

SCHEDULE 1

**COMMERCIAL REDRESS
SCHEDULE**

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DEED OF SETTLEMENT: COMMERCIAL REDRESS SCHEDULE

CONTENTS

SCHEDULE 1 : COMMERCIAL REDRESS SCHEDULE

PART 1 – COMMERCIAL REDRESS PROPERTIES

PART 2 – TERMS OF TRANSFER OF COMMERCIAL REDRESS PROPERTIES

PART 3 – RIGHT OF FIRST REFUSAL OVER CROWN-OWNED LAND IN THE RFR AREA

PART 1 : COMMERCIAL REDRESS PROPERTIES

(Clause 8.3)

DEED OF SETTLEMENT: COMMERCIAL REDRESS SCHEDULE

PART 1: COMMERCIAL REDRESS PROPERTIES

Certificate of Title/Legal Description (All Taranaki Land District)	Street Address	Transfer Value (inclusive of GST (if any))	Encumbrances
Fee simple estate in 0.1363 hectares, more or less, being Lot 5 DP 17096 (Pt Sec 550 Patea District Blk IX Hawera SD) Certificate of Title J2/8	43 Hunter Street, Hawera	\$173,000	Tenancy Agreement, Taranaki Healthcare and Kamini Ferdinando dated 3 August 1998
Fee simple estate in 0.2771 hectares, more or less, being Lot 1 DP 12229 (Pt Sec 25 Patea suburban) Certificate of Title E1/538; Lot 2 DP 12229 (Pt Sec 25 Patea suburban) Certificate of Title E1/539	206 Egmont Street, Patea	\$80,500	<ul style="list-style-type: none"> • Kaumatua Flats Tenancy Agreement Summary Sheet – Mr Neho • Residential Tenancy Agreement, Mere Andersen and Knight Frank dated 25 March 1999 • Kaumatua Flats Tenancy Agreement Summary Sheet – Joseph Tangipo (Senior) • Residential Tenancy Agreement, Joseph Tangipo and Knight Frank dated 26 February 1997 • Residential Tenancy Agreement, Desmond Weherua and Knight Frank dated 7 September 2000 • Residential Tenancy Agreement, Adelaide Collins-Ribbon and Knight Frank dated 18 December 1999 • Tenancy Agreement, Warren James Cassidy and Knight Frank dated 9 February 1997

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DEED OF SETTLEMENT: COMMERCIAL REDRESS SCHEDULE

<p>Fee simple estate in 0.1309 hectares, more or less, being Lots 2 and 3 DP 6943 (Sec 6 and Pt Sec 5 Blk XXVII Town of Patea) Certificate of Title 173/88</p>	<p>29 Norfolk Street, Patea</p>	<p>\$66,000</p>	<ul style="list-style-type: none"> • Tenancy Agreement, Topsy Ngaiwikau Clark and Ministry of Maori Development dated 16 October 1995 • Tenancy Agreement, Patricia Mihi Ngarewa and Ministry of Maori Development dated 2 June 1994 • Residential Tenancy Agreement, Kelvin Perry Luke and Knight Frank dated 8 July 1998 • Residential Tenancy Agreement, Royell Phillip Rudolph and Knight Frank dated 28 February 1999 • Tenancy Agreement, Daniel Nuku and Ministry of Maori Development dated 15 July 1995 • Board of Maori Affairs Tenancy Agreement, Tex Coates dated 2 March 1992
<p>Fee simple estate in 0.1753 hectares, more or less, being Pt Sec 5 Town of Hawera and Sec 1 SO 10405 (Blk IX Hawera SD) Certificate of Title J1/993</p>	<p>35 Morrisey Street, Hawera</p>	<p>\$80,000</p>	<ul style="list-style-type: none"> • Deed of Lease, Her Majesty the Queen and IHC New Zealand Incorporated

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DEED OF SETTLEMENT: COMMERCIAL REDRESS SCHEDULE

Fee simple estate in 0.230 hectares, more or less, being Lot 2 DP 10582 and Pt Lot 2 DP 6800 (Pt Sec 152 Patea District) Certificate of Title J1/802	151 Glover Road, Hawera	\$120,000	
Fee simple estate in 1.28 hectares, more or less, being Pt Sec 9 Town of Manutahi (Blk XIV Hawera SD) Certificate of Title K3/557	Manutahi School, Muggeridge Road, Manutahi	\$90,000	<ul style="list-style-type: none">• Licence to Occupy Ngaati Ruanui Tahua Inc. and Knight Frank dated 22 November 2000

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**PART 2 : TERMS OF TRANSFER OF COMMERCIAL
REDRESS PROPERTIES**

(Clause 8.5.2)

DEED OF SETTLEMENT: COMMERCIAL REDRESS SCHEDULE

PART 2 : TERMS OF TRANSFER OF COMMERCIAL REDRESS PROPERTIES

1. OPERATIVE CLAUSES

- 1.1 The Parties agree that the Crown must transfer the fee simple estate in each Commercial Redress Property to the Governance Entity or, where **clause 8.4** of the Deed applies, to the Ratified Transferee on the terms set out in **Part 8** of the Deed and this **Part 2** of the Commercial Redress Schedule, subject to:
- 1.1.1 all matters noted on the register of title to the Commercial Redress Property at the Date of this Deed; and
- 1.1.2 all other Encumbrances set out in **Part 1** of the Commercial Redress Schedule in relation to that property (including any lease, tenancy, licence or occupancy arrangements granted with the prior consent of the Governance Entity under **paragraph 2.2**).
- 1.2 The Commercial Redress Property will be transferred as Redress and without charge to, or consideration to be provided or paid by, the Governance Entity, the Ratified Transferee or any other person.

2. OBLIGATIONS PRIOR TO TRANSFER

- 2.1 The Crown must maintain the Commercial Redress Property until the Settlement Date to a standard no worse than that which it was in at the Date of this Deed, fair wear and tear excepted.
- 2.2 Between the Date of this Deed and the Settlement Date the Crown must consult with, and obtain the prior consent of, the Governance Entity (that consent not to be unreasonably withheld or delayed) before:
- 2.2.1 agreeing to any material variation in the terms of any tenancy (and before granting any new lease, tenancy, licence or occupancy arrangement) in respect of the Commercial Redress Property; or
- 2.2.2 procuring any consent or waiver materially affecting the Commercial Redress Property in relation to any application under the Resource Management Act 1991 or any other Legislation.
- 2.3 The Crown must, if it carries out works, or gives specific authority in writing for works to be carried out, on the Commercial Redress Property, after the Date of this Deed and before the Settlement Date, for which the Crown must by law obtain a building consent or permit, comply with any obligations imposed on the Crown under the Building Act 1991 in respect of such works.

3. POSSESSION AND SETTLEMENT

- 3.1 On the Settlement Date, possession must be given and taken of the Commercial Redress Property subject to the matters and Encumbrances referred to in **paragraphs 1.1.1 and 1.1.2**.

