Reserves
2.	Rakitu Island Scenic Reserve (portion not transferred)
3.	Wai Te Puia, within Great Barrier Forest Conservation Area
4.	Ahumata Maunga, within Great Barrier Forest Conservation Area
5.	Hauturu/ Little Barrier Island Nature Reserve
6.	Kaitoke Beach marginal strip
7.	Poutekorua, within Tryphena Scenic Reserve and St Paul Conservation Area
8.	Whangapoua Conservation Area

Deeds of recognition

- 5.4 The deed of settlement is to require that, on the settlement date, the Crown provide the governance entity with the deeds of recognition referred to in 5.6.3.
- 5.5 The deeds of recognition will relate to the statutory areas, to the extent those areas are owned and managed by the Crown.
- 5.6 A deed of recognition will require the Minister of Conservation and the Director-General of Conservation, or the Commissioner of Crown Lands, as the case may be, when undertaking certain activities within an statutory area, to -
- 5.6.1 consult the governance entity; and
 - 5.6.2 have regard to its views concerning the settling group's association with the statutory area as described in a statement of association.
 - 5.6.3 a deed of recognition (signed by the Minister, and the Director-General, of Conservation) will apply in relation to the following statutory areas:
 - (i) Mokohinau Islands Scenic and Nature Reserves:
 - (ii) Rakitu Island Scenic Reserve (portion not transferred):
 - (iii) Wai Te Puia, within Great Barrier Forest Conservation Area:
 - (iv) Ahumata Maunga, within Great Barrier Forest Conservation Area:
 - (v) Hauturu/ Little Barrier Island Nature Reserve:
 - (vi) Kaitoke Beach marginal strip:
 - (vii) Poutekorua, within Tryphena Scenic Reserve and St Paul Conservation Area:
 - (viii) Whangapoua Conservation Area.

Protocols

- 5.7 The deed of settlement is to require that, on the settlement date, the responsible Minister or Ministry, being the Minister or Ministry named in Table 4, will issue the governance entity with the protocol or letter of recognition referred to in Table 4.
- 5.8 A protocol or letter of recognition will provide for the Crown's interaction with the governance entity in relation to specified matters.

Table 4: Protocols and letters of recognition

1.	A protocol issued by the Minister of Energy and Resources
2.	A protocol issued by the Minister for Culture and Heritage
3.	A letter of recognition issued by the Ministry of Fisheries

Potential new and altered geographic names

- 5.9 The deed of settlement is to provide for the settlement legislation to –
- 5.9.1 assign to the locations identified in the deed those of the geographic names that the parties and the New Zealand Geographic Board or the Minister for Treaty of Waitangi Negotiations agree are to be new geographic names; and/or
 - 5.9.2 alter the existing geographic names to the new geographic names if the parties and the New Zealand Geographic Board or the Minister for Treaty of Waitangi Negotiations agree to that alteration.

Other potential cultural redress

- 5.10 The Crown will also:
- 5.10.1 explore the creation of a statutory kaitiaki/guardian role appointed by Ngāti-Rehua-Ngāti Wai ki Aotea to provide advice directly to the Minister of Conservation on the management of muttonbird on the Mokohinau Islands Scenic and Nature Reserves;
 - 5.10.2 explore changes to access and camping arrangements on the Mokohinau Islands and Nature Reserves;
 - 5.10.3 explore whether there are any issues with the current Grey-Faced Petrel (Northern Muttonbird) Notice 1979 providing for muttonbird harvesting with a view to facilitating amendments if necessary and outside settlement legislation;
 - 5.10.4 explore statutory acknowledgements over Kaiaraara stream and Kaitoke creek, on Aotea/Great Barrier Island;
 - 5.10.5 commission advice on the legal status of the outlying rocks and small islands surrounding the Mokohinau Islands Scenic and Nature Reserves;
 - 5.10.6 explore options to recognise Ngāti Rehua-Ngāti Wai ki Aotea's association with any Department of Conservation administered sites on Aotea/Great Barrier Island where administration is to be formally transferred to Auckland Council and the site is particularly significant to Ngāti Rehua-Ngāti Wai ki Aotea. This will be in consultation with Auckland Council;

- 5.10.7 explore co-governance arrangements over those Department of Conservation managed lands that are not transferred to Ngāti Rehua-Ngāti Wai ki Aotea; and
- 5.10.8 facilitate discussions with Ngāti Manuhiri on how the co-governance of Hauturu/Little Barrier Island Nature Reserve can include Ngāti Rehua-Ngāti Wai ki Aotea and how Ngāti Rehua-Ngāti Wai ki Aotea's interest can be reflected in the whare taonga Ngāti Manuhiri plan to erect on the Nature Reserve.

