

NGĀ HAPŪ O TE WHĀNAU A APANUI

me

TE KARAUNA | THE CROWN

DEED OF SETTLEMENT SCHEDULE:
GENERAL MATTERS

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1 SETTLEMENT

ACKNOWLEDGEMENTS

- 1.1. Each party acknowledges that –
 - 1.1.1. the other parties have acted honourably and reasonably in relation to the settlement; but
 - 1.1.2. full compensation of ngā hapū o Te Whānau a Apanui is not possible; and
 - 1.1.3. ngā hapū o Te Whānau a Apanui intend their foregoing of full compensation to contribute to New Zealand's development; and
 - 1.1.4. the settlement is intended to enhance the ongoing relationship between ngā hapū o Te Whānau a Apanui and the Crown (in terms of te Tiriti o Waitangi/the Treaty of Waitangi and otherwise).
- 1.2. Ngā hapū o Te Whānau a Apanui acknowledge that, taking all matters into consideration (some of which are specified in paragraph 1.1), the settlement is fair in the circumstances.

SETTLEMENT

- 1.3. Therefore, on and from the settlement date, –
 - 1.3.1. the historical claims are settled; and
 - 1.3.2. the Crown is released and discharged from all obligations and liabilities in respect of the historical claims; and
 - 1.3.3. the settlement is final.
- 1.4. Except as provided in this deed or the settlement legislation, the parties' rights and obligations remain unaffected.

REDRESS

- 1.5. The redress, to be provided in settlement of the historical claims, –
 - 1.5.1. is intended to benefit ngā hapū o Te Whānau a Apanui collectively; but
 - 1.5.2. may benefit particular members, or particular groups of members, of ngā hapū o Te Whānau a Apanui if Te Taumata o Ngā Hapū o Te Whānau a Apanui (**Te Taumata**) so determines in accordance with Te Taumata's procedures.

IMPLEMENTATION

- 1.6. The settlement legislation will, on the terms provided by sections [x] to [x] of the draft settlement bill, –
 - 1.6.1. settle the historical claims; and
 - 1.6.2. exclude the jurisdiction of any court, tribunal, or other judicial body in relation to the historical claims and the settlement; and

GENERAL MATTERS

1: SETTLEMENT

- 1.6.3. provide that the legislation referred to in section [x] of the draft settlement bill does not apply –
- (a) to a redress property, or any RFR land; or
 - (b) for the benefit of ngā hapū o Te Whānau a Apanui or a representative entity; and
- 1.6.4. require any resumptive memorial to be removed from any record of title for a redress property, or any RFR land; and
- 1.6.5. provide that the maximum duration of a trust pursuant to the Trusts Act 2019 does not –
- (a) apply to a settlement document; or
 - (b) prescribe or restrict the period during which –
 - (i) the trustees of Te Taumata o Ngā Hapū o Te Whānau a Apanui may hold or deal with property; and
 - (ii) Te Taumata o Ngā Hapū o Te Whānau a Apanui may exist; and
- 1.6.6. require the chief executive of the Office for Māori Crown Relations – Te Arawhiti to make copies of this deed publicly available.
- 1.7. Part 1 of the general matters schedule provides for other action in relation to the settlement.

2 IMPLEMENTATION OF SETTLEMENT

- 2.1. Te Taumata must use best endeavours to ensure that every historical claim proceeding is discontinued –
 - 2.1.1. by the settlement date; or
 - 2.1.2. as soon as practicable after the settlement date.
- 2.2. After the settlement date, the Crown may, do all or any of the following:
 - 2.2.1. advise the Waitangi Tribunal (or any other tribunal, court, or judicial body) of the settlement;
 - 2.2.2. request the Waitangi Tribunal to amend its register of claims, and adapt its procedures, to reflect the settlement;
 - 2.2.3. from time to time propose for introduction to the House of Representatives a bill or bills for either or both of the following purposes:
 - (a) terminating any historical claim proceeding;
 - (b) giving further effect to this deed, including achieving –
 - (i) certainty in relation to a party's rights and/or obligations; and/or
 - (ii) a final and durable settlement.
- 2.3. The Crown may cease, in relation to ngā hapū o Te Whānau a Apanui or Te Taumata, any landbank arrangements, except to the extent necessary to comply with its obligations under this deed.
- 2.4. Ngā hapū o Te Whānau a Apanui and Te Taumata must –
 - 2.4.1. support a bill referred to in paragraph 2.2.3; and
 - 2.4.2. not object to a bill removing resumptive memorials from any record of title.

3 SETTLEMENT LEGISLATION AND CONDITIONS

SETTLEMENT LEGISLATION

- 3.1. The Crown must propose the draft settlement bill for introduction to the House of Representatives.
- 3.2. The settlement legislation will provide for all matters for which legislation is required to give effect to this deed of settlement.
- 3.3. The draft settlement bill proposed for introduction to the House of Representatives –
 - 3.3.1. must comply with the drafting standards and conventions of the Parliamentary Counsel Office for Government Bills, as well as the requirements of the Legislature under Standing Orders, Speakers' Rulings, and conventions; and
 - 3.3.2. must be in a form that is satisfactory to ngā hapū o Te Whānau a Apanui and the Crown.
- 3.4. Ngā hapū o Te Whānau a Apanui and Te Taumata must support the passage of the draft settlement bill through Parliament.

SETTLEMENT CONDITIONAL

- 3.5. This deed, and the settlement, are conditional on the settlement legislation coming into force.
- 3.6. However, the following provisions of this schedule are binding on its signing:
 - 3.6.1. paragraphs 2.3, 3.4 to 3.6 and 3.11 to 3.15:
 - 3.6.2. parts 6 to 9.