DEED OF SETTLEMENT: COMMERCIAL REDRESS SCHEDULE

PART 2: TERMS OF TRANSFER OF COMMERCIAL REDRESS PROPERTIES

- 3.2 Subject to paragraph 8, on the Settlement Date the Crown must hand to the Governance Entity:
- 3.2.1 a registrable memorandum of transfer of the Commercial Redress Property (to be prepared by the Crown and, if necessary, signed by the Governance Entity or, where clause 8.4 of the Deed applies, by the Ratified Transferee); and
 - 3.2.2 all other instruments in registrable form which may be required for the purpose of registering the memorandum of transfer, together with all instruments of title and all contracts and other documents which create rights, interests and obligations affecting the registered proprietor's interest and which will continue following settlement.
- 3.3 All outgoings and incomings, excluding insurance premiums, must be apportioned at the Settlement Date.
- 3.4 The Crown must pay all charges for electric power, gas, water, and other utilities due by it as owner of the Commercial Redress Property until the Settlement Date except where those charges are payable by any tenant or occupant directly to the relevant supplier.
- 3.5 The Crown must supply a statement of apportionments to the Governance Entity before the Settlement Date. On the Settlement Date:
- 3.5.1 the Governance Entity must pay to the Crown the amount by which the outgoings (except for insurance premiums) for the Commercial Redress Property prepaid by the Crown in respect of a period after the Settlement Date exceed the incomings received by the Crown for that period; or
 - 3.5.2 the Crown must pay to the Governance Entity the amount by which the incomings received by the Crown in respect of a period after the Settlement Date exceed the outgoings (except for insurance premiums) for the Commercial Redress Property prepaid by the Crown.
- 3.6 Subject to the terms of any occupancy or tenancy of the Commercial Redress Property, the Crown must use reasonable endeavours to obtain permission for the Governance Entity (or any person authorised by the Governance Entity), upon reasonable notice, to enter the Commercial Redress Property on one occasion before the Settlement Date to examine that property.
- 3.7 The Crown must make available to the Governance Entity on the Settlement Date any keys to exterior doors to, and electronic door openers (if any) and/or security codes to alarms (if any) for, the Commercial Redress Property that are in the possession of the Crown at the Settlement Date.
- 3.8 The Commercial Redress Property must be transferred inclusive of all fixtures and fittings that are owned by the Crown and are situated on the Commercial Redress

DEED OF SETTLEMENT: COMMERCIAL REDRESS SCHEDULE

PART 2: TERMS OF TRANSFER OF COMMERCIAL REDRESS PROPERTIES

Property at the Settlement Date and those fixtures and fittings will be free from any charge.

- 3.9 No chattels situated on or about the Commercial Redress Property are included in the transfer of the Commercial Redress Property. Any issue as to the ownership of, and liability for, any such chattels, and any fixtures or fittings owned or installed by any tenant or occupant of the Commercial Redress Property, must be resolved between the Governance Entity and the tenant or occupant (without reference to the Crown).
- 3.10 Any Commercial Redress Property which is not subject to any lease, tenancy, licence to occupy or other right is to be transferred with vacant possession.

4. RISK AND INSURANCE

4.1 The Commercial Redress Property will remain at the sole risk of the Crown until the Settlement Date and, from the Settlement Date, it will remain at the sole risk of the Governance Entity.

4.2 In the event that, prior to the giving and taking of possession, the Commercial Redress Property is destroyed or damaged and such destruction or damage has not been made good by the Settlement Date, then the following provisions will apply:

4.2.1 if the destruction or damage has been sufficient to render the Commercial Redress Property untenable, and it is untenable on the Settlement Date, the Governance Entity may:

- (a) complete the transfer on condition that the Crown pay an amount as alternative redress to the Governance Entity equal to the amount of diminution in value of the Commercial Redress Property as at the Settlement Date; or
- (b) cancel the proposed transfer of the Commercial Redress Property by giving the Crown notice in writing, in which case the Crown will promptly pay as alternative redress to the Governance Entity the Transfer Value in respect of the Commercial Redress Property; or

4.2.2 if the Commercial Redress Property is still tenable on the Settlement Date, the Governance Entity will complete the transfer on the condition that the Crown pay an amount as alternative redress to the Governance Entity equal to the amount of the diminution in value of the Commercial Redress Property as at the Settlement Date; and

4.2.3 either Party may give the other Party notice in writing requiring that any dispute as to the application of this **paragraph 4.2** be determined by an arbitrator to be appointed by the president or vice-president for the time being of the Taranaki District Law Society, and the Party serving the notice may at any time after that refer the dispute to the arbitrator for determination under the Arbitration Act 1996. If the dispute is not determined by the Settlement Date

DEED OF SETTLEMENT: COMMERCIAL REDRESS SCHEDULE

PART 2: TERMS OF TRANSFER OF COMMERCIAL REDRESS PROPERTIES

then the Parties' obligations relating to transfer and possession will be deferred until the fifth Business Day following the date on which the dispute is determined. The arbitrator may determine that the possession date will not be deferred or will be deferred to another day or days.

4.3 The Governance Entity will not be required to take over any insurance policies held by the Crown.

5. TRANSFER VALUE

5.1 For the purposes of establishing:

5.1.1 a diminution in value of the Commercial Redress Property under paragraphs 4.2.1(a) or 4.2.2; or

5.1.2 the amount of any damages arising out of a breach by the Crown of any of its obligations under this Part 2 of the Commercial Redress Schedule in respect of the Commercial Redress Property;

the Transfer Value of the Commercial Redress Property will be treated as the value of that property immediately before the relevant event or damage.

6. TITLE, BOUNDARIES, ETC

6.1 The Crown will not be bound to point out the boundaries of the Commercial Redress Property.

6.2 The Governance Entity:

6.2.1 has accepted the Crown's title to the Commercial Redress Property as at the Date of this Deed; and

6.2.2 may not make any objections or requisitions on it.

6.3 Except as otherwise expressly set out in this Part 2 of the Commercial Redress Schedule, no error, omission or misdescription of the Commercial Redress Property or its title shall annul the transfer of the Commercial Redress Property.

6.4 The Crown will not be liable to pay for, or contribute towards, the expense of erection or maintenance of any fence between the Commercial Redress Property and any contiguous land of the Crown and:

6.4.1 this clause will not continue for the benefit of any subsequent purchaser of the contiguous land; and

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DEED OF SETTLEMENT: COMMERCIAL REDRESS SCHEDULE

PART 2: TERMS OF TRANSFER OF COMMERCIAL REDRESS PROPERTIES

6.4.2 the Crown will be entitled to require the inclusion of a fencing covenant to this effect in any transfer of the Commercial Redress Property.