Cultural redress generally non-exclusive

- 5.11 The Crown may do anything that is consistent with the cultural redress contemplated by this agreement in principle including entering into, and giving effect to, another settlement that provides for the same or similar cultural redress.
- 5.12 However, the Crown must not enter into another settlement that provides for the same redress as set out in Table 2.

6 FINANCIAL AND COMMERCIAL REDRESS

Financial and commercial redress amount

- 6.1 The deed of settlement is to provide that the Crown will pay the governance entity on the settlement date the financial and commercial redress amount of **\$4.6 million** less –
- 6.1.1 the total of the market values (determined in accordance with the valuation process in the schedules) of the properties that the deed of settlement provides are commercial redress properties to be transferred to the governance entity on the settlement date.

Potential commercial redress properties

- 6.2 If a commercial redress property to be transferred to the governance entity –
- 6.2.1 is a leaseback commercial redress property, the deed of settlement is to provide the property is to be leased back by the governance entity to the Crown, from the settlement date:
- (i) on the terms and conditions provided by a registrable ground lease for that property (ownership of the Lessee's improvements remaining with the Lessee) incorporated in the deed; and
 - (ii) if the Crown leaseback is to the Ministry of Education, at an initial annual rental determined in accordance with the Crown leaseback (excluding GST).
- 6.3 The Crown and Ngāti Rehua-Ngāti Wai ki Aotea will explore the sale and leaseback of the land only of one of the properties in Table 5.

TABLE 5: Ministry of Education properties

	Property Name	Address	Valuation	Conditions
1.	Kaitoke Primary School	Kaitoke Lane, Claris, Great Barrier Island	Separate Valuation	Land beneath the school house(s) which are located on the school site will not be included in the sale and leaseback. Note the specific location of the house(s) requires further investigation.
2.	Mulberry Grove School	271 Shoal Bay Road, Tryphena, Great Barrier Island	Separate Valuation	Land beneath the school house(s) which are located on the school site will not be included in the sale and leaseback. Note the specific location of the house(s) requires further investigation Sale and leaseback will not include the vacant site associated with this school, being the Mulberry Grove No2 site
3.	Okiwi Primary School	Aotea Road, Okiwi, Great Barrier Island	Separate Valuation	Land beneath the school house(s) which are located on the school site will not be included in the sale and leaseback. Note the specific location of the house(s) requires further investigation

RFR

6.4 The settlement documentation is to provide that –

6.4.1 the governance entity has a right of first refusal (an RFR) in relation to a disposal by the Crown of any of the properties or land described in schedule 4 as potential RFR properties or land that the parties agree is to be RFR properties or land if, on the settlement date, it is owned by the Crown; and

6.4.2 the RFR will apply for 170 years from the settlement date.

7 INTEREST AND TAX

Interest

7.1 The deed of settlement is to provide for the Crown to pay to the governance entity, on the settlement date, interest on the financial and commercial redress amount -

7.1.1 for the period –

(i) beginning on the date of this agreement in principle; and

- (ii) ending on the day before the settlement date; and
- 7.1.2 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.
- 7.2 The interest is to be -
 - 7.2.1 subject to any tax payable; and
 - 7.2.2 payable after withholding any tax required by legislation to be withheld.

Tax

- 7.3 Subject to the Minister of Finance's consent, the deed of settlement is to provide that the Crown must indemnify the governance entity for –
 - 7.3.1 any GST or income tax payable in respect of the provision of Crown redress; and
 - 7.3.2 any gift duty payable in respect of –
 - (i) cultural redress; or
 - (ii) the right to purchase RFR properties or land.
- 7.4 The governance entity agrees that neither it, nor any other person, will claim with respect to the provision of Crown redress -
 - 7.4.1 an input credit for GST purposes; or
 - 7.4.2 a deduction for income tax purposes.

