

**MORIORI**  
**and**  
**THE TRUSTEES OF THE MORIORI IMI SETTLEMENT TRUST**  
**and**  
**THE CROWN**

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**DEED OF SETTLEMENT SCHEDULE:**  
**PROPERTY REDRESS**

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PROPERTY REDRESS

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## 1 DISCLOSURE INFORMATION AND WARRANTY

### DISCLOSURE INFORMATION

- 1.1 The Crown –
- 1.1.1 has provided information to the governance entity about the cultural redress properties, by The Office for Māori Crown Relations – Te Arawhiti to the Moriori Imi Settlement Trust on 14 May 2019; and
- 1.1.2 must under paragraph 4.2.1 provide information to the governance entity about a deferred selection property if the governance entity has, in accordance with part 4, given the Crown notice of interest in purchasing the property.
- 1.2 In this part, **disclosure information** means, in relation to a cultural redress property and a deferred selection property, the information about that property given under paragraph 1.1.

### WARRANTY

- 1.3 The Crown warrants to the governance entity that the Crown has given to the governance entity in its disclosure information about a cultural redress property and a deferred selection property all material information that, to the best of the land holding agency's knowledge, is at the date of providing that information, in the agency's records about the property (including its encumbrances), –
- 1.3.1 having inspected the agency's records; but
- 1.3.2 not having made enquiries beyond the agency's records; and
- 1.3.3 in particular, not having undertaken a physical inspection of the property.

### WARRANTY LIMITS

- 1.4 Other than under paragraph 1.3, the Crown does not give any representation or warranty, whether express or implied, and does not accept any responsibility, with respect to –
- 1.4.1 a cultural redress property or a deferred selection property, including in relation to –
- (a) its state, condition, fitness for use, occupation, or management; or
- (b) its compliance with –
- (i) legislation, including bylaws; or

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### 1: DISCLOSURE INFORMATION AND WARRANTY

- (ii) any enforcement or other notice, requisition, or proceedings; or
- 1.4.2 the disclosure information about a cultural redress property or a deferred selection property, including in relation to its completeness or accuracy.
- 1.5 The Crown has no liability in relation to the state or condition of a cultural redress property or a deferred selection property, except for any liability arising as a result of a breach of paragraph 1.3.

### INSPECTION

- 1.6 In paragraph 1.7, **relevant date** means, in relation to –
  - 1.6.1 a cultural redress property, the date of this deed; and
  - 1.6.2 a purchased deferred selection property, the day on which the governance entity gives an election notice electing to purchase the property.
- 1.7 Although the Crown is not giving any representation or warranty in relation to a cultural redress property or a deferred selection property, other than under paragraph 1.3, the governance entity acknowledges that it could, before the relevant date, –
  - 1.7.1 inspect the property and determine its state and condition; and
  - 1.7.2 consider the disclosure information in relation to it.

## 2 VESTING OF CULTURAL REDRESS PROPERTIES

### SAME MANAGEMENT REGIME AND CONDITION

- 2.1 Until the settlement date, the Crown must –
- 2.1.1 continue to manage and administer each cultural redress property in accordance with its existing practices for the property; and
  - 2.1.2 maintain each cultural redress property in substantially the same condition that it is in at the date of this deed.
- 2.2 Paragraph 2.1 does not –
- 2.2.1 apply to a cultural redress property that is not managed and administered by the Crown; or
  - 2.2.2 require the Crown to restore or repair a cultural redress property damaged by an event beyond the Crown's control.

### ACCESS

- 2.3 The Crown is not required to enable access to a cultural redress property for the governance entity or members of Moriori.

### COMPLETION OF REQUIRED DOCUMENTATION

- 2.4 Any documentation, required by the settlement documentation to be signed by the governance entity in relation to the vesting of a cultural redress property, must, on or before the settlement date, be –
- 2.4.1 provided by the Crown to the governance entity; and
  - 2.4.2 duly signed and returned by the governance entity.