7. FURTHER TRANSFER OBLIGATIONS

7.1 If the Crown receives any notice or demand in relation to the Commercial Redress Property from the Crown or any territorial authority or from any tenant after the Date of this Deed, the Crown will, if not paying or complying with such notice or demand, immediately deliver it to the Governance Entity or the Governance Entity's solicitor, and if the Crown fails to do so the Crown will be liable for any penalty incurred.

7.2 Immediately after the Settlement Date, the Crown will give notice of the transfer of the Commercial Redress Property to the territorial authority having jurisdiction in respect of that property.

8. DISCLOSURE INFORMATION

8.1 The Crown warrants to the Governance Entity that, at the Date of this Deed, the Disclosure Information in relation to the Commercial Redress Property is all the material information that relates to the Commercial Redress Property, of which the Transferor Agency is aware, the Transferor Agency having inspected its records but not having undertaken a physical inspection of the Commercial Redress Property or made enquiries beyond its own records. This warranty does not extend to information which may be apparent from such a physical property inspection or enquiry.

8.2 Ngaati Ruanui acknowledges and agrees that, other than the warranty set out in **paragraph 8.1**, no representation or warranty is given, whether express or implied, nor is any responsibility accepted, by the Crown with respect to:

8.2.1 the completeness or accuracy of the Disclosure Information in relation to the Commercial Redress Property;

8.2.2 the physical condition of the Commercial Redress Property;

8.2.3 the compliance or otherwise of the Commercial Redress Property with any statutes, regulations, by-laws or any powers, rights and obligations under them, including any outstanding enforcement or other notice, requisition or proceeding issued under any code by any relevant authority, relating to or affecting the Commercial Redress Property; or

8.2.4 any other matter relating to the ownership, occupation, use or management of the Commercial Redress Property.

8.3 The Parties acknowledge and record that, prior to the Date of this Deed, Ngaati Ruanui had the opportunity to inspect the Commercial Redress Property and satisfy itself as to the state and condition of the Commercial Redress Property.

DEED OF SETTLEMENT: COMMERCIAL REDRESS SCHEDULE

PART 2: TERMS OF TRANSFER OF COMMERCIAL REDRESS PROPERTIES

9. MISCELLANEOUS

Further Assurances

- 9.1 Each of the Crown and the Governance Entity 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 **clauses 8.3 to 8.5** of the Deed and this **Part 2** of the Commercial Redress Schedule.

Non merger

- 9.2 On transfer of the Commercial Redress Properties to the Governance Entity or, where **clause 8.4** applies, to the Ratified Transferee, the provisions of this **Part 2** of the Commercial Redress Schedule will not merge and, to the extent any provision has not been fulfilled, will remain in force.

Settlement Legislation

- 9.3 The Parties agree that the Settlement Legislation will provide that:
- 9.3.1 in signing a transfer, and doing everything else necessary, to transfer a Commercial Redress Property to the Governance Entity or, where **clause 8.4** applies, to the Ratified Transferee on the terms set out in **Part 8** of the Deed and this **Part 2** of the Commercial Redress Schedule, the Crown is not required to comply with any Legislation that would otherwise regulate or apply to that Settlement Transfer; and
- 9.3.2 a Settlement Transfer does not affect any privately owned rights to sub-surface minerals or limit section 10 or section 11 of the Crown Minerals Act 1991.

Interpretation

- 9.4 In this **Part 2** of the Commercial Redress Schedule, all references to paragraphs are to paragraphs of this **Part 2**, unless the context otherwise requires.

**PART 3 : RIGHT OF FIRST REFUSAL OVER CROWN-
OWNED LAND IN THE RFR AREA**

(Clause 8.6)

DEED OF SETTLEMENT: COMMERCIAL REDRESS SCHEDULE

PART 3 : RIGHT OF FIRST REFUSAL OVER CROWN-OWNED LAND IN THE RFR AREA

THIS DEED is made

BETWEEN

[Insert name of Governance Entity] (the **Governance Entity**)

AND

HER MAJESTY THE QUEEN in right of New Zealand (the **Crown**).

BACKGROUND

- A. Ngaati Ruanui and the Crown are parties to a Deed of Settlement dated [].
- B. Under that Deed of Settlement, the Crown agreed with Ngaati Ruanui that (if that Deed of Settlement became unconditional) the Crown would enter into a deed granting the Governance Entity a right of first refusal over certain properties owned by the Crown.
- C. This Deed is in satisfaction of the obligations of the Crown referred to in clause B of this Background.

IT IS AGREED as follows:

1. NOTICE TO BE GIVEN BEFORE DISPOSING OF AN RFR PROPERTY

Crown must give RFR Notice

- 1.1 The Crown must, before Disposing of an RFR Property, give an RFR Notice to the Governance Entity in respect of the property.

Crown may withdraw notice

- 1.2 The Crown may withdraw an RFR Notice at any time before the Governance Entity accepts the offer in that notice under **clause 2.1**.
- 1.3 If the Crown withdraws an RFR Notice, this Deed still applies to the RFR Property and, in particular, the Crown must give another RFR Notice before it Disposes of the RFR Property.

Army drill hall at Hawera

- 1.4 The Crown will (as soon as reasonably practicable after the Settlement Date) give an RFR Notice to the Governance Entity in relation to the army drill hall and associated buildings at 89 Collins Street, Hawera.

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DEED OF SETTLEMENT: COMMERCIAL REDRESS SCHEDULE

PART 3: RIGHT OF FIRST REFUSAL OVER CROWN-OWNED LAND IN THE RFR AREA

16 Regan Street, and 94A Swansea Street, Stratford

- 1.5 The Crown will (as soon as reasonably practicable after the Settlement Date) give:
- 1.5.1 an RFR Notice to the Governance Entity in relation to 16 Regan Street, Stratford (Lot 2 DP 9834); and
 - 1.5.2 an RFR Notice to the Governance Entity in relation to 94A Swansea Street, Stratford (Sub-division 9 of Pt Sec 84 Blk 11, Ngaere Survey District).
- 1.6 The Parties agree that (despite any other provision of this Deed or the Deed of Settlement):
- 1.6.1 this Deed will cease to apply to 16 Regan Street and 94A Swansea Street, Stratford on the expiry of two years after the Crown gives an RFR Notice to the Governance Entity under **clause 1.5**; and accordingly
 - 1.6.2 the Crown may Dispose of either or both of 16 Regan Street, and 94 Swansea Street, Stratford after the expiry of that period without giving an RFR Notice to the Governance Entity.

2. ACCEPTANCE BY THE GOVERNANCE ENTITY

Acceptance

- 2.1 If the Governance Entity accepts, by the Expiry Date, the offer set out in the RFR Notice by notice in writing to the Crown, a contract for the Disposal of the RFR Property (an "**RFR Property Contract**") is constituted between the Crown and the Governance Entity at the price and on the terms and conditions set out in the RFR Notice.