8 NEXT STEPS

Disclosure information

- 8.1 The Crown will, as soon as reasonably practicable, prepare, and provide to the settling group, disclosure information in relation to -
 - 8.1.1 each potential cultural redress property; and
 - 8.1.2 each potential commercial redress property.

Resolution of outstanding matters

- 8.2 The parties will work together in good faith to agree, as soon as reasonably practicable, all matters necessary to complete the deed of settlement including agreeing on, or determining, as the case may be, -

- 8.2.1 the terms of –
- (a) the Historical Account; and
 - (b) the Crown’s Acknowledgement and Apology of its breaches of the Treaty of Waitangi; and
- 8.2.2 the cultural redress properties, the commercial redress properties and the RFR properties or land from the potential properties or land provided in the schedules; and
- 8.2.3 the transfer values of the commercial redress properties (in accordance with the valuation process in the schedules); and
- 8.2.4 the terms of any new and altered geographic names; and
- 8.2.5 the terms of the following (which will, where appropriate, be based on the terms provided in settlement documentation):
- (a) the cultural redress;
 - (b) the transfer of the commercial redress properties;
 - (c) a registrable ground lease for any leaseback property;
 - (d) if it is a leaseback property, its initial market rental or annual rental for a Ministry of Education leaseback property;
 - (e) the RFR, including the circumstances in which RFR properties or land may be disposed of without the RFR applying;
 - (f) the tax indemnity; and
- 8.2.6 the following documents:
- (a) the settling group’s statements of association with each of the statutory areas;
 - (b) the deeds of recognition;
 - (c) the protocols;
 - (d) the settlement legislation; and
- 8.2.7 all other necessary matters.

Development of governance entity and ratification process

- 8.3 The settling group will, as soon as reasonably practicable, -

- 8.3.1 form a single governance entity that the Crown is satisfied meets the requirements of clause 9.1.2(a); and
- 8.3.2 develop a ratification process referred to in clause 9.1.2(b) that is approved by the Crown.

9 CONDITIONS

Entry into deed of settlement conditional

9.1 The Crown's entry into a deed of settlement is subject to –

9.1.1 Cabinet agreeing to the settlement and the redress; and

9.1.2 the Crown being satisfied the settling group has –

- (i) established a governance entity that –
 - (i) is appropriate to receive the redress; and
 - (ii) provides, for the settling group, –
 - (I) appropriate representation; and
 - (II) transparent decision-making and dispute resolution processes; and
 - (III) full accountability; and
- (ii) approved, by a ratification process approved by the Crown, –
 - (i) the governance entity to receive the redress; and
 - (ii) the settlement on the terms provided in the deed of settlement; and
 - (iii) signatories to sign the deed of settlement on the settling group's behalf.

Settlement conditional on settlement legislation

9.2 The deed of settlement is to provide that the settlement is conditional on settlement legislation coming into force.

9.3 However, some of the provisions of the deed of settlement may be binding from its signing.

10 GENERAL

Nature of this agreement in principle

10.1 This agreement in principle –

10.1.1 is entered into on a without prejudice basis; and

10.1.2 in particular, may not be used as evidence in proceedings before, or presented to, the Waitangi Tribunal, any court, or any other judicial body or tribunal; and

10.1.3 is non-binding; and

10.1.4 does not create legal relations.

Termination of this agreement in principle

10.2 The Crown or the mandated negotiators, on behalf of the settling group, may terminate this agreement in principle by notice to the other.

10.3 Before terminating this agreement in principle, the Crown or the mandated negotiators, as the case may be, must give the other at least 20 business days notice of an intention to terminate.

10.4 This agreement in principle remains without prejudice even if it is terminated.

Definitions

10.5 In this agreement in principle –

10.5.1 the terms defined in schedule 1 have the meanings given to them by that schedule; and

10.5.2 all parts of speech, and grammatical forms, of a defined term have a corresponding meaning.

Interpretation

10.6 In this agreement in principle -

10.6.1 headings are not to affect its interpretation; and

10.6.2 the singular includes the plural and vice versa.

10.7 Provisions in –

10.7.1 the schedules to this agreement in principle are referred to as paragraphs; and

10.7.2 other parts of this agreement are referred to as clauses.