### SURVEY AND REGISTRATION

- 2.5 The Crown must arrange, and pay for, –
- 2.5.1 the preparation, approval and, where applicable the deposit, of a cadastral survey dataset of a cultural redress property to the extent it is required to enable the issue, under the settlement legislation, of a record of title for a fee simple estate in the property; and
  - 2.5.2 the registration of any document required in relation to the vesting under the settlement legislation of a cultural redress property in the governance entity.

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3 DEFERRED SELECTION PROPERTIES

Name/Address	Description	Land holding Agency	Deferred selection period
Waitangi site 1 4 Meteorological Lane, Waitangi, Chatham Islands	<i>Wellington Land District – Chatham Islands Council</i>  1.6284 hectares, more or less, being Sections 1 and 2 SO 32101. Balance Gazette Notice 369343.1.	LINZ	2 years
Part Waitangi site 6 Hight Place, Waitangi, Chatham Islands (Part PF 1107)	<i>Wellington Land District – Chatham Islands Council</i>  1.7 hectares, approximately, being Part Kekerione 1 62 Block. Part record of title WN54C/73 for the fee simple estate. Subject to survey.  <b>Note: the exact location of this site is to be agreed or determined. Refer to clause 6.5</b>	LINZ (Treaty Settlements Landbank)	2 years

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## 4 DEFERRED PURCHASE

### SUBPART A. RIGHT OF PURCHASE

#### NOTICE OF INTEREST

- 4.1 The governance entity may during the deferred selection period for each deferred selection property, give the Crown a written notice of interest in purchasing that deferred selection property.

#### EFFECT OF NOTICE OF INTEREST

- 4.2 If the governance entity gives, in accordance with this part, a notice of interest in a deferred selection property –
- 4.2.1 the Crown must, not later than [10] business days after the notification date, give the governance entity all material information that, to the best of its knowledge, is in its records about the property, including its encumbrances; and
- 4.2.2 the property's transfer value must be determined or agreed in accordance with subpart B of this part 4.

#### ELECTION TO PURCHASE

- 4.3 If the governance entity gives a notice of interest in a deferred selection property in accordance with this part, it must give the Crown written notice of whether or not it elects to purchase the property, by not later than 15 business days after its transfer value being determined or agreed in accordance with this part.
- 4.4 The governance entity must include the tax information required pursuant to paragraph 5.48 in its election notice.

#### EFFECT OF ELECTION TO PURCHASE

- 4.5 If the governance entity gives an election notice electing to purchase a deferred selection property in accordance with this part, the parties are to be treated as having entered into an agreement for the sale and purchase of the property at the transfer value determined or agreed in accordance with this part, plus GST (if any), on the terms in part 5 and under which, on the DSP settlement date –
- 4.5.1 the Crown must transfer the property to the governance entity; and
- 4.5.2 the governance entity must pay to the Crown an amount equal to the transfer value of the property determined or agreed in accordance with this part, plus GST (if any), by –

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- (a) the SCP system, as defined in Guideline 7 of the New Zealand Law Society's Property Law Section's Property Transactions and E-Dealing Practice Guidelines (November 2019); or
- (b) another payment method agreed by the parties.

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**SUBPART B. DETERMINING THE TRANSFER VALUE OF A DEFERRED  
SELECTION PROPERTY**

**APPLICATION OF THIS SUBPART**

- 4.6 This subpart provides how the transfer value of a deferred selection property is to be determined after the governance entity has given, in accordance with this part, a notice of interest in the property.
- 4.7 The market value is to be determined as at the notification date.

**APPOINTMENT OF VALUER**

- 4.8 The parties must, not later than [10] business days after the notification date, agree upon and jointly appoint a valuer.
- 4.9 If the parties do not jointly appoint a valuer in accordance with paragraph 4.8, either party may request the President of the New Zealand Institute of Valuers to appoint a valuer as soon as practicable.
- 4.10 The parties must, not later than [5] business days after the valuer's appointment, jointly instruct the valuer using the form of instructions in the appendix to part 4 and, if the parties do not jointly instruct the valuer in accordance with this paragraph, either party may on behalf of both parties.