Transfer

- 2.2 If an RFR Property Contract is constituted between the Crown and the Governance Entity under **clause 2.1**, the Crown will transfer the relevant RFR Property to:
- 2.2.1 the Governance Entity; or
 - 2.2.2 any person nominated by the Governance Entity ("**Nominated Transferee**") by notice in writing to the Crown.
- 2.3 If the Governance Entity wishes to nominate a Nominated Transferee, the Governance Entity must:
- 2.3.1 give notice to the Crown under **clause 2.2.2** at least 10 Business Days before settlement of the relevant RFR Property Contract is due; and
 - 2.3.2 include in that notice:

DEED OF SETTLEMENT: COMMERCIAL REDRESS SCHEDULE

PART 3: RIGHT OF FIRST REFUSAL OVER CROWN-OWNED LAND IN THE RFR AREA

- (a) the name of the Nominated Transferee; and
 - (b) any other relevant details about the Nominated Transferee.
- 2.4 If the Governance Entity specifies a Nominated Transferee under **clause 2.2.2**, the Governance Entity remains liable for all the Governance Entity's obligations under the relevant RFR Property Contract.

3. NON-ACCEPTANCE BY THE GOVERNANCE ENTITY

3.1 If:

3.1.1 the Crown gives the Governance Entity an RFR Notice; and

3.1.2 the Governance Entity does not accept, by the Expiry Date, the offer set out in the RFR Notice by notice in writing to the Crown;

the Crown:

3.1.3 may, at any time during the period of 2 years from the Expiry Date, Dispose of the RFR Property if the price, and other terms and conditions of the Disposal, are not more favourable to the purchaser or lessee than the price, and other terms and conditions, set out in the RFR Notice to the Governance Entity; but

3.1.4 must, promptly after entering into an agreement to Dispose of the RFR Property to a purchaser or lessee:

- (a) give written notice to the Governance Entity of that fact; and
- (b) disclose the terms of that agreement; and

3.1.5 must not Dispose of the RFR Property after the end of the 2 year period after the Expiry Date without first giving an RFR Notice to the Governance Entity under **clause 1.1**.

4. RE-OFFER REQUIRED

4.1 If:

4.1.1 the Crown has given the Governance Entity an RFR Notice;

4.1.2 the Governance Entity does not, by the Expiry Date, accept the offer set out in the RFR Notice by notice in writing to the Crown; and

4.1.3 the Crown proposes to Dispose of the RFR Property but at a price, or on other terms and conditions, more favourable to the purchaser or lessee than the terms and conditions in the RFR Notice;

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PART 3: RIGHT OF FIRST REFUSAL OVER CROWN-OWNED LAND IN THE RFR AREA

the Crown may do so only if it first offers the RFR Property for Disposal on those more favourable terms and conditions to the Governance Entity in another RFR Notice under **clause 1.1**.

5. TERMS OF THIS DEED NOT TO AFFECT CERTAIN RIGHTS AND RESTRICTIONS

5.1 Nothing in this Deed affects, or derogates from, and the rights and obligations created by this Deed are subject to:

5.1.1 the terms of any gift, endowment, or trust relating to any RFR Property existing before the **Effective Date**;

5.1.2 the rights of any holders of mortgages over, or of security interests in, any RFR Property;

5.1.3 any requirement at common law or under legislation:

(a) that must be complied with before any RFR Property is Disposed of to the Governance Entity; or

(b) that the Crown must Dispose of an RFR Property to any third party;

5.1.4 any feature of the title to any RFR Property that prevents or limits the Crown's right to Dispose of the RFR Property to the Governance Entity; and

5.1.5 any legal requirement that:

(a) prevents or limits the Crown's ability to sell or otherwise Dispose of an RFR Property to the Governance Entity; and

(b) the Crown cannot satisfy after taking reasonable steps to do so (and, for the avoidance of doubt, reasonable steps do not include changing the law).

6. THIS DEED DOES NOT APPLY IN CERTAIN CASES

Disposal to certain persons are exempt

6.1 **Clause 1.1** does not apply if the Crown is Disposing of an RFR Property to:

6.1.1 the Governance Entity;

6.1.2 a person to give effect to this Deed or to the Deed of Settlement;

6.1.3 a person to whom the RFR Property is being Disposed of by way of gift for charitable purposes;

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DEED OF SETTLEMENT: COMMERCIAL REDRESS SCHEDULE

PART 3: RIGHT OF FIRST REFUSAL OVER CROWN-OWNED LAND IN THE RFR AREA

- 6.1.4 the existing tenant of a house on any RFR Property that is held on the Effective Date for education purposes by the Crown;
- 6.1.5 the lessee under any lease of an RFR Property if such Disposal is constituted by:
- (a) any grant of a new lease to such lessee as required of the Crown under any right of renewal or option or other right of such lessee to take a further lease or renewal of lease under the provisions of such lease; or
 - (b) any Disposal arising from any legal requirement on the Crown to consent to an assignment or subletting or other parting with possession of the relevant RFR Property (or any part) at the request of the lessee or otherwise;
- 6.1.6 a person who is being granted a lease of the RFR Property in accordance with a legal right created on or before the Effective Date;
- 6.1.7 the lessee under a lease of an RFR Property granted, on or before the Effective Date (or granted after that date but in renewal of a lease granted on or before that date), under:
- (a) section 66 of the Land Act 1948;
 - (b) section 67 of the Land Act 1948;
 - (c) section 93(4) of the Land Act 1948; or
 - (d) the Crown Pastoral Lands Act 1998;
- 6.1.8 a person to whom the Crown:
- (a) must offer to sell the RFR Property under section 40(2) or section 41 of the Public Works Act 1981 (or those sections as applied by any other legislation); or
 - (b) may sell the RFR Property under section 40(4) of the Public Works Act 1981 (or that sub-section as applied by section 41 of the Public Works Act 1981 or by any other legislation);
- 6.1.9 a person under:
- (a) sections 23, 24 or 26 of the New Zealand Railways Corporation Restructuring Act 1990; or
 - (b) section 207(4) of the Education Act 1989;
- 6.1.10 a person under:

DEED OF SETTLEMENT: COMMERCIAL REDRESS SCHEDULE

PART 3: RIGHT OF FIRST REFUSAL OVER CROWN-OWNED LAND IN THE RFR AREA

- (a) section 105(1) of the Public Works Act 1981;
- (b) section 117(3) of the Public Works Act 1981 (other than a person to whom the land is being Disposed of under the words "may be dealt with as Crown land under the Land Act 1948" in paragraph (b) of that section); or
- (c) section 119(2) of the Public Works Act 1981;

6.1.11 a person under section 355(3) of the Resource Management Act 1991;

6.1.12 a person under:

- (a) sections 16A or 24E of the Conservation Act 1987;
- (b) section 15 of the Reserves Act 1977;
- (c) sections 26 or 26A of the Reserves Act 1977, or any other Act where a reserve is being vested, if:
 - (i) the reserve is vested in another person to hold and administer as a reserve under the Reserves Act 1977; and
 - (ii) the reserve would revert to the Crown if its status as a reserve was subsequently revoked;
- (d) section 93(4) of the Land Act 1948; or
- (e) an Act of Parliament that:
 - (i) excludes the RFR Property from a national park within the meaning of the National Parks Act 1980; and
 - (ii) authorises the RFR Property to be Disposed of in consideration or part consideration for other land to be held or administered under the Conservation Act 1987, the National Parks Act 1980 or the Reserves Act 1977; or

6.1.13 a person who, immediately before the Disposal, holds a legal right created on or before the Effective Date to:

- (a) purchase the RFR Property; or
- (b) be offered the first opportunity to purchase the RFR Property.