SCHEDULES

1 DEFINITIONS

Historical claims

1.1 The deed of settlement will provide that **historical claims** -

1.1.1 means every claim (whether or not the claim has arisen or been considered, researched, registered, notified, or made by or on the settlement date) that the settling group, or a representative entity, had at, or at any time before, the settlement date, or may have at any time after the settlement date, and that -

- (a) is, or is founded on, a right arising -
 - (i) from the Treaty of Waitangi or its principles; or
 - (ii) under legislation; or
 - (iii) at common law, including aboriginal title or customary law; or
 - (iv) from fiduciary duty; or
 - (v) otherwise; and
- (b) arises from, or relates to, acts or omissions before 21 September 1992 -
 - (i) by, or on behalf of, the Crown; or
 - (ii) by or under legislation; and

1.1.2 includes every other claim to the Waitangi Tribunal to which paragraph 1.1.1 applies, so far as it relates to the settling group or a representative entity, including the following claims:

- (a) Wai 678;
- (b) Wai 1545;
- (c) Wai 1721;
- (d) Wai 1960;
- (e) Claim lodged by Lynette Hoey "awaiting claim registration";
- (f) Wai 1711; and
- (g) Wai 1544; but

1.1.3 does not include the following claims -

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- (a) a claim that a member of the settling group, or a whānau, hapū, or group referred to in paragraph 1.3.2, may have that is, or is founded on, a right arising as a result of being descended from an ancestor who is not referred to in paragraph 1.3.1; and/ or
- (b) a claim that a representative entity may have to the extent the claim is, or is founded, on a claim referred to in clause 1.1.3(a).

1.2 The deed of settlement will, to avoid doubt, provide paragraph 1.1.1 is not limited by paragraphs 1.1.2 or 1.1.3.

Ngāti Rehua-Ngāti Wai ki Aotea

1.3 The deed of settlement will provide Ngāti Rehua-Ngāti Wai ki Aotea or the **settling group** means -

1.3.1 the collective group composed of individuals who descend from one or more of the settling group's ancestors; and

1.3.2 every whānau, hapū, or group to the extent that it is composed of individuals referred to in paragraph 1.3.1, and

1.3.3 every individual referred to in paragraph 1.3.1.

1.4 The deed of settlement will provide, for the purposes of paragraph 1.3.1, -

1.4.1 a person is **descended** from another person if the first person is descended from the other by -

(a) birth; or

(b) legal adoption; or

(c) Māori customary adoption in accordance with the settling group's tikanga (customary values and practices); and

1.4.2 **settling group's ancestor** means Rehua, Te Awe or Ranginui, being the primary tupuna of Ngāti Rehua-Ngāti Wai ki Aotea; and

1.4.3 **customary rights** means rights according to tikanga Māori (Māori customary values and practices), including -

(a) rights to occupy land; and

(b) rights in relation to the use of land or other natural or physical resources.

Other definitions

1.5 In this agreement in principle –

business day means a day that is not –

AGREEMENT IN PRINCIPLE - SCHEDULE 1

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

commercial redress property means each property described as a commercial redress property in the deed of settlement; and

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

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

Crown leaseback, in relation to a leaseback of commercial redress property, means the lease to be entered into by the governance entity and the Crown under part 6; 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 any right of the governance entity under the settlement documentation of first refusal in relation to RFR properties or land; but
- (c) does not include an obligation of the Crown under the settlement documentation to transfer RFR properties or land.

cultural redress means the redress to be provided under the settlement documentation referred to in part 5; and

cultural redress property means each property described as a cultural redress property in the deed of settlement; and

deed of settlement means the deed of settlement to be developed under clause 2.1.2; and

disclosure information, in relation to a redress property, means the information provided by the Crown to the governance entity under clause 8.1; and

AGREEMENT IN PRINCIPLE - SCHEDULE 1

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

financial and commercial redress means the redress to be provided under the settlement documentation referred to in part 6; and

financial and commercial redress amount means the amount referred to as the financial and commercial redress amount in part 6; and

governance entity means the governance entity to be formed by the settling group under clause 8.3.1; and

leaseback commercial redress property means a potential commercial redress property that part 6 identifies as a leaseback property; and

lessee's improvements, in relation to a potential commercial redress property, will have the meaning given to it in the Crown leaseback for the property; and

mandated negotiators means –

- (a) the following individuals:
 - (i) Michael Beazley;
 - (ii) Valmaine Toki, lecturer of Auckland; and
 - (iii) Spencer Webster, lawyer of Tauranga; or
- (b) if one or more individuals named in paragraph (a) dies, or becomes incapacitated, the remaining individuals; and