**VALUER'S QUALIFICATIONS**

- 4.11 The valuer must be –
- 4.11.1 a registered valuer; and
  - 4.11.2 independent; and
  - 4.11.3 experienced in determining the market value of similar properties.

**VALUATION REPORT**

- 4.12 The valuer must, not later than [50] business days after the notification date, –
- 4.12.1 prepare a valuation report in accordance with the instructions; and
  - 4.12.2 provide each party with a copy of the valuation report.

The valuation report must comply with the International Valuation Standards [2017], or explain where it is at variance with those standards.

**TRANSFER VALUE**

- 4.13 Unless the parties agree otherwise in writing, the transfer value of the deferred selection property for the purposes of paragraph 4.5.2 is as provided in the valuation report as the market value for the property.

## SUBPART C. GENERAL PROVISIONS

### TIME LIMITS

- 4.14 Time is of the essence for the time limits in paragraphs 4.1 and 4.3.
- 4.15 In relation to the time limits in this part, other than those referred to in paragraph 4.14, each party must use reasonable endeavours to ensure –
- 4.15.1 those time limits are met and delays are minimised; and
- 4.15.2 in particular, if a valuer or a valuation arbitrator appointed under this part is unable to act, a replacement is appointed as soon as is reasonably practicable.

### DETERMINATION FINAL AND BINDING

- 4.16 The valuer's determination under subpart B is final and binding.

### COSTS

- 4.17 The Crown must pay the valuer's costs in relation to the determination of the transfer value of a deferred selection property.

### ENDING OF OBLIGATIONS

- 4.18 The Crown's obligations under this deed in relation to a deferred selection property immediately cease if –
- 4.18.1 the governance entity –
- (a) does not give notice of interest in relation to the property in accordance with paragraph 4.1; or
  - (b) gives notice of interest in relation to the property in accordance with paragraph 4.1 but the governance entity –
    - (i) gives an election notice under which it elects not to purchase the property; or
    - (ii) does not give an election notice in accordance with paragraph 4.3 electing to purchase the property; or
  - (c) gives the Crown written notice that it is not interested in purchasing the property at any time before an agreement for the sale and purchase of the property is constituted under paragraph 4.5; or

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- 4.18.2 an agreement for the sale and purchase of the property is constituted under paragraph 4.5 and the agreement is cancelled in accordance with the terms of transfer in part 5.

**APPENDIX –VALUATION INSTRUCTIONS**

***[These instructions may be modified to apply to more than one deferred selection property.]***

[Valuer's name]

[Address]

**Valuation instructions**

**INTRODUCTION**

[Name] (the governance entity) has the right under a deed of settlement to purchase properties from [name] (the land holding agency).

This right is given by:

- (a) clause 6.13 of the deed of settlement; and
- (b) part 4 of the property redress schedule.

**PROPERTY TO BE VALUED**

The governance entity has given the land holding agency a notice of interest in purchasing –

*[describe the property including its legal description]*

**DEED OF SETTLEMENT**

A copy of the deed of settlement is enclosed.

Your attention is drawn to part 4.

All references in this letter to subparts or paragraphs are to subparts or paragraphs of part 4.

A term defined in the deed of settlement has the same meaning when used in these instructions.

Subpart B of part 4 applies to the valuation of deferred selection properties.

**ASSESSMENT OF MARKET VALUE REQUIRED**

You are required to undertake a valuation to assess the market value of the property as at [date] (the valuation date), being the date the land holding agency received the notice of interest in the property from the governance entity.

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The market value of the property assessed by you will be the basis of establishing the transfer value at which the governance entity may elect to purchase the property under part 4, plus GST (if any).

**REQUIREMENTS FOR YOUR VALUATION**

Our requirements for your valuation are as follows.