RECOGNITION OF NEW MIO AND IAO AND VESTING OF FISHERIES AND AQUACULTURE ASSETS

- 3.7. The Crown agrees that the settlement legislation will, on the terms provided in sections [x] to [x] of the draft settlement bill –
 - 3.7.1. recognise that Te Taumata is, and is recognised by Te Ohu Kai Moana Trustee Limited as, the mandated iwi organisation under the Māori Fisheries Act 2004, and iwi aquaculture organisation under the Māori Commercial Aquaculture Claims Settlement Act 2004, for ngā hapū o Te Whānau a Apanui; and
 - 3.7.2. provide that Te Taumata's trust deed is approved as if it were approved under section 17 of the Māori Fisheries Act 2004 and section 33 of the Māori Commercial Aquaculture Claims Settlement Act 2004; and
 - 3.7.3. provide for the exemptions that will apply to the constitutional documents of Te Taumata as the mandated iwi organisation from certain requirements that are included in the Māori Fisheries Act 2004, being section 14(d)(ii) and Kaupapa 1(1) and (2), Kaupapa 2, Kaupapa 3(2) and Kaupapa 5(b) of Schedule 7 of the Act; and

3: SETTLEMENT LEGISLATION AND CONDITIONS

- 3.7.4. include other provisions to give better effect to the fact that Te Taumata is the new mandated iwi organisation and iwi aquaculture organisation for ngā hapū o Te Whānau a Apanui.

POTENTIAL CHANGES TO RESOURCE MANAGEMENT LEGISLATION

- 3.8. The Crown enters into this deed with an intention to maintain the integrity, intent and effectiveness of the arrangements in the deed even if the legislative environment changes.
- 3.9. The parties acknowledge that this deed and the settlement legislation have been developed and agreed:
- 3.9.1. in the context of, and with express reference to, the legislation existing at the date of this deed; and
- 3.9.2. in the knowledge that the Government has announced an intention to reform, and introduced bills to reform, the resource management legislation existing at the date of this deed.
- 3.10. The parties agree that, if the resource management legislation referred to in this deed is amended repealed or replaced at any time after this deed is signed (including as mentioned in paragraph 3.9.2) such that it affects the arrangements made and agreements reached, in this deed:
- 3.10.1. the integrity, intent and effect of the agreements in, and the mechanisms provided through this deed and the settlement legislation must be upheld;
- 3.10.2. the parties will engage in good faith to work through and agree in principle what may be required to uphold the integrity, intent and effect of the agreements and mechanisms provided in this deed within the context of the relevant legislative reform;
- 3.10.3. where necessary, the parties will enter into an agreement to amend this deed to uphold the integrity, intent and effect of the agreements and mechanisms provided in this deed within the context of the relevant legislative reform;
- 3.10.4. where the parties enter into an agreement in accordance with paragraph 3.10.3:
- (a) before introduction of the settlement bill to the House of Representatives, the Crown will propose any necessary amendments to the settlement bill to reflect the agreement, the form of which must be agreed with Te Taumata prior to introduction of the settlement bill;
- (b) during the passage of the settlement bill through Parliament, the Crown will propose as appropriate during the parliamentary process any necessary amendments to the settlement bill to reflect the agreement, the form of which must be agreed with Te Taumata;
- (c) after enactment of the settlement legislation, the Crown will propose for introduction to the House of Representatives a bill including any necessary amendments to the settlement legislation to reflect the agreement, the form of which must be agreed with Te Taumata; and
- 3.10.5. in the event that a bill is introduced under paragraph 3.10.4(c), the Crown and Te Taumata must support the passage of that bill through Parliament.

3: SETTLEMENT LEGISLATION AND CONDITIONS

EFFECT OF THIS DEED

- 3.11. This deed is “without prejudice” until it becomes unconditional.
- 3.12. Despite any other enactment or rule of law, on and from the settlement date, no court, tribunal, or other judicial body has jurisdiction (including the jurisdiction to inquire or further inquire, or to make a finding or recommendation) in respect of —
- 3.12.1. the historical claims; or
 - 3.12.2. this deed; or
 - 3.12.3. the redress provided under this deed.
- 3.13. Paragraph 3.12 does not exclude the jurisdiction of a court, tribunal, or other judicial body in respect of the interpretation or enforcement of this deed.

TERMINATION

- 3.14. The Crown or Te Taumata may terminate this deed, by notice to the other, if —
- 3.14.1. the settlement legislation has not come into force within [*minimum of 30 months*] after the date of this deed; and
 - 3.14.2. the terminating party has given the other party at least 40 working days' notice of an intention to terminate.
- 3.15. If this deed is terminated in accordance with its provisions —
- 3.15.1. this deed (and the settlement) are at an end; and
 - 3.15.2. subject to this paragraph, this deed does not give rise to any rights or obligations; and
 - 3.15.3. this deed remains “without prejudice”; but
 - 3.15.4. the parties intend that the on account payment is taken into account in any future settlement of the historical claims.

4 INTEREST

- 4.1. The Crown must pay to Te Taumata on the settlement date, interest on \$30,000,000, being the financial and commercial redress amount, as specified in paragraph 4.2.
- 4.2. The interest under paragraph 4.1 is payable –
 - 4.2.1. on the amount of \$30,000,000 for the period –
 - (a) beginning on 28 June 2019, being the date of the agreement in principle; and
 - (b) ending on 10 September 2020, being the day before the date the first on account payment referred to in clause 23.2 was paid; and
 - 4.2.2. on the amount of \$24,000,000 for the period –
 - (a) beginning on 11 September 2020, being the date the first on account payment referred to in clause 23.2 was paid; and
 - (b) ending on the day before the date the second on account payment referred to in clause 23.3 was paid; and
 - 4.2.3. on the amount of \$12,000,000 for the period –
 - (a) beginning on the date the second on account payment referred to in clause 23.3 was paid; and
 - (b) ending on the day before the settlement date.
- 4.3. The interest is –
 - 4.3.1. payable 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; and
 - 4.3.2. subject to any tax payable in relation to it; and
 - 4.3.3. payable after withholding any tax required by legislation to be withheld.