Māori land claims protection legislation means the following sections:

- (a) 8A to 8HJ of the Treaty of Waitangi Act 1975;
- (b) 27A to 27C of the State-Owned Enterprises Act 1986;
- (c) 211 to 213 of the Education Act 1989;
- (d) 35 to 37 of the Crown Forest Assets Act 1989;
- (e) 38 to 40 of the New Zealand Railways Corporation Restructuring Act 1990; and

offer letter means this letter containing the redress the Crown and Ngāti Rehua – Ngāti Wai ki Aotea have agreed to, in principle, for the settlement of the historical claims; and

party means each of the settling group and the Crown; and

AGREEMENT IN PRINCIPLE - SCHEDULE 1

potential commercial redress property means each property described as a potential commercial redress property in part 6; and

potential cultural redress property means each property described as a potential cultural redress property in part 5; and

potential RFR properties or land means the properties and/ or land described in schedule 4; and

protocol means a protocol referred to in part 5; and

redress means the following to be provided under the settlement documentation –

- (a) the Crown's acknowledgment and apology referred to in clause 3.1;
- (b) the financial and commercial redress;
- (c) the cultural redress; and

redress property means-

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

representative entity means a person or persons acting for or on behalf of the settling group; and

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

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

RFR means the right of first refusal referred to in clause 6.4; and

separate valuation property is a property referred to in Table 5; and

settlement means the settlement of the historical claims under the settlement documentation; and

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

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

AGREEMENT IN PRINCIPLE - SCHEDULE 1

settlement documentation means the deed of settlement and the settlement legislation; and

settlement legislation means the legislation giving effect to the deed of settlement; and

settlement property means -

- (a) each cultural redress property; and
- (b) each commercial redress property; and
- (c) any RFR properties or land; and

statement of association means each statement of association referred to in clause 5.3.1; and

statutory acknowledgement means the acknowledgement to be made by the Crown in the settlement legislation referred to in clause 5.3.1 on the terms to be provided by the settlement legislation; and

statutory area means an area referred to in part 5 as a statutory area; and

tax indemnity means the indemnity to be provided in the deed of settlement under clauses 7.3 and 7.4; and

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

valuation date has the meaning given to it by paragraph 3.2 of the schedule in relation to a separate valuation property.

2 SETTLEMENT TERMS

Rights unaffected

- 2.1 The deed of settlement is to provide that, except as provided in the settlement documentation, the rights and obligations of the parties will remain unaffected.

Acknowledgments

- 2.2 Each party to the deed of settlement is to acknowledge in the deed of settlement that –
- 2.2.1 the other parties have acted honourably and reasonably in relation to the settlement; but
 - 2.2.2 full compensation of the settling group is not possible; and
 - 2.2.3 the settling group intends their foregoing of full compensation to contribute to New Zealand's development; and
 - 2.2.4 the settlement is intended to enhance the ongoing relationship between the settling group and the Crown (in terms of the Treaty of Waitangi, its principles, and otherwise).
- 2.3 The settling group is to acknowledge in the deed of settlement that –
- 2.3.1 taking all matters into consideration (some of which are specified in paragraph 2.2), the settlement is fair in the circumstances; and
 - 2.3.2 the redress –
 - (a) is intended to benefit the settling group collectively; but
 - (b) may benefit particular members, or particular groups of members, of the settling group if the governance entity so determines in accordance with the governance entity's procedures.