Disposals to Crown Bodies exempt

6.2 **Clause 1.1** does not apply to the Disposal of an RFR Property to a Crown Body, if that Crown Body takes the RFR Property subject to the terms of this Deed and enters

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DEED OF SETTLEMENT: COMMERCIAL REDRESS SCHEDULE

PART 3: RIGHT OF FIRST REFUSAL OVER CROWN-OWNED LAND IN THE RFR AREA

into a deed (at the Crown's expense) in favour of the Governance Entity in the form set out in **schedule 1**.

- 6.3 A Crown Body to whom an RFR Property is being Disposed of under **clause 5** or **clause 6.1** is not required to enter into a deed under **clause 6.2**.

Disposals for public works exempt

- 6.4 **Clause 1.1** does not apply to the Disposal of an RFR Property to a local authority under section 50 of the Public Works Act 1981 if that local authority takes that RFR Property subject to the terms of this Deed and enters into a deed (at the Crown's expense) in favour of the Governance Entity in the form set out in **schedule 1**.

- 6.5 **Clause 1.1** does not apply to the Disposal of an RFR Property which:

- (a) immediately before the Disposal is held by the Crown for a public work (as defined in the Public Works Act 1981); and
- (b) after the Disposal will be held or used for the purpose or activity which, immediately before the Disposal, constituted the public work;

if the person to whom the RFR Property was Disposed of takes the RFR Property subject to the terms of this Deed and enters into a deed (at the Crown's expense) in favour of the Governance Entity in the form set out in **schedule 2**.

- 6.6 A local authority, or a person, to whom an RFR Property is being Disposed of under **clause 5** or **clause 6.1** is not required to enter into a Deed under **clause 6.4** or **clause 6.5**.

Disposal Under Public Works Act 1981

- 6.7 **Clause 1.1** of this Deed does not apply to the Disposal of an RFR Property under an order of the Maori Land Court under section 41(e) of the Public Works Act 1981 and section 134 of Te Ture Whenua Maori Act 1993.

Disposal of or to Crown Bodies

- 6.8 Nothing in this Deed:

- 6.8.1 affects or derogates from the right of the Crown or a Crown Body to sell or Dispose of a Crown Body;
- 6.8.2 requires any offer to the Governance Entity in respect of such sale or Disposal before that Crown Body is sold or Disposed of; or
- 6.8.3 affects or derogates from the right of a Crown Body as transferee of any RFR Property to sell or Dispose of that RFR Property to any other Crown Body or Crown Bodies or back to the Crown, subject to the transferee entering into a deed (if applicable) in like terms as that referred to in **clause 6.2** (except where **clauses 5** or **6.1** apply).

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DEED OF SETTLEMENT: COMMERCIAL REDRESS SCHEDULE

PART 3: RIGHT OF FIRST REFUSAL OVER CROWN-OWNED LAND IN THE RFR AREA

7. NOTICE OF CERTAIN DISPOSALS

7.1 The Crown will advise the Governance Entity:

7.1.1 in an agreed manner of Disposals of RFR Properties under clauses 5 or 6;
and

7.1.2 as soon as reasonably practicable after Disposal of the RFR Properties (or in such other time frame as may be agreed between the Crown and the Governance Entity).

8. TIME LIMITS

8.1 Time is of the essence for all time limits imposed on the Crown and Governance Entity under this Deed.

8.2 The Crown and the Governance Entity may agree in writing to an extension of time limits.

9. ENDING OF RIGHT OF FIRST REFUSAL

RFR ends on Disposal which complies with this Deed

9.1 The obligations of the Crown set out in this Deed shall end in respect of each RFR Property on a transfer of the estate in fee simple of the RFR Property in accordance with clauses 2, 3, 5 or 6.

RFR ends after 50 years

9.2 The obligations of the Crown set out in this Deed end 50 years after the Effective Date.

10. DISPOSAL OF MORE THAN ONE PROPERTY

10.1 Any offer made by the Crown under clause 1.1 may be in respect of more than one RFR Property, but this Deed applies to that offer as if all the RFR Properties included in the offer were a single RFR Property.

11. NOTICES

11.1 The provisions of this clause apply to Notices under this Deed:

Notices to be signed

11.1.1 the Party giving a Notice must sign it;

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DEED OF SETTLEMENT: COMMERCIAL REDRESS SCHEDULE

PART 3: RIGHT OF FIRST REFUSAL OVER CROWN-OWNED LAND IN THE RFR AREA

Notice to be in writing

11.1.2 any Notice to a Party must be in writing addressed to that Party at that Party's address or facsimile number;

Addresses for notice

11.1.3 until any other address or facsimile number of a Party is given by Notice to the other Party, they are as follows:

The Crown:

Governance Entity:

The Solicitor-General
Crown Law Office
St Pauls Square
45 Pipitea Street
(PO Box 5012)
WELLINGTON

[To be completed at Settlement Date]

Facsimile No: 04 473-3482;

Delivery

11.1.4 delivery of a Notice may be made:

- (a) by hand;
- (b) by post with prepaid postage; or
- (c) by facsimile;

Timing of delivery

11.1.5 a Notice delivered:

- (a) by hand will be treated as having been received at the time of delivery;
- (b) by prepaid post will be treated as having been received on the third day after posting; or
- (c) sent by facsimile will be treated as having been received on the day of transmission; and

Deemed date of delivery

11.1.6 if a Notice is treated as having been received on a day that is not a Business Day, or after 5:00pm on a Business Day, that Notice will (despite clause 11.1.5) be treated as having been received the next Business Day.

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DEED OF SETTLEMENT: COMMERCIAL REDRESS SCHEDULE

PART 3: RIGHT OF FIRST REFUSAL OVER CROWN-OWNED LAND IN THE RFR AREA

12. AMENDMENT

12.1 This Deed may not be amended unless the amendment is in writing and signed by, or on behalf of, the Governance Entity and the Crown.