You are to assume that –

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

Your valuation is –

- (a) to assess market value on the basis of market value as defined in the current edition of the Australia and New Zealand Valuation and Property Standards [2014] and International Valuation Standards [2017]; and
- (b) to take into account –
  - (i) any encumbrances, interests, or other matters affecting or benefiting the property that were noted on its title on the valuation date; and
  - (iii) the attached disclosure information about the property that has been given by the land holding agency to the governance entity, including the disclosed encumbrances; and
  - (iv) the terms of transfer in part 5 of the property redress schedule to the deed of settlement (that will apply to a purchase of the property by the governance entity); but
- (c) not to take into account a claim in relation to the property by, or on behalf of, Moriori.

**REQUIREMENTS FOR YOUR VALUATION REPORT**

We require a full valuation report in accordance with the current edition of the Australia and New Zealand Valuation and Property Standards [2014] and International Valuation Standards [2017], including –

- (a) an executive summary, containing a summary of –
  - (i) the valuation; and
  - (iii) the key valuation parameters; and

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- (iv) the key variables affecting value; and
- (v) a detailed description, and a clear statement of the land value; and
- (b) a clear statement as to any impact of the disclosed encumbrances; and
  - (i)
- (c) details of your assessment of the highest and best use of the property; and
- (d) comment on the rationale of likely purchasers of the property; and
- (e) a clear identification of the key variables which have a material impact on the valuation; and
- (f) full details of the valuation method or methods; and
- (g) appendices setting out –
  - (i) a statement of the valuation methodology and policies; and
  - (ii) relevant market and sales information.

Your report must comply with the minimum requirements set out in section 5 of the International Valuation Standard 1 Market Value Basis of Valuation, and other relevant standards, insofar as they are consistent with subpart B.

Your report must contain a clear statement of the treatment of goods and services tax (**GST**) (if any) to the property valuation.

You may, with our prior consent, obtain specialist advice, such as engineering or planning advice.

**ACCEPTANCE OF THESE INSTRUCTIONS**

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

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

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**OPEN AND TRANSPARENT VALUATION**

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

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

Yours faithfully

*[Name of signatory]*  
*[Position]*  
*[Governance entity]*

*[Name of signatory]*  
*[Position]*  
*[Land holding agency]*





## 5 TERMS OF TRANSFER FOR PURCHASED DEFERRED SELECTION PROPERTIES

### APPLICATION OF THIS PART

- 5.1 This part applies to the transfer by the Crown to the governance entity of each purchased deferred selection property.

### TRANSFER

- 5.2 The Crown must transfer the fee simple estate in a purchased deferred selection property to the governance entity subject to, and where applicable with the benefit of, –
- 5.2.1 the disclosed encumbrances affecting or benefiting the property (as they may be varied by a non-material variation, or a material variation entered into under paragraph 5.18.4(a)); and
  - 5.2.2 any additional encumbrances affecting or benefiting the property entered into by the Crown under paragraph 5.18.4(b).
- 5.3 The Crown must pay any survey and registration costs required to transfer the fee simple estate in a purchased deferred selection property to the governance entity.

### POSSESSION

- 5.4 On the TSP settlement date for a deferred selection property, possession of the property must –
- 5.4.1 be given by the Crown; and
  - 5.4.2 taken by the governance entity; and
  - 5.4.3 be vacant possession subject only to any encumbrances referred to in paragraph 5.2 that prevent vacant possession being given and taken.