5 TAX

INDEMNITY

- 5.1. Neither the provision of Crown redress by the Crown to Te Taumata, the subsequent provision of a cultural redress property or commercial redress property by Te Taumata to a hapū entity or entities, nor the provision of an indemnity payment, is intended to be –
- 5.1.1. a taxable supply for GST purposes; or
 - 5.1.2. assessable income for income tax purposes.
- 5.2. The Crown must, therefore, indemnify the Specified Parties for –
- 5.2.1. any GST payable by the Specified Parties in respect of the provision of Crown redress or receipt of an indemnity payment; and
 - 5.2.2. any income tax payable by the Specified Parties as a result of any Crown redress, or an indemnity payment, being treated as assessable income of the Specified Parties; and
 - 5.2.3. any reasonable cost or liability incurred by the Specified Parties in taking, at the Crown's direction, action –
 - (a) relating to an indemnity demand; or
 - (b) under paragraph 5.13 or paragraph 5.14.1(b).

LIMITS

- 5.3. The tax indemnity does not apply to the following (which are subject to normal tax treatment):
- 5.3.1. interest paid under part 4 of this schedule:
 - 5.3.2. the transfer of the deferred selection property or RFR land under the settlement documentation:
 - 5.3.3. the Specified Parties' –
 - (a) use of Crown redress or an indemnity payment (except where such use is the provision of a cultural redress property or commercial redress property by Te Taumata to a hapū entity or entities); or
 - (b) payment of costs, or any other amounts, in relation to Crown redress.
 - 5.3.4. the transfer or provision of Crown redress by Te Taumata to a hapū entity or entities, if the transfer or provision:
 - (a) occurs after a period of 100 working days on and from the date the record of title to the relevant property is registered in the names of Te Taumata; or
 - (b) is made in exchange for consideration.

ACKNOWLEDGEMENTS

- 5.4. To avoid doubt, the parties acknowledge –
- 5.4.1. the Crown redress is provided –
- (a) to settle the historical claims; and
 - (b) with no other consideration being provided; and
- 5.4.2. in particular, the following are not consideration for the Crown redress:
- (a) an agreement under this deed to –
 - (i) enter into an encumbrance, or other obligation, in relation to Crown redress; or
 - (ii) pay costs (such as rates, or other outgoings, or maintenance costs) in relation to Crown redress:
 - (b) the performance of that agreement; and
- 5.4.3. nothing in this part is intended to imply that –
- (a) the provision of Crown redress, or an indemnity payment, is –
 - (i) a taxable supply for GST purposes; or
 - (ii) assessable income for income tax purposes; or
 - (b) if any of the Specified Parties is a charitable trust, or other charitable entity, it receives –
 - (i) redress, assets, or rights other than for charitable purposes; or
 - (ii) income other than as exempt income for income tax purposes; and
- 5.4.4. the transfer of the deferred selection property or RFR land under the settlement documentation is a taxable supply for GST purposes; and
- 5.4.5. Te Taumata is the only entity that this deed contemplates performing a function described in section HF 2(2)(d)(i) or section HF 2(3)(e)(i) of the Income Tax Act 2007.

CONSISTENT ACTIONS

- 5.5. The Specified Parties, a person associated with the Specified Parties, or the Crown must not act in a manner that is inconsistent with this part 5.
- 5.6. In particular, each of the Specified Parties must agree that –
- 5.6.1. from the settlement date, it will be a registered person for GST purposes, unless it is not carrying on a taxable activity; and
- 5.6.2. neither it, nor any person associated with it, will claim with respect to the provision of Crown redress, or an indemnity payment, –

5: TAX

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

INDEMNITY DEMANDS

- 5.7. The Specified Parties and the Crown must give notice to the other as soon as reasonably possible after becoming aware that the Specified Parties may be entitled to an indemnity payment.
- 5.8. An indemnity demand –
 - 5.8.1. may be made at any time after the settlement date; but
 - 5.8.2. must not be made more than 20 working days before the due date for payment of the tax, whether that date is –
 - (a) specified in an assessment; or
 - (b) a date for the payment of provisional tax; or
 - (c) otherwise determined; and
 - 5.8.3. must be accompanied by –
 - (a) evidence of the tax, and of any other amount sought, which is reasonably satisfactory to the Crown; and
 - (b) if the demand relates to GST and the Crown requires, a GST tax invoice.

INDEMNITY PAYMENTS

- 5.9. If a Specified Party is entitled to an indemnity payment, the Crown may make the payment to –
 - 5.9.1. the relevant Specified Party; or
 - 5.9.2. the Commissioner of Inland Revenue, on behalf of, and for the account of, the relevant Specified Party.
- 5.10. The Specified Parties must pay any indemnity payment received by it to the Commissioner of Inland Revenue, by the later of –
 - 5.10.1. the due date for payment of the tax; or
 - 5.10.2. the next working day after receiving the indemnity payment.

REPAYMENT

- 5.11. If it is determined that some or all of the tax to which an indemnity payment relates is not payable, the relevant Specified Party must promptly repay to the Crown any amount that –
 - 5.11.1. the Commissioner of Inland Revenue refunds or credits to the Specified Party; or
 - 5.11.2. the Specified Party has received but has not paid, and is not required to pay, to the Commissioner of Inland Revenue.

5: TAX

- 5.12. The Specified Parties have no right of set-off or counterclaim in relation to an amount payable by them under paragraph 5.11.