Implementation

- 2.4 The deed of settlement is to provide the settlement legislation will, on terms agreed by the parties (based on the terms in settlement legislation), –
- 2.4.1 settle the historical claims; and
 - 2.4.2 exclude the jurisdiction of any court, tribunal, or other judicial body in relation to the historical claims and the settlement; and
 - 2.4.3 provide that the Māori land claims protection legislation does not apply -
 - (a) to a redress property or any RFR properties or land; or
 - (b) for the benefit of the settling group or a representative entity; and

AGREEMENT IN PRINCIPLE – SCHEDULE 2

- 2.4.4 require any resumptive memorials to be removed from the certificates of title to, or the computer registers for, the settlement properties; and
 - 2.4.5 provide that the rule against perpetuities and the Perpetuities Act 1964 do not apply to any settlement document; and
 - 2.4.6 require the Secretary for Justice to make copies of the deed of settlement publicly available.
- 2.5 The deed of settlement is to provide –
- 2.5.1 the governance entity must use its best endeavours to ensure every historical claim made in a court, tribunal or judicial body other than the Waitangi Tribunal is discontinued by the settlement date or as soon as practicable afterwards; and
 - 2.5.2 the Crown may, after the settlement date, -
 - (a) advise the Waitangi Tribunal (or any other tribunal, court, or judicial body) of the settlement; and
 - (b) cease any land bank arrangement in relation to the settling group, the governance entity, or any representative entity, except to the extent necessary to comply with its obligations under the deed of settlement.

3 VALUATION PROCESS FOR COMMERCIAL REDRESS PROPERTIES

Determining the Market Value and Market Rental of a Separate Valuation Property

APPLICATION OF THIS SUBPART

3.1 This subpart provides how the following are to be determined in relation to a potential commercial redress property that part 6 provides is to be separately valued (**a separate valuation property**):

3.1.1 its market value; and

3.1.2 if it is a leaseback property and the Crown leaseback is to a department other than the Ministry of Education, its market rental.

3.2 The market value, and if applicable the market rental, are to be determined as at a date agreed upon in writing by the parties (the **valuation date**).

3.3 These instructions may be modified to apply to more than one separate valuation property. The references to the determination of market rental, and to a leaseback, must be deleted if the property is not a leaseback property or is being leased back to the Ministry of Education.

APPOINTMENT OF VALUERS AND VALUATION ARBITRATOR

3.4 The parties must, not later than [date][number]business days after agreeing in writing that the property is to be valued under this part -

3.4.1 each –

(a) instruct a valuer using the form of instructions in Appendix 1; and

(b) give written notice to the other of the valuer instructed; and

3.4.2 agree upon and jointly appoint one person to act as the valuation arbitrator.

3.5 If the parties do not jointly appoint a valuation arbitrator in accordance with paragraph 3.4.2, either party may request that the Arbitrators' and Mediators' Institute of New Zealand appoint the valuation arbitrator as soon as is reasonably practicable.

QUALIFICATION OF VALUERS AND VALUATION ARBITRATOR

3.6 Each valuer must be a registered valuer.

3.7 The valuation arbitrator –

3.7.1 must be suitably qualified and experienced in determining disputes about –

(a) the market value of similar properties; and

(b) if applicable, the market rental of similar properties; and

3.7.2 is appointed when he or she confirms his or her willingness to act.

VALUATION REPORTS

- 3.8 Each valuer must, not later than [number] business days after being instructed -
- 3.8.1 prepare a draft valuation report in accordance with the valuation instructions; and
 - 3.8.2 provide a copy of his or her final valuation report to –
 - (a) each party; and
 - (b) the other valuer.

MARKET VALUE AND MARKET RENTAL

- 3.9 If only one valuation report is delivered by the required date, the market value of the separate valuation property, and if applicable its market rental, is as assessed in the supplied report.
- 3.10 If both valuation reports are delivered by the required date, -
- 3.10.1 the parties must endeavour to agree in writing –
 - (a) the market value of the separate valuation property; and
 - (b) if applicable, its market rental; and
 - 3.10.2 either party may if the market valuation of the separate valuation property and, if applicable, its market rental, is not agreed in writing within [number] business days after the parties have agreed in writing the property is to be valued, refer that matter to the determination of the valuation arbitrator.