### SETTLEMENT

- 5.5 Subject to paragraphs 5.6 and 5.38.2, the Crown must provide the governance entity with the following in relation to a purchased deferred selection property on the TSP settlement date for that property:
- 5.5.1 evidence of –
    - (a) a registrable transfer instrument; and
    - (b) any other registrable instrument required by this deed in relation to the property:

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- 5.5.2 all contracts and other documents (but not public notices such as proclamations and *Gazette* notices) that create unregistered rights or obligations affecting the registered owner's interest in the property after the TSP settlement date.
- 5.6 If the fee simple estate in the purchased deferred selection property may be transferred to the governance entity electronically under the relevant legislation, –
- 5.6.1 paragraph 5.5.1 does not apply; and
- 5.6.2 the Crown must ensure its solicitor, –
- (a) a reasonable time before the TSP settlement date for the property, –
- (i) creates a Landonline workspace for the transfer to the governance entity of the fee simple estate in the property and for any other registrable instruments required by the deed in relation to the property (the electronic transfer instruments); and
- (ii) prepares, certifies, signs, and pre-validates in the Landonline workspace the electronic transfer instruments; and
- (b) on the TSP settlement date, releases the electronic transfer instruments so that the governance entity's solicitor may submit them for registration under the relevant legislation; and
- 5.6.3 the governance entity must ensure its solicitor, a reasonable time before the TSP settlement date, certifies and signs the electronic transfer instruments for the property prepared in the Landonline workspace under paragraph 5.6.2(a)(ii); and
- 5.6.4 paragraphs 5.6.2 and 5.6.3 are subject to paragraph 5.38.2.
- 5.7 The relevant legislation for the purposes of paragraph 5.6 is the Land Transfer Act 2017.
- 5.8 The Crown must, on the actual TSP settlement date for a purchased deferred selection property, provide the governance entity with any key or electronic opener to a gate or door on, and any security code to an alarm for, the property that are held by the Crown.
- 5.9 The transfer value of a purchased deferred selection property is not affected by –
- 5.9.1 a non-material variation, or a material variation entered into under paragraph 5.18.4(a), of a disclosed encumbrance affecting or benefiting the property; or
- 5.9.2 an additional encumbrance affecting or benefiting the property entered into by the Crown under paragraph 5.18.4(b).

**APPORTIONMENT OF OUTGOINGS AND INCOMINGS**

- 5.10 If, as at the actual TSP settlement date for a purchased deferred selection property, –

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- 5.10.1 the outgoings for the property pre-paid by the Crown for any period after that date exceed the incomings received by the Crown for any period after that date, the governance entity must pay the amount of the excess to the Crown; or
- 5.10.2 the incomings for the property received by the Crown for any period after that date exceed the outgoings for the property pre-paid by the Crown for any period after that date, the Crown must pay the amount of the excess to the governance entity.
- 5.11 The outgoings for a purchased deferred selection property for the purposes of paragraph 5.10 do not include insurance premiums and the governance entity is not required to take over from the Crown any contract of insurance in relation to the purchased deferred selection property.
- 5.12 An amount payable under paragraph 5.10 in relation to a purchased deferred selection property must be paid on the actual TSP settlement date for the purchased deferred selection property.
- 5.13 The Crown must, before the actual TSP settlement date for a purchased deferred selection property, provide the governance entity with a written statement calculating the amount payable by the governance entity or the Crown under paragraph 5.10.

#### FIXTURES, FITTINGS, AND CHATTELS

- 5.14 The transfer of a purchased deferred selection property includes all fixtures and fittings that were owned by the Crown, and located on the property, on the first date of the transfer period for that property.
- 5.15 Paragraph 5.14 does not apply to the Lessee's improvements located on a leaseback property.
- 5.16 Fixtures and fittings must be transferred under paragraph 5.14 free of mortgage or charge.
- 5.17 The transfer of a purchased deferred selection property does not include chattels.