RULINGS

- 5.13. The Specified Parties must assist the Crown with an application to the Commissioner of Inland Revenue for a ruling, whether binding or not, in relation to the provision of Crown redress.

CONTROL OF DISPUTES

- 5.14. If the Specified Parties are entitled to an indemnity payment, the Crown may –

5.14.1. by notice to the relevant Specified Party, require it to –

- (a) exercise a right to defer the payment of tax; and/or
- (b) take any action specified by the Crown, and confirmed by expert legal tax advice as appropriate action in the circumstances, to respond to, and/or contest, –
 - (i) a tax assessment; and/or
 - (ii) a notice in relation to the tax, including a notice of proposed adjustment; or

5.14.2. nominate and instruct counsel on behalf of the relevant Specified Party whenever it exercises its rights under paragraph 5.14.1; and

5.14.3. recover from the Commissioner of Inland Revenue any tax paid that is refundable.

DEFINITIONS

- 5.15. In this part, unless the context requires otherwise, –

5.15.1. **provision**, in relation to redress, includes its payment, credit, transfer, vesting, making available, creation, or grant and **provision of Crown redress** includes a transfer of an item or amount of Crown redress or a cultural redress property or commercial redress property by Te Taumata to a hapū entity or entities; and

5.15.2. **Specified Parties** means:

- (a) the Crown, in respect of the provision of Crown redress to Te Taumata; or
- (b) Te Taumata, in respect of the provision of Crown redress by the Crown to Te Taumata; or
- (c) Te Taumata, in respect of the provision of a cultural redress property or commercial redress property to a hapū entity or entities; or
- (d) the relevant hapū entity or entities, in respect of the provision of a cultural redress property or commercial redress property by Te Taumata; and

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

6 NOTICE

APPLICATION

- 6.1. Unless otherwise provided in this deed, or a settlement document, this part applies to a notice under this deed or a settlement document.
- 6.2. In particular, this part is subject to the provisions of part 7 of the property redress schedule which provides for notice to the Crown in relation to, or in connection with, a redress property or the deferred selection property.

REQUIREMENTS

- 6.3. A notice must be –
 - 6.3.1. in writing; and
 - 6.3.2. signed by the person giving it [(but, if Te Taumata is giving the notice, it is effective if not less than [three] trustees sign it)]; and
 - 6.3.3. addressed to the recipient at its address, facsimile number, or email address as provided –
 - (a) in paragraph 6.6; or
 - (b) if the recipient has given notice of a new address, facsimile number or email address, in the most recent notice of a change of address, facsimile number or email address; and
 - 6.3.4. given by –
 - (a) personal delivery (including by courier) to the recipient's street address; or
 - (b) sending it by pre-paid post addressed to the recipient's postal address; or
 - (c) by faxing it to the recipient's facsimile number; or
 - (d) sending it by electronic mail to the recipient's email address.

TIMING

- 6.4. A notice is to be treated as having been received:
 - 6.4.1. at the time of delivery, if personally delivered; or
 - 6.4.2. on the sixth day after posting, if posted; or
 - 6.4.3. on the day of transmission, if faxed or sent by electronic mail.
- 6.5. However, if a notice is treated under paragraph 6.4 as having been received after 5pm on a working day, or on a non-working day, it is to be treated as having been received on the next working day.

6: NOTICE

ADDRESSES

6.6. The address of –

6.6.1. Te Taumata is –

[*address*]

6.6.2. the Crown is –

C/- The Solicitor-General
Crown Law Office
Level 2
Justice Centre
19 Aitken Street
PO Box 2858
WELLINGTON

Facsimile No. 04 473 3482

Email address library@crownlaw.govt.nz

7 MISCELLANEOUS

AMENDMENTS

- 7.1. This deed may be amended only by written agreement signed by Te Taumata and the Crown.

ENTIRE AGREEMENT

- 7.2. This deed, and each of the settlement documents, in relation to the matters in it, –
- 7.2.1. constitutes the entire agreement between the parties; and
- 7.2.2. supersedes all earlier representations, understandings, and agreements.

NO ASSIGNMENT OR WAIVER

- 7.3. Paragraph 7.4 applies to rights and obligations under this deed or a settlement document.
- 7.4. Except as provided in this deed or a settlement document, a party –
- 7.4.1. may not transfer or assign its rights or obligations; and
- 7.4.2. does not waive a right by –
- (a) failing to exercise it; or
- (b) delaying in exercising it; and
- 7.4.3. is not precluded by a single or partial exercise of a right from exercising –
- (a) that right again; or
- (b) another right.

NAMES USED IN PLACE OF OFFICIAL OR RECORDED GEOGRAPHIC NAMES

- 7.5. The following is a list of each name used in this deed that is not the official or recorded geographic name for the place or feature.

Name used in deed	Official or recorded name
Tokata property	Tokata Scenic Reserve
Oruaiti Beach property	Oruaiti Beach Recreation Reserve
Raukōkore River	Raukokore River
Maraenui Hill	Maraenui Hill Lookout
Ōmaio Bay	Omaio Bay
Potikirua	Potikirua Point
Hāwai	Hawai

GENERAL MATTERS

7: MISCELLANEOUS

Raukūmara Conservation Park	Raukumara Conservation Park
Turanga-nui-a-Kiwa	Tūranganui-a-Kiwa / Poverty Bay

RELATIONSHIP ARRANGEMENTS NON-EXCLUSIVE

- 7.6. The Crown may do anything that is consistent with the relationship arrangements set out in this part, including entering into, and giving effect to, another settlement that provides for the same or similar relationship arrangements with another group.