VALUATION ARBITRATION

- 3.11 The valuation arbitrator must, not later than [number] business days after the date the matter is referred to the arbitrator's determination (the **arbitration commencement date**), –
- 3.11.1 give notice to the parties of the arbitration meeting, which must be held –
 - (a) at a date, time and venue determined by the valuation arbitrator after consulting with the parties; but
 - (b) not later than [number] business days after the arbitration commencement date; and
 - 3.11.2 establish the procedure for the arbitration meeting, including providing each party with the right to examine and re-examine, or cross-examine, as applicable, –
 - (a) each valuer; and
 - (b) any other person giving evidence.
- 3.12 Each party must –

AGREEMENT IN PRINCIPLE – SCHEDULE 3

- 3.12.1 not later than 5 pm on the day that is [number] business days before the arbitration meeting, give to the valuation arbitrator, the other party, and the other party's valuer –
- (a) its valuation report; and
 - (b) its submission; and
 - (c) any sales, rental, or expert evidence that it will present at the meeting; and
- 3.12.2 attend the arbitration meeting with its valuer.
- 3.13 The valuation arbitrator must –
- 3.13.1 have regard to the requirements of natural justice at the arbitration meeting; and
- 3.13.2 no later than [number] business days after the arbitration commencement date, give his or her determination -
- (a) of the market value of the separate valuation property and, if applicable, of its market rental; and
 - (b) being no higher than the higher, and no lower than the lower, assessment of market value and/or market rental, as the case may be, contained in the parties' valuation reports.
- 3.14 An arbitration under this subpart is an arbitration for the purposes of the Arbitration Act 1996.

MARKET VALUE AND MARKET RENTAL

- 3.15 The market value of the separate valuation property, and if applicable its initial market rental, is the market value and/or market rental -
- 3.15.1 determined under paragraph 3.9; or
 - 3.15.2 agreed under paragraph 3.10; or
 - 3.15.3 determined by the valuation arbitrator under paragraph 3.13.2.

GENERAL PROVISIONS

Costs

- 3.16 In relation to the determination of –
- 3.16.1 the market value, and market rental, of a joint valuation, the Crown must pay the valuer's costs; and
 - 3.16.2 the market value, and market rental, of a separate valuation property, each party must pay -
 - (a) its costs; and
 - (b) half the costs of a valuation arbitration; or

AGREEMENT IN PRINCIPLE – SCHEDULE 3

- (c) such other proportion of the costs of a valuation arbitration awarded by the valuation arbitrator as the result of a party's unreasonable conduct.

AGREEMENT IN PRINCIPLE – APPENDIX 1

APPENDIX 1

[Note: These instructions may be modified to apply to more than one separate valuation property. The references to the determination of market rental, and to a leaseback, must be deleted if the property is not a leaseback property or is being leased back to the Ministry of Education.]

[Valuer's name]

[Address]

Valuation instructions

INTRODUCTION

[Name] (the settling group) and the Crown have entered into an agreement in principle to settle the settling group's historical claims dated [date] (the agreement in principle).

The market value [, and the market rental,] of the following property is to be determined under schedule 3 to that agreement in principle -

[describe the property including its legal description]

AGREEMENT IN PRINCIPLE

A copy of the agreement in principle is enclosed and your attention is drawn to schedule 3. All references in this letter to subparts or paragraphs are to subparts or paragraphs of schedule 3.

A term defined in the agreement in principle has the same meaning when used in these instructions.

The property is a separate valuation property for the purposes of schedule 3.

VALUATION REQUIRED

You are required to undertake a valuation to assess the market value of the property as at [date] (the valuation date).

AGREEMENT IN PRINCIPLE – APPENDIX 1

[As the property is a leaseback property and the Crown leaseback is to a department other than the Ministry of Education, –

- (a) the market value of the property is to be the market value of its land only (as ownership of the Crown's improvements remains with the Crown); and
- (b) you must also assess the market rental of the property as at the valuation date.]

The [land holding agency][governance entity][delete one] will require another registered valuer to assess the market value of the property [,and its market rental,] at the valuation date.

The two valuations are to enable the market value of the property [, and its market rental,] to be determined either -

- (a) by agreement between the parties; or
- (b) by arbitration.

VALUATION PROCESS

You must -

- (a) before inspecting the property, agree with the other valuer -
 - (i) the valuation method applicable to the property; and
 - (ii) the comparable sales [,and market rentals,] to be used in determining the value of the property [and its market rental]; and
- (b) inspect the property together with the other valuer; and
- (c) attempt to resolve by the following day any matters or issues arising from your inspections; and
- (d) by not later than [30] business days after the date of these instructions,
 - (i) prepare a draft valuation report; and

AGREEMENT IN PRINCIPLE – APPENDIX 1

- (ii) provide a copy of that report to us; and
- (e) by not later than [50] business days after the date of these instructions –
 - (i) review your draft valuation report, after taking into account any comments made by us or a peer review of the report obtained by us; and
 - (ii) deliver a copy of your final valuation report to both parties and the valuer instructed by the other party; and
- (f) participate in any arbitration process required under schedule 3 to determine the market value [,and the market rental,] of the property.