#### OBLIGATIONS AND RIGHTS DURING THE TRANSFER PERIOD

- 5.18 During the transfer period for a purchased deferred selection property, the Crown must –
- 5.18.1 ensure the property is maintained in substantially the same condition, fair wear and tear excepted, as it was in at the first day of the period; and
- 5.18.2 pay the charges for electricity, gas, water, and other utilities that the Crown owes as owner of the property, except where those charges are payable by a tenant or occupier to the supplier; and
- 5.18.3 ensure the Crown's obligations under the Building Act 2004 are complied with in respect of any works carried out on the property during the period –

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- (a) by the Crown; or
  - (b) with the Crown's written authority; and
- 5.18.4 obtain the prior written consent of the governance entity before –
- (a) materially varying a disclosed encumbrance affecting or benefiting the property; or
  - (b) entering into an encumbrance affecting or benefiting the property; or
  - (c) procuring a consent, providing a waiver, or giving an approval, that materially affects the property, under the Resource Management Act 1991 or any other legislation; and
- 5.18.5 use reasonable endeavours to obtain permission for the governance entity to enter and inspect the property under paragraph 5.19.2 if the governance entity is prevented from doing so by the terms of an encumbrance referred to in paragraph 5.2.
- 5.19 During the transfer period in relation to a purchased deferred selection property, the governance entity –
- 5.19.1 must not unreasonably withhold or delay any consent sought under paragraph 5.18.4; and
- 5.19.2 may enter and inspect the property on one occasion –
- (a) after giving reasonable notice; and
  - (b) subject to the terms of the encumbrances referred to in paragraph 5.2; and
  - (c) subject to complying with all reasonable conditions imposed by the Crown.

**OBLIGATIONS AFTER SETTLEMENT**

- 5.20 The Crown must –
- 5.20.1 give the relevant territorial authority notice of the transfer of a purchased deferred selection property immediately after the actual TSP settlement date for the property, or as soon as reasonably practicable thereafter where the purchased deferred selection property is subject to survey; and
- 5.20.2 if it receives a written notice in relation to a purchased deferred selection property from the Crown, a territorial authority, or a tenant after the actual TSP settlement date for the property, –

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- (a) comply with it; or
  - (b) provide it promptly to the governance entity or its solicitor; or
- 5.20.3 pay any penalty incurred by the governance entity to the person providing the written notice as a result of the Crown not complying with paragraph 5.20.2.

**RISK AND INSURANCE**

- 5.21 A purchased deferred selection property is at the sole risk of –
- 5.21.1 the Crown, until the actual TSP settlement date for the property; and
  - 5.21.2 the governance entity, from and including the actual TSP settlement date for the property.

**DAMAGE AND DESTRUCTION**

- 5.22 Paragraphs 5.23 to 5.31 apply if, before the actual TSP settlement date for a purchased deferred selection property, –
- 5.22.1 the property is destroyed or damaged; and
  - 5.22.2 the destruction or damage has not been made good.
- 5.23 Paragraph 5.24 applies if the property is, as a result of the destruction or damage, not tenatable.
- 5.24 Where this paragraph applies, the governance entity may cancel its transfer by written notice to the Crown.
- 5.25 Notice under paragraph 5.23 must be given before the actual TSP settlement date.
- 5.26 Paragraph 5.27 applies if the property –
- 5.26.1 despite the destruction or damage, is tenatable; or
  - 5.26.2 as a result of the damage or destruction, is not tenatable, but its transfer is not cancelled under paragraph 5.23 before the actual TSP settlement date.
- 5.27 Where this paragraph applies –
- 5.27.1 the governance entity must complete the transfer of the property in accordance with this deed; and
  - 5.27.2 the Crown must pay the governance entity –



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- (a) the amount by which the value of the property has diminished, as at the actual TSP settlement date for the property, as a result of the destruction or damage;
  - (b) plus GST (if any).
- 5.28 The value of the property for the purposes of paragraph 5.27.2 is to be its transfer value as determined or agreed in accordance with part 4.
- 5.29 An amount paid by the Crown under paragraph 5.27.2 is a partial refund of the purchase price.
- 5.30 Each party may give the other notice –
  - 5.30.1 requiring a dispute as to the application of paragraphs 5.23 to 5.29 be determined by an arbitrator appointed by the Arbitrators' and Mediators' Institute of New Zealand; and
  - 5.30.2 referring the dispute to the arbitrator so appointed for determination under the Arbitration Act 1996.
- 5.31 If a dispute as to the application of paragraphs 5.23 to 5.29 is not determined by the TSP settlement date, the date the parties must comply with their obligations on transfer of the property is to be –
  - 5.31.1 the fifth business day following the determination of the dispute; or
  - 5.31.2 if an arbitrator appointed under paragraph 5.30 so determines, another date including the original TSP settlement date.