CULTURAL REDRESS GENERALLY NON-EXCLUSIVE

- 7.7. The Crown may do anything that is consistent with the cultural redress, including entering into, and giving effect to, another settlement that provides for the same or similar cultural redress.
- 7.8. To avoid doubt, paragraphs 7.6 and 7.7 do not prevent ngā hapū o Te Whānau a Apanui from expressing their dissent or disagreement to non-exclusive cultural redress being offered to another group if they consider it disproportionate to the group's interest in an area.
- 7.9. However, the Crown must not enter into another settlement that provides for the same redress as set out in clauses 15.1 to 15.9.

8 DEFINITIONS

HISTORICAL CLAIMS

8.1. In this deed, **historical claims** –

8.1.1. 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 ngā hapū o Te Whānau a Apanui, 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 te Tiriti o Waitangi/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

8.1.2. includes every claim to the Waitangi Tribunal to which paragraph 8.1.1 applies that relates exclusively to ngā hapū o Te Whānau a Apanui or a representative entity, including the following claims:

- (a) Wai 70 – Puketauhinu No. 1, Raukumara State Forest claim:
- (b) Wai 213 – Whangaparaoa Land claim:
- (c) Wai 224 – Maraehako Block claim:
- (d) Wai 225 – Te Puia-I-Whakaari (White Island) claim:
- (e) Wai 232 – Whanau-A-Kauaetangohia Fisheries claim:
- (f) Wai 281 – Kaiaio Papakainga/Te Kaha claim:
- (g) Wai 309 – Fisheries of Te Whanau Apanui claim:
- (h) Wai 422 – Waikura Block claim:
- (i) Wai 434 – Te Kaha B3 Block claim:
- (j) Wai 463 – Rating and Valuation of Maori Land claim:
- (k) Wai 780 – Te Kaha blocks and other Eastern Bay of Plenty lands claim:

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- (l) Wai 813 – Motuaruhe 2 Block claim:
- (m) Wai 930 – Te Moana Waihau Bay claim:
- (n) Wai 1121 – Whanarua Bay Land Blocks Alienation claim:
- (o) Wai 1198 – Te Runanga O Te Whanau land and resources claim:
- (p) Wai 1552 – Descendants of Pohueroro Lands claim:
- (q) Wai 1553 – Descendants of Romio Wi Repa and Mary Gundry Wi Repa claim:
- (r) Wai 1773 – Te Whanau-a-Apanui Social, Cultural and Economic Loss claim:
- (s) Wai 1778 – Te Whanau-a-Apanui (Edward Matchitt) claim:
- (t) Wai 1779 – Te Whanau-a-Apanui Public Works (Matchitt) claim:
- (u) Wai 1783 – Returned Maori Soldiers (Poananga) claim:
- (v) Wai 1784 – Te Whanau-a-Apanui (Pohatu) claim:
- (w) Wai 1797 – Te Whanau-a-Ehutu claim:
- (x) Wai 1808 – Waikawa 2B and 3 Land Blocks claim:
- (y) Wai 1814 – Te Aitanga-a-Apanui claim:
- (z) Wai 1822 – Te Whanau a Kahurautao claim:
- (aa) Wai 1828 – Te Whanau-a-Apanui Rating claim:
- (bb) Wai 1829 – Te Whanau-a-Apanui Mana Tane claim:
- (cc) Wai 1830 – Te Whanau a Maruhaeremuri claim:
- (dd) Wai 1892 – Children of Honahautonga and Okeroa Taitua claim:
- (ee) Wai 1964 – Te Whanau-a-Apanui (Tohiariki) claim:
- (ff) Wai 2002 – Whangaparaoa 2k2 Trust claim:
- (gg) Wai 2043 – Te Whanau-a-Apanui Crown Treaty Settlement Process claim:
- (hh) Wai 2186 – Tohiariki Whanau Lands and Other Issues claim:
- (ii) Wai 2212 – Te Whānau a Apanui and Te Whanau a Hīkarukutai Resources (Takitimu) claim:
- (jj) Wai 2216 – Descendants of Te Whanau a Maruhaeremuri Fisheries Regulations claim:
- (kk) Wai 2257 – Te Whanau Apanui Mana Wahine (Stirling) claim:

8: DEFINITIONS

- (ll) Wai 2290 – Te Whanau-a-Nuku (Kerei) claim; and
- (mm) Wai 2404 – The Waikaire Whanau Trust (Insley) claim.

8.1.3. includes every other claim to the Waitangi Tribunal to which paragraph 8.1.1 applies, so far as it relates to ngā hapū o Te Whānau a Apanui or a representative entity, including the following claims:

- (a) Wai 287 – School History Syllabus claim:
- (b) Wai 1082 – Tatarahake & Associated Blocks claim:
- (c) Wai 1780 – Te Whanau-a-Apanui (Ngamoki) claim:
- (d) Wai 1788 – State Highway 35 Land (Joe Rua) claim:
- (e) Wai 1789 – Descendants of Hineato Savage claim:
- (f) Wai 1962 – Te Kaha Hapū (Thompson and Wi Repa) claim; and
- (g) Wai 2229 – Descendants of Eru Monita and others claim.

8.2. However, **historical claims** does not include the following claims:

8.2.1. a claim that a member of ngā hapū o Te Whānau a Apanui, or a whānau, hapū, or group referred to in paragraph 8.6.2, 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 8.6.1:

8.2.2. a claim that a representative entity may have to the extent the claim is, or is founded, on a claim referred to in paragraph 8.2.1.

8.3. To avoid doubt, paragraph 8.1.1 is not limited by paragraph 8.1.2 or 8.1.3.

8.4. To avoid doubt, this settlement does not affect applications made by iwi, hapū or whānau of ngā hapū o Te Whānau a Apanui under the Marine and Coastal Area (Takutai Moana) Act 2011, except to the extent set out in part 11 of this deed.