REQUIREMENTS FOR YOUR VALUATION

Our requirements for your valuation are as follows.

You are to assume that -

- (a) the property is a current asset and was available for immediate sale as at the valuation date; and
- (b) all legislative processes that the Crown must meet before disposing of the property have been met.

Your valuation is -

- (a) to assess market value on the basis of market value as defined in the International Valuation Standards contained in the current edition of the Australia and New Zealand Valuation and Property Standards; and
- (b) [as the property is a leaseback property, and ownership of the Crown's improvements remains with the Crown, to assess -
 - (i) market value of the land only, on the basis of that land being subject to a Crown leaseback on the terms attached; and
 - (ii) market rental of the land only, being an annual amount, exclusive of GST, at which the land only would lease back to the Crown on the terms attached, on the basis of a willing lessor and a willing lessee, in an arm's length transaction,

AGREEMENT IN PRINCIPLE – APPENDIX 1

the parties having each acted knowledgeably, prudently, and without compulsion; and]

- (c) to take into account –
 - (i) any encumbrances, interests, or other matters affecting or benefiting the property that were noted on its title on the valuation date; and
 - (ii) the attached disclosure information about the property that has been given by the land holding agency to the governance entity, including the disclosed encumbrances; and
 - (iii) the terms of transfer attached; and
- (d) not to take into account a claim in relation to the property by or on behalf of the settling group.

REQUIREMENTS FOR YOUR VALUATION REPORT

We require a full valuation report in accordance with the current edition of the Australia and New Zealand Valuation and Property Standards, including -

- (a) an executive summary containing a summary of -
- (b) an assessment of the market value of the property (plus GST if any)[, and its market rental,] (exclusive of GST) as at the valuation date; and
- (c) compliance with the minimum requirements as set out in section 5 of the International Valuation Standard 1 Market Value Basis of Valuation and other relevant standards, insofar as they are consistent with subpart B; and
- (d) a clear statement of the land value and of the value of improvements (unless the property is a leaseback property, in which case the value of the Crown's improvements is not required); and
- (e) a clear statement as to any impact of the disclosed encumbrances; and
- (f) details of your assessment of the highest and best use of the property; and
- (g) comment on the rationale of likely purchasers [,and tenants,] of the property; and

AGREEMENT IN PRINCIPLE – APPENDIX 1

- (h) full details of the valuation method; and
- (i) a clear identification of the key variables which have a material impact on the valuation; and
- (j) a detailed description of improvements (unless the property is a leaseback property, in which case a description of the Crown's improvements is not required); and
- (k) appendices setting out -
 - (i) a statement of the valuation methodology and policies; and
 - (ii) relevant market and sales information.

ACCEPTANCE OF THESE INSTRUCTIONS

By accepting these instructions, you agree to comply with these instructions and, in particular, not later than –

- (a) [30] business days after the date of these instructions, to prepare and deliver to us a draft valuation report; and
- (b) [50] business days after the date of these instructions, to -
 - (i) review your draft valuation report after taking into account any comments made by us or a peer review of the report obtained by us; and
 - (ii) deliver a copy of your final valuation report to both parties and the valuer instructed by the other party.

ACCESS

Valuers should not enter onto Ministry of Education properties without first arranging access through the Ministry of Education [contact details] and should not contact schools directly.

AGREEMENT IN PRINCIPLE – APPENDIX 1

OPEN AND TRANSPARENT VALUATION

The parties intend this valuation to be undertaken in an open and transparent manner, and for all dealings and discussions to be undertaken in good faith.

In particular, you must copy any questions you have or receive with regard to the valuation, together with the responses, to the governance entity and the land holding agency.

Yours faithfully

[Name of signatory]

[Position]

[Governance entity/Land holding agency][delete one]

4 POTENTIAL RFR LAND/ PROPERTIES