13. NO ASSIGNMENT

13.1 The Governance Entity's rights and obligations under this Deed are not assignable.

14. DEFINITIONS AND INTERPRETATION

Definitions

14.1 In this Deed, unless the context requires otherwise:

Business Day means the period of 9am to 5pm on any day of the week other than:

- (a) Saturday, Sunday, Good Friday, Easter Monday, Anzac Day, the Sovereign's Birthday, Labour Day, and Waitangi Day;
- (b) a day in the period commencing with 25 December in any year, and ending with the close of 15 January in the following year; and
- (c) the days observed as the anniversaries of the provinces of Wellington and Taranaki;

Control, for the purposes of **subclause (d)** of the definition of Crown Body, means:

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

Crown:

- (a) means Her Majesty the Queen in right of New Zealand; and
- (b) includes all Ministers of the Crown and all Departments; but
- (c) does not include:
 - (i) an Office of Parliament;
 - (ii) a Crown entity (as defined in section 2(1) of the Public Finance Act 1989);
 - (iii) a State enterprise (as defined in section 2 of the State-Owned Enterprises Act 1986); or

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DEED OF SETTLEMENT: COMMERCIAL REDRESS SCHEDULE

PART 3: RIGHT OF FIRST REFUSAL OVER CROWN-OWNED LAND IN THE RFR AREA

- (iv) any person which the Public Finance Act 1989 provides is not part of the Crown; and
- (d) for the avoidance of doubt, does not include the New Zealand Railways Corporation;

Crown Body means:

- (a) the Crown (whether acting through a Minister or otherwise);
- (b) a Crown entity (as defined in section 2 of the Public Finance Act 1989) and includes the New Zealand Railways Corporation;
- (c) a State enterprise (as defined in section 2 of the State-Owned Enterprises Act 1986); or
- (d) any company or body which is wholly-owned or controlled by:
 - (i) the Crown, a Crown entity or a State enterprise; or
 - (ii) a combination of the Crown, a Crown entity, Crown entities, a State enterprise or State enterprises, and includes any subsidiary of, or related company to, any such company or body;

Deed means this Deed of Right of First Refusal over Crown-Owned Land;

Deed of Settlement means the Deed of Settlement referred to in **clause A** of the Background;

Dispose means:

- ()
- (a) to transfer an estate in fee simple; or
 - (b) to grant a lease the term of which, including rights of renewal or of extension contained in the lease is, or could be, for 50 years or longer;

Effective Date means [*insert the date on which the Deed of Settlement becomes unconditional*];

Expiry Date means, in respect of an RFR Notice, the date one calendar month after the RFR Notice is received by the Governance Entity;

Nominated Transferee has the meaning set out in **clause 2.2.2**;

Notice means a notice or other communication given under this Deed;

RFR Area means the area of land contained in SO Plan 14786 and shown for the purposes of identification only in the map included in **schedule 3**;

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DEED OF SETTLEMENT: COMMERCIAL REDRESS SCHEDULE

PART 3: RIGHT OF FIRST REFUSAL OVER CROWN-OWNED LAND IN THE RFR AREA

RFR Notice means a written notice to the Governance Entity which offers to Dispose of the RFR Property to the Governance Entity at the price and on the terms and conditions set out in that notice;

RFR Property means every parcel of land which is:

- (a) in the RFR Area on the Effective Date and is:
 - (i) vested in the Crown or held by the Crown under any Act; or
 - (ii) vested in another person under section 26 or section 26A of the Reserves Act 1977;
- but does not include:
- (iii) the parcels of land set out in **schedule 4**;
 - (iv) any land or roads vested in the Crown by section 44 of the Transit New Zealand Act 1989; or
 - (v) any "railways assets" of the Crown within the meaning of paragraph (c) of the definition of "railways assets" in section 2 of the New Zealand Railways Corporation Restructuring Act 1990; or
- (b) transferred to the Crown as the consideration, or part of the consideration, for a Disposal under **clause 6.1.12(a), (b) or (e)**; and

RFR Property Contract has the meaning set out in **clause 2.1**.

Interpretation

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

- (a) headings appear as a matter of convenience and are not to affect the interpretation of this Deed;
- (b) defined terms appear in this Deed with capitalised initial letters and have the meanings given to them by this Deed;
- (c) where a word or expression is defined in this Deed, other parts of speech and grammatical forms of that word or expression have corresponding meanings;
- (d) the singular includes the plural and vice versa;
- (e) words importing one gender include the other genders;
- (f) a reference to an enactment or any regulations is a reference to that enactment or those regulations as amended, consolidated or substituted;

DEED OF SETTLEMENT: COMMERCIAL REDRESS SCHEDULE

PART 3: RIGHT OF FIRST REFUSAL OVER CROWN-OWNED LAND IN THE RFR AREA

- (g) a reference to any document or agreement, including this Deed, includes a reference to that document or agreement as amended, novated or replaced from time to time;
- (h) a reference to a schedule is a schedule to this Deed;
- (i) a reference to any monetary amount is to New Zealand currency;
- (j) 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;
- (k) a reference to a person includes a corporation sole and also a body of persons, whether corporate or unincorporate;
- (l) a reference to a date on which something must be done includes any other date which may be agreed in writing between the Governance Entity and the Crown;
- (m) where the day on or by which anything to be done is not a Business Day, that thing must be done on or by the next Business Day after that day; and
- (n) a reference to time is to New Zealand time.

SIGNED as a deed on [].

[Insert signing provisions]

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DEED OF SETTLEMENT: COMMERCIAL REDRESS SCHEDULE

PART 3: RIGHT OF FIRST REFUSAL OVER CROWN-OWNED LAND IN THE RFR AREA

SCHEDULE 1

(Clauses 6.2 and 6.4 of this Deed)

DEED OF COVENANT

PARTIES

[Insert name of Governance Entity] (the **Governance Entity**)

[Insert name of the local authority, Crown Body, trustee or trustees (as the case may be) taking a Disposal under clause 6.2 or clause 6.4] (**New Owner**)

AND

HER MAJESTY THE QUEEN in right of New Zealand *[or the Crown Body if this Deed relates to a second or subsequent intra-Crown Disposal]* (**Current Owner**)

BACKGROUND

- A The New Owner intends to take from the Current Owner a Disposal of the Property described in the schedule to this Deed (the **Property**).
- B The Property is subject to a deed of right of first refusal dated [] between the Crown and the **Governance Entity** (the **Principal Deed**).
- C Under the Principal Deed, the Current Owner must, before Disposing of the Property to the New Owner, obtain a deed from the New Owner in favour of the Governance Entity ensuring that the New Owner takes the Property subject to the Principal Deed. This Deed is entered into to give effect to the Current Owner's obligation.

IT IS AGREED as follows:

1. TRANSFER BY CURRENT OWNER

- 1.1 The Current Owner transfers to the New Owner (with effect from the Transfer Date) all its rights and obligations under the Principal Deed in so far as they relate to the Property.

2. ACCEPTANCE BY NEW OWNER

- 2.1 The New Owner, for the benefit of the Current Owner and the **Governance Entity**, accepts the Transfer.