8.5. To avoid doubt, the parties confirm and acknowledge that any contemporary aspects of the claims listed in paragraphs 8.1.2 and 8.1.3 (being aspects of those claims that arise from, or relate to, acts or omissions that occurred on or after 21 September 1992) will not be settled by this deed.

NGĀ HAPŪ O TE WHĀNAU A APANUI

8.6. In this deed, ngā hapū o Te Whānau a Apanui means –

8.6.1. the collective group composed of individuals who descend from one or more Te Whānau a Apanui ancestor; and

8.6.2. every whānau, hapū, or group to the extent that it is composed of individuals referred to in paragraph 8.6.1, including the following groups:

- (a) Te Whānau a Haraawaka:
- (b) Te Whānau a Hikorukutai (also known as Ngāti Horomoana):

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- (c) Te Whānau a Tutawake (also known as Ngāti Paeakau and Te Whānau a Tuahiawa):
- (d) Te Whānau a Nuku (also known as Ngāti Horowai):
- (e) Te Whānau a Rutaia (also known as Ngāti Terewai) and Te Whānau a Rongomai:
- (f) Te Whānau a Hinetekahu (also known as Te Whānau a Toihau):
- (g) Te Whānau a Te Ehutu:
- (h) Te Whānau a Kaiaio:
- (i) Te Whānau a Kahurautao (including Te Whānau a Te Rangi-i-runga):
- (j) Te Whānau a Pararaki:
- (k) Te Whānau a Maruhaeremuri:
- (l) Te Whānau a Kauaetangohia;
- (m) Te Whānau a Tapaeururangi; and

8.6.3. every individual referred to in paragraph 8.6.1.

8.7. To avoid doubt, all historical claims of Te Whānau a Tapaeururangi have been settled by the Ngāti Porou Deed of Settlement dated 22 December 2010.

8.8. For the purposes of paragraph 8.6.1 –

8.8.1. 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 tikanga (Māori customary values and practices) of ngā hapū o Te Whānau a Apanui; and

8.8.2. a **Te Whānau a Apanui ancestor** means an individual who –

- (a) exercised customary rights by virtue of being descended from –
 - (i) Apanui Ringamutu; or
 - (ii) a recognised ancestor of any of the groups listed in paragraph 8.6.2; and
- (b) exercised customary rights predominantly in relation to the area of interest after 6 February 1840.

8.8.3. **customary rights** means rights according to tikanga Māori (Māori customary values and practices), including –

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- (a) rights to occupy land; and
- (b) rights in relation to the use of land or other natural or physical resources.

MANDATED NEGOTIATORS AND SIGNATORIES

8.9. In this deed –

8.9.1. **mandated negotiators** means the following individuals:

- (a) Rikirangi Gage, of Ōmaio, Chief Executive;
- (b) Matanuku Mahuika, of Gisborne, lawyer; and
- (c) Natalie Coates, of Whakatane, lawyer; and

8.9.2. **mandated signatories** means the following individuals:

- (a) Francis Kerry Cameron on behalf of Te Whānau a Haraawaka;
- (b) Ora Barlow on behalf of Te Whānau a Hikarukutai;
- (c) Donna Michelle Takitimu on behalf of Te Whānau a Tutawake;
- (d) Makarauria Max Kemara on behalf of Te Whānau a Nuku;
- (e) Catherine Edmonds on behalf of Te Whānau a Rutaia;
- (f) Lynette Parekura on behalf of Te Whānau a Hinetekahu;
- (g) Tiaki Rangikawanoa Parata on behalf of Te Whānau a Te Ehutu;
- (h) Raukura Ngatoro on behalf of Te Whānau a Kaiaio;
- (i) Inys Calcott on behalf of Te Whānau a Kahurautao;
- (j) Moana Waititi on behalf of Te Whānau a Pararaki;
- (k) William Stirling Te Aho on behalf of Te Whānau a Maruhaeremuri;
- (l) Rika Mato on behalf of Te Whānau a Kauaetangohia; and
- (m) [name] on behalf of Te Whānau a Tapaeururangi.

ADDITIONAL DEFINITIONS

8.10. In this deed –

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

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

area of interest or **rohe** means the area identified as the area of interest in part 1.1 of the attachments; and

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

attachments means the attachments to this deed, being the areas of interest, the deed plans, the RFR land, the DSP school house site diagram, the freshwater catchment units, hapū entities and rohe moana, the map of ngā rohe moana o ngā hapū, and the draft settlement bill; and

board of trustees has the meaning given to it by section 10(1) of the Education and Training Act 2020; and

commercial redress property means each property described in part 3 of the property redress schedule; and

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

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

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

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

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

conservation legislation means the Conservation Act 1987 and the enactments listed in Schedule 1 of that Act; and

conservation management strategy has the meaning given to that term in section [x] of the draft settlement bill; and

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

Crown minerals protocol means the protocol issued under clause 13.146.2 and the settlement legislation; and

Crown redress –

- (a) means redress –
 - (i) provided by the Crown to Te Taumata; or
 - (ii) vested by the settlement legislation in Te Taumata that was, immediately prior to the vesting, owned by or vested in the Crown; and
- (b) includes the right of Te Taumata under the settlement documentation –
 - (i) to acquire the deferred selection property; and
 - (ii) of first refusal in relation to RFR land; and
- (c) includes any part of the Crown redress; and

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- (d) does not include –
- (i) an obligation of the Crown under the settlement documentation to transfer the deferred selection property or RFR land; or
 - (ii) the deferred selection property or RFR land; or
 - (iii) any on account payment made to entities other than Te Taumata; and

cultural redress means the redress provided by or under –

- (a) parts 8, 9, 11 to 13 and 15; or
- (b) the settlement legislation giving effect to any of those provisions of the deed; and

cultural redress funding means the funding referred to in clause 24.2 as cultural redress funding; and

cultural redress property means each property described in schedule 3 of the draft settlement bill; and