### BOUNDARIES AND TITLE

- 5.32 The Crown is not required to point out the boundaries of a purchased deferred selection property.
- 5.33 If a purchased deferred selection property is subject only to the encumbrances referred to in paragraph 5.2, the governance entity –
  - 5.33.1 is to be treated as having accepted the Crown's title to the property as at the actual TSP settlement date; and
  - 5.33.2 may not make any objections to, or requisitions on, it.
- 5.34 An error or omission in the description of a purchased deferred selection property or its title does not annul its transfer.

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**FENCING**

- 5.35 The Crown is not liable to pay for, or contribute towards, the erection or maintenance of a fence between a purchased deferred selection property and any contiguous land of the Crown, unless the Crown requires the fence, in which case the provisions of the Fencing Act 1978 will apply.
- 5.36 Paragraph 5.35 does not continue for the benefit of a purchaser from the Crown of land contiguous to a purchased deferred selection property.
- 5.37 The Crown may require a fencing covenant to the effect of paragraphs 5.35 and 5.36 to be registered against the title to a purchased deferred selection property.

**DELAYED TRANSFER OF TITLE**

- 5.38 The Crown covenants for the benefit of the governance entity that it will –
- 5.38.1 arrange for the creation of a record of title for a fee simple estate for the land of a purchased deferred selection property for land that –
- (a) is not contained in a record of title for a fee simple estate; or
  - (b) is contained in a record or records of title for a fee simple estate but together with other land; and
- 5.38.2 transfer (in accordance with paragraph 5.5 or 5.6, whichever is applicable) the fee simple estate in a purchased deferred selection property to which paragraph 5.38.1 applies as soon as reasonably practicable after complying with that paragraph in relation to the property but not later than five years after the actual TSP settlement date.
- 5.39 If paragraph 5.38.2 applies to a purchased deferred selection property, and paragraph 5.6 is applicable, the governance entity must comply with its obligations under paragraph 5.6.3 by a date specified by written notice by the Crown.
- 5.40 The covenant given by the Crown under paragraph 5.38 has effect and is enforceable, despite:
- 5.40.1 being positive in effect; and
  - 5.40.2 there being no benefited land.
- 5.41 If paragraph 5.38 applies then, for the period from the actual TSP settlement date until the date that the Crown transfers the fee simple estate in the purchased deferred selection property to the governance entity –
- 5.41.1 the governance entity will be the beneficial owner of the property; and

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5.41.2 all obligations and rights will be performed and arise as if the fee simple estate had been transferred to the governance entity on the actual TSP settlement date; and

5.41.3 the governance entity may not serve a settlement notice under paragraph 5.44.

**INTEREST**

5.42 If for any reason (other than the default of the Crown) all or any of the amount payable by the governance entity to the Crown in relation to a purchased deferred selection property is not paid on the TSP settlement date –

5.42.1 the Crown is not required to give possession of the property to the governance entity; and

5.42.2 the governance entity must pay the Crown default interest at the rate of 12% per annum on the unpaid amount (plus GST (if any)) for the period from the TSP settlement date to the actual TSP settlement date.

5.43 Paragraph 5.42 is without prejudice to any of the Crown's other rights or remedies available to the Crown at law or in equity.