DEED OF SETTLEMENT: COMMERCIAL REDRESS SCHEDULE

PART 3: RIGHT OF FIRST REFUSAL OVER CROWN-OWNED LAND IN THE RFR AREA

3. CONSENT AND RELEASE BY THE GOVERNANCE ENTITY

- 3.1 The Governance Entity consents to the Transfer and releases the Current Owner (with effect from the Transfer Date) from all of its obligations under the Principal Deed insofar as they relate to the Property.

4. DEFINITIONS AND INTERPRETATION

Defined Terms

- 4.1 In this Deed, unless the context requires otherwise:

Property has the meaning set out in clause A of the Background;

Principal Deed has the meaning set out in clause B of the Background;

Transfer means the transfer described in clause 1; and

Transfer Date means the date on which the New Owner takes a Disposal of the Property.

- 4.2 Terms or expressions that are not defined in this Deed, but are defined in the Principal Deed, have the meanings given to them by the Principal Deed.

Interpretation

- 4.3 The rules of interpretation set out in clause 14.2 of the Principal Deed also apply to the interpretation of this Deed.

SIGNED as a deed on []

[Insert signing provisions for Governance Entity, New Owner and Current Owner]

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DEED OF SETTLEMENT: COMMERCIAL REDRESS SCHEDULE

PART 3: RIGHT OF FIRST REFUSAL OVER CROWN-OWNED LAND IN THE RFR AREA

SCHEDULE

The Property

[Describe the Property]

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DEED OF SETTLEMENT: COMMERCIAL REDRESS SCHEDULE

PART 3: RIGHT OF FIRST REFUSAL OVER CROWN-OWNED LAND IN THE RFR AREA

SCHEDULE 2

(Clause 6.5 of this Deed)

DEED OF COVENANT

PARTIES

[Insert name of Governance Entity] (the **Governance Entity**)

[Insert name of the person taking a Disposal under clause 6.5] (**New Owner**)

HER MAJESTY THE QUEEN in right of New Zealand *[or the Crown Body]* (**Current Owner**)

BACKGROUND

- A** The New Owner intends to take from the Current Owner a Disposal of the Property described in the schedule to this Deed (the **Property**).
- B** The Property is subject to a deed of right of first refusal dated [] between the Crown and the Governance Entity (the **Principal Deed**).
- C** Under the Principal Deed, the Current Owner must, before Disposing of the Property to the New Owner, obtain a deed from the New Owner in favour of the Governance Entity ensuring that the New Owner takes the Property subject to the Principal Deed. This Deed is entered into to give effect to the Current Owner's obligation.

IT IS AGREED as follows:

1. TRANSFER BY CURRENT OWNER

- 1.1** The Current Owner transfers to the New Owner (with effect from the Transfer Date) all its rights and obligations under the Principal Deed in so far as they relate to the Property.

2. ACCEPTANCE BY NEW OWNER

- 2.1** The New Owner, for the benefit of the Current Owner and the Governance Entity, accepts the Transfer.

PART 3: RIGHT OF FIRST REFUSAL OVER CROWN-OWNED LAND IN THE RFR AREA

3. CONSENT AND RELEASE BY GOVERNANCE ENTITY

- 3.1 The Governance Entity consents to the Transfer and releases the Current Owner (with effect from the Transfer Date) from all of its obligations under the Principal Deed insofar as they relate to the Property.

4. OBLIGATION TO MAKE OFFER

Request by the Governance Entity

- 4.1 The Governance Entity may give written notice to the New Owner requesting the New Owner to give an RFR Notice under clause 1.1 of the Principal Deed.

RFR Notice to be given if Property no longer required

- 4.2 The New Owner must give an RFR Notice under clause 1.1 of the Principal Deed if, on the date of receipt by the New Owner of a notice under clause 4.1, the Property is no longer being held or used for the purpose or activity which, immediately before the Disposal to the New Owner, constituted the public work referred to in clause 6.5 of the Principal Deed. Clause 1.2 of the Principal Deed does not apply to that written notice.

Frequency of requests

- 4.3 A notice under clause 4.1 may not be given within 3 years:

4.3.1 of the Transfer Date; or

4.3.2 of the date of receipt by the New Owner of the last notice under clause 4.1.

5. DEFINITIONS AND INTERPRETATION

Defined Terms

- 5.1 In this Deed, unless the context requires otherwise:

Principal Deed has the meaning set out in clause B of the Background;

Property has the meaning set out in clause A of the Background;

Transfer means the transfer described in clause 1; and

Transfer Date means the date on which the New Owner takes a Disposal of the Property.

- 5.2 Terms or expressions that are not defined in this Deed, but are defined in the Principal Deed, have the meanings given to them by the Principal Deed.

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DEED OF SETTLEMENT: COMMERCIAL REDRESS SCHEDULE

PART 3: RIGHT OF FIRST REFUSAL OVER CROWN-OWNED LAND IN THE RFR AREA

Interpretation

- 5.3 The rules of interpretation set out in clause 14.2 of the Principal Deed also apply to the interpretation of this Deed.

SIGNED as a deed on []

[Insert signing provisions for Governance Entity, New Owner and Current Owner]

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DEED OF SETTLEMENT: COMMERCIAL REDRESS SCHEDULE

PART 3: RIGHT OF FIRST REFUSAL OVER CROWN-OWNED LAND IN THE RFR AREA

SCHEDULE

THE PROPERTY

[Describe the Property]