Culture and Heritage Parties means the following agencies:

- (a) Department of Internal Affairs Te Tari Taiwhenua (the agency responsible for the National Library of New Zealand Te Puna Mātauranga o Aotearoa and Archives New Zealand Te Rua Mahara o Te Kāwanatanga); and
- (b) Heritage New Zealand Pouhere Taonga; and
- (c) Manatū Taonga Ministry for Culture and Heritage; and
- (d) Museum of New Zealand Te Papa Tongarewa; and

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

deed of recognition means each deed of recognition in part 2 of the documents schedule; and

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

deed plan means a deed plan in part 2 of the attachments; and

deferred selection period means the period starting on the settlement date and lasting for the period of time specified for the deferred selection property under the heading “Deferred selection period” in the table set out in part 4 of the property redress schedule; and

deferred selection property means the property described in subpart A of part 4 of the property redress schedule; and

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

documents schedule means the documents schedule to this deed; and

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DSP school house site means the property described in subpart B of part 4 of the property redress schedule (subject to ground verification); and

draft settlement bill means the draft settlement bill in part 8 of the attachments; and

eligible members of ngā hapū o Te Whānau a Apanui means a member of ngā hapū o Te Whānau a Apanui who on [date] was –

- (a) [aged 18 years or over]; and
- (b) [registered on the register of members of ngā hapū o Te Whānau a Apanui kept by [name] for the purpose of voting on –
 - (i) the ratification, and signing, of this deed; and
 - (ii) the approval of Te Taumata to receive the redress]; and

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

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

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

- (a) clauses 17.1 to 17.3, 18.1 to 18.7, 19.1 and 19.2, and 23.1 to 23.12; or
- (b) the settlement legislation giving effect to any of those clauses; and

financial and commercial redress amount means the amount referred to in clause 23.1 as the financial and commercial redress amount; and

general matters schedule means this schedule; and

GST –

- (a) means goods and services tax chargeable under the Goods and Services Tax Act 1985; and
- (b) includes, for the purposes of part 5 of this schedule, any interest or penalty payable in respect of, or on account of, the late or non-payment of GST; and

Heritage New Zealand Pouhere Taonga means the Crown entity established by section 9 of the Heritage New Zealand Pouhere Taonga Act 2014; and

historical claim proceeding means an historical claim made in any court, tribunal, or other judicial body; and

historical claims has the meaning given in paragraphs 8.1 to 8.3; and

income tax means income tax imposed under the Income Tax Act 2007 and includes, for the purposes of part 5 of this schedule, any interest or penalty payable in respect of, or on account of, the late or non-payment of income tax; and

indemnity demand means a demand made by Te Taumata to the Crown under part 5 of this schedule for an indemnity payment; and

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indemnity payment means a payment made by the Crown under part 5 of this schedule; and

"in principle" agreement means the agreement in principle referred to in clause 1.30; and

land holding agency, in relation to, –

(a) the following cultural redress properties, means the Office for Māori Crown Relations – Te Arawhiti:

- (i) Hawai site B:
- (ii) Ōmaio Bay property:
- (iii) Otamatohirua:
- (iv) Tamatari:
- (v) Whanarua Bay site A:
- (vi) Whanarua Bay site B; and

(b) the Maraetai property, means –

- (i) the Department of Conservation for that part of the property that is owned by the Department of Conservation; and
- (ii) the Office for Māori Crown Relations – Te Arawhiti for all other parts of the property; and

(c) all other cultural redress properties, the Department of Conservation; and

(d) a commercial redress property, or the deferred selection property, means the department specified opposite that property in part 3 or part 4, as the case may be, of the property redress schedule; and

LINZ means Land Information New Zealand; and

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

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

mandated negotiators means the individuals identified as the mandated negotiators by paragraph 8.9.1; and

mandated signatories means the individuals identified as the mandated signatories by paragraph 8.9.2; and

member of ngā hapū o Te Whānau a Apanui means an individual referred to in paragraph 8.6.3; and

Minister means a Minister of the Crown; and

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month means a calendar month; and

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

ngā hapū o Te Whānau a Apanui has the meaning given to it by paragraph 8.6; and

notice means a notice given under part 6 of this schedule, or any other applicable provisions of this deed, and **notify** has a corresponding meaning; and

on account payment means each amount referred to in clauses 23.2 and 23.3 paid by the Crown on account of the financial and commercial redress amount; and

party means each of the following:

- (a) ngā hapū o Te Whānau a Apanui:
- (b) Te Taumata:
- (c) the Crown; and

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

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

purchased deferred selection property means the deferred selection property if Te Taumata and the Crown are to be treated under paragraph 5.4 of the property redress schedule as having entered into an agreement for its sale and purchase; and

redress means –

- (a) the acknowledgement and the apology made by the Crown in clauses 4.1 to 5.5; and
- (b) the cultural redress; and
- (c) the financial and commercial redress; and

redress property means –

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

related school site means the school with which the DSP school house site is associated; and

relationship agreements means the relationship agreements referred to in clauses 22.2 and 22.4 and set out in part 6 of the documents schedule; and

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

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representative entity means –

- (a) Te Taumata; and
- (b) a person (including any trustee or trustees) acting for or on behalf of:
 - (i) the collective group referred to in paragraph 8.6.1; or
 - (ii) any one or more members of ngā hapū o Te Whānau a Apanui; or
 - (iii) any one or more of the whānau, hapū, or groups of individuals referred to in paragraph 8.6.2; and

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

responsible Minister, for the purpose of clauses 12.66 and 13.144, has the meaning given in section [x] of the draft settlement bill; and

resumptive memorial means a memorial entered on a record of title under any of the following sections:

- (a) 27A of the State-Owned Enterprises Act 1986;
- (b) 568 of the Education and Training Act 2020;
- (c) 38 of the New Zealand Railways Corporation Restructuring Act 1990; and

RFR land means land listed in part 3 of the attachments as RFR land that, on the settlement date, –

- (a) is vested in the Crown; or
- (b) the fee simple for which is held by the Crown or Kāinga Ora – Homes and Communities; and

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

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

settlement date means the date that is 40 working days after the date on which the settlement legislation comes into force; and

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

settlement documentation means this deed and the settlement legislation; and

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

statement of association means the statement of association in part 1 of the documents schedule; and

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statutory acknowledgement has the meaning given to that term by section [x] of the draft settlement bill; and

statutory area means the area identified in clause 11.67.1; and

tax includes income tax and GST; and

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

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

tax indemnity means an indemnity given by the Crown under part 5 of this schedule; and

terms of negotiation means the terms of negotiation referred to in clause 1.30; and

transfer value, –

- (a) in relation to a commercial redress property, means the transfer value provided in part 3 of the property redress schedule in relation to that property; and
- (b) in relation to the deferred selection property, has the meaning given to it in part 8 of the property redress schedule; and

Te Rūnanga o Te Whānau Charitable Trust means the incorporated charitable trust board established by Te Rūnanga o Te Whānau Charitable Trust deed dated 11 October 1988; and

Te Taumata o Ngā Hapū o Te Whānau a Apanui means the trust known by that name and established by a trust deed dated [date] and signed by [name, place of residence, and occupation of signatories]; and

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

trustees of Te Taumata o Ngā Hapū o Te Whānau a Apanui or Te Taumata means the trustees from time to time of Te Taumata o Ngā Hapū o Te Whānau a Apanui, in their capacity as trustees of Te Taumata o Ngā Hapū o Te Whānau a Apanui; and

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

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

working day means a day that is not –

- (a) a Saturday or a Sunday; or
- (b) Waitangi Day, Good Friday, Easter Monday, Anzac Day, Te Rā Aro ki a Matariki/Matariki Observance Day, the Sovereign's Birthday, or Labour Day; or
- (c) if Waitangi Day or Anzac Day falls on a Saturday or Sunday, the following Monday; or

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- (d) a day in the period commencing with 25 December in any year and ending with 15 January in the following year; or
- (e) a day that is observed as the anniversary of the province of –
 - (i) Auckland; or
 - (ii) Wellington; and

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

9 INTERPRETATION

- 9.1. This part applies to this deed's interpretation, unless the context requires a different interpretation.
- 9.2. Headings do not affect the interpretation.
- 9.3. A term defined by –
 - 9.3.1. this deed has the meaning given to it by this deed; and
 - 9.3.2. the draft settlement bill, but not by this deed, has the meaning given to it by that bill.
- 9.4. All parts of speech and grammatical forms of a defined term have corresponding meanings.
- 9.5. The singular includes the plural and vice versa.
- 9.6. One gender includes the other genders.
- 9.7. Any monetary amount is in New Zealand currency.
- 9.8. Time is New Zealand time.
- 9.9. Something that must or may be done on a day that is not a working day must or may be done on the next working day.
- 9.10. A period of time specified as –
 - 9.10.1. beginning on, at, or with a specified day, act, or event includes that day or the day of the act or event; or
 - 9.10.2. beginning from or after a specified day, act, or event does not include that day or the day of the act or event; or
 - 9.10.3. ending by, on, at, with, or not later than, a specified day, act, or event includes that day or the day of the act or event; or
 - 9.10.4. ending before a specified day, act or event does not include that day or the day of the act or event; or
 - 9.10.5. continuing to or until a specified day, act, or event includes that day or the day of the act or event.
- 9.11. A reference to –
 - 9.11.1. an agreement or document, including this deed or a document in the documents schedule, means that agreement or that document as amended, novated, or replaced; and
 - 9.11.2. legislation, including the settlement legislation, means that legislation as amended, consolidated, or substituted; and
 - 9.11.3. a party includes a permitted successor of that party; and

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- 9.11.4. a particular Minister includes any Minister who, under the authority of a warrant or with the authority of the Prime Minister, is responsible for the relevant matter.
- 9.12. An agreement by two or more persons binds them jointly and severally.
- 9.13. If the Crown must endeavour to do something or achieve some result, the Crown –
- 9.13.1. must use reasonable endeavours to do that thing or achieve that result; but
- 9.13.2. is not required to propose for introduction to the House of Representatives any legislation, unless expressly required by this deed.
- 9.14. Provisions in –
- 9.14.1. the main body of this deed are referred to as clauses; and
- 9.14.2. the property redress and general matters schedules are referred to as paragraphs; and
- 9.14.3. the documents in the documents schedule are referred to as clauses; and
- 9.14.4. the draft settlement bill are referred to as sections.
- 9.15. If there is a conflict between a provision that is –
- 9.15.1. in the main body of this deed and a provision in a schedule or an attachment, the provision in the main body of the deed prevails; and
- 9.15.2. in English and a corresponding provision in Māori, the provision in English prevails.
- 9.16. The deed plans in the attachments that are referred to in the appointment to control and manage Hawai Scenic Reserve, the deeds of recognition, the Raukūmara Lands, the Raukūmara conservation management strategy area, and the statutory acknowledgement indicate the general locations of the relevant areas but not their precise boundaries.
- 9.17. The deed plans in the attachments that show the cultural redress properties indicate the general locations of the relevant properties but are for information purposes only and do not show their precise boundaries. The legal descriptions for the cultural redress properties are shown in schedule 3 of the draft settlement bill.