DEED OF SETTLEMENT: COMMERCIAL REDRESS SCHEDULE

PART 3: RIGHT OF FIRST REFUSAL OVER CROWN-OWNED LAND IN THE RFR AREA

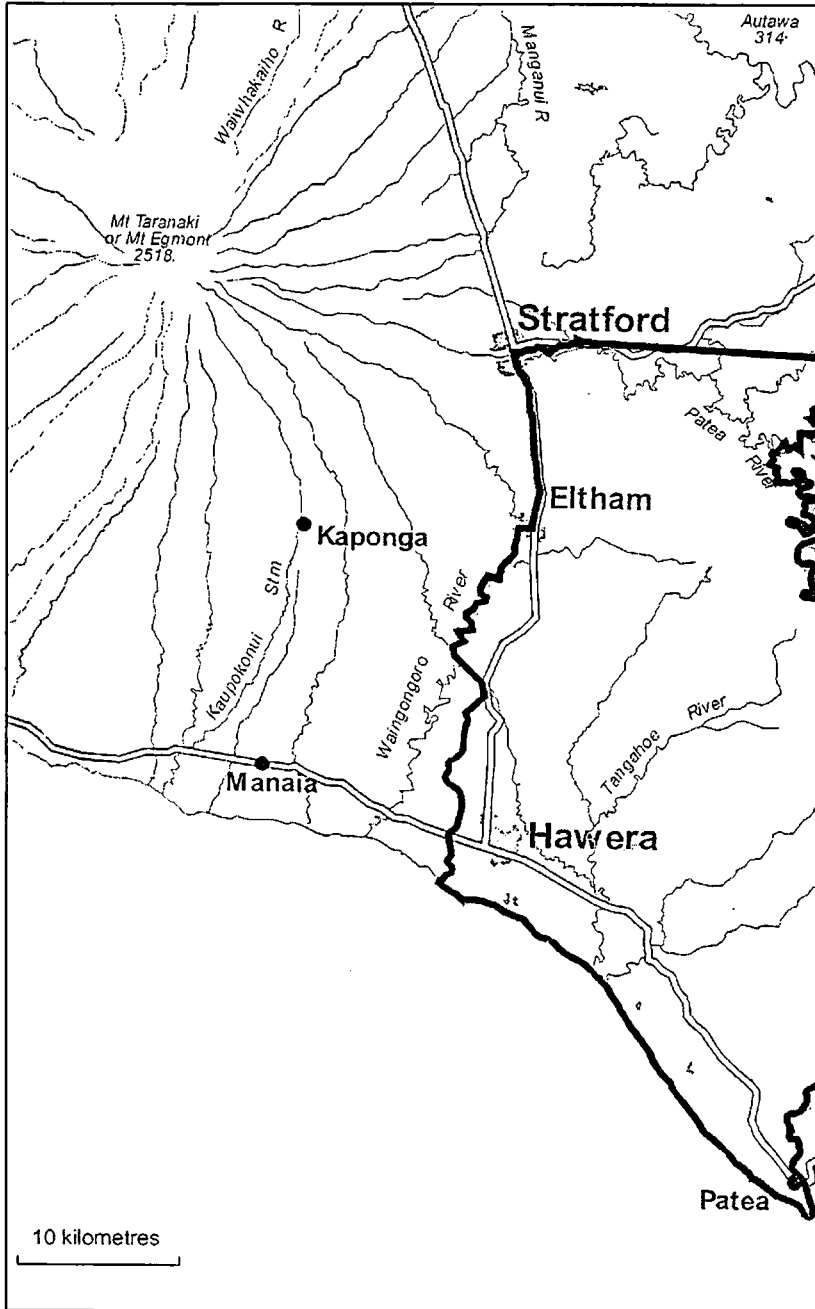
SCHEDULE 3

(Clause 14.1 of this Deed)

RFR AREA

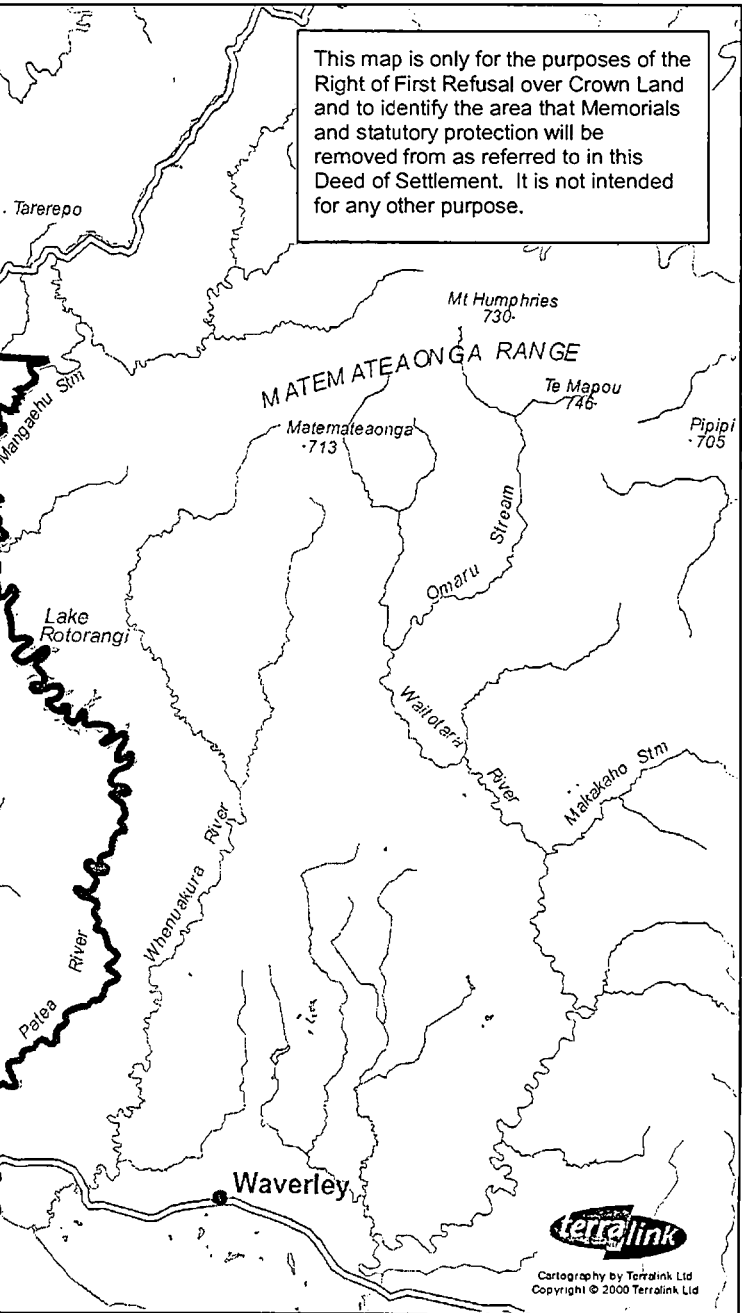
The map follows this page

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This map is only for the purposes of the Right of First Refusal over Crown Land and to identify the area that Memorials and statutory protection will be removed from as referred to in this Deed of Settlement. It is not intended for any other purpose.



**RFR AREA
FOR NGAATI RUANUI**



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DEED OF SETTLEMENT: COMMERCIAL REDRESS SCHEDULE

PART 3: RIGHT OF FIRST REFUSAL OVER CROWN-OWNED LAND IN THE RFR AREA

SCHEDULE 4

LAND EXCLUDED FROM DEFINITION OF RFR PROPERTY

- 54 Brecon Road, Stratford, Lot 1 DP 18759;
- Cardiff Road/Pembroke Road, Stratford, Lot 1 DP 18537, Blk 1 Ngaere SD;
- Glover Road (NP 596), Hawera, Lot 1 DP 18099;
- Broadway (NP 574), Stratford, Lot 20 DP 5264;
- Glover Road (NP 813), Hawera, Lot 3 DP 18099;
- Broadway (NP 563), Stratford, Lots 3 & 4 DP 9800 and Lot 7 DP 5264;
- Austin Road, Hawera, Te Rua o Te Moko 2A1 Block and Lot 1 DP 8143 and Pt Sec 2, Patea District;
- Patea Hospital, Patea, Lot 1, DP 4387; Lot 1 DP 5196: Lot 2 DP 6036: Sec 1 and Pt Sec 2 Blk XLII, Town of Patea;
- 49 Pembroke Street, Stratford, Lot 6 DP 7862; and
- 47 Waihi Road, Hawera, Lot 2 DP 17096.