**SETTLEMENT NOTICE**

5.44 If, without the written agreement of the parties, settlement of a purchased deferred selection property is not effected on the TSP settlement date –

5.44.1 either party may at any time after the TSP settlement date serve notice on the other (a settlement notice) requiring the other to effect settlement; but

5.44.2 the settlement notice is effective only if the party serving it is –

(a) ready, able, and willing to effect settlement in accordance with the settlement notice; or

(b) not ready, able, and willing to effect settlement only by reason of the default or omission of the other party; and

5.44.3 upon service of a settlement notice, the party on which it is served must effect settlement within 10 business days after the date of service (excluding the date of service); and

5.44.4 time is of the essence under paragraph 5.44.3; and

5.44.5 if the party in default does not comply with the terms of a settlement notice, the other party may cancel the agreement constituted by paragraph 4.5.

5.45 Paragraph 5.44, and the exercise of rights under it, is without prejudice to any other rights or remedies, at law, in equity, or otherwise, that the party not in default may have.



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**FURTHER ASSURANCES**

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

**NON-MERGER**

- 5.47 On transfer of a purchased deferred selection property to the governance entity –
- 5.47.1 the provisions of this part will not merge; and
- 5.47.2 to the extent any provision of this part has not been fulfilled, it will remain in force.

**GST**

- 5.48 When the governance entity gives a written notice of election to purchase under part 4, it must include in that notice the following information in relation to the factual situation that will exist at the DSP settlement date and warrants the correctness of that information –
- 5.48.1 whether or not the governance entity is or will be at the DSP Settlement Date a registered person for GST purposes; and
- 5.48.2 the governance entity's registration number (if any); and
- 5.48.3 whether or not the governance entity intends to use the property for the purposes of making taxable supplies; and
- 5.48.4 whether or not the governance entity intends to use the property as a principal place of residence of the governance entity or a person associated with the governance entity under section 2A(1)(c) of the Goods and Services Tax Act 1985.
- 5.49 If any of that information provided in the election to purchase notice under paragraph 5.48 alters before the DSP settlement date, the governance entity must immediately notify the Crown and warrants that the altered information is correct as at the date of notification.
- 5.50 If the information provided (subject to alteration, if any) indicates that, at the DSP settlement date, each of the following statements is correct and the supply of the property is a taxable supply by the Crown, the parties agree that GST will apply to the supply at the rate of zero percent:
- 5.50.1 the governance entity is or will be at the DSP Settlement Date a registered person for GST purposes; and
- 5.50.2 the governance entity intends to use the property for the purposes of making taxable supplies; and

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**5: TERMS OF TRANSFER**

- 5.50.3 the governance entity does not intend to use the property as a principal place of residence of the governance entity or a person associated with the governance entity under section 2A(1)(c) of the Goods and Services Tax Act 1985.

**6 NOTICE IN RELATION TO CULTURAL REDRESS PROPERTIES AND DEFERRED SELECTION PROPERTIES**

6.1 If this schedule requires the governance entity to give notice to the Crown in relation to or in connection with a cultural redress property, or a deferred selection property, the governance entity must give the notice in accordance with part 4 of the general matters schedule, except the notice must be addressed to the land holding agency for the property at its address, or email address, or facsimile number provided –

6.1.1 in paragraph 6.2; or

6.1.2 if the land holding agency has given notice to the governance entity of a new address or email address or facsimile number, in the most recent notice of a change of address, or email address, or facsimile number.

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

Land holding agency	Contact details
Department of Conservation	Conservation House Whare Kaupapa Atawhai 18 Manners Street, Wellington 6011 PO Box 10420, The Terrace, Wellington 6143
Land Information New Zealand	Wellington office, Level 7, Radio New Zealand House, 155 The Terrace, Wellington 6011 PO Box 5501, Wellington 6145 Fax 04 472 2244 Email <a href="mailto:treaty@linz.govt.nz">treaty@linz.govt.nz</a>
Land Information New Zealand (Treaty Settlements Landbank)	Wellington office, Level 7, Radio New Zealand House, 155 The Terrace, Wellington 6011 PO Box 5501, Wellington 6145 Fax 04 472 2244 Email <a href="mailto:TreatySettlementslandBank@linz.govt.nz">TreatySettlementslandBank@linz.govt.nz</a>

## 7 DEFINITIONS

7.1 In this schedule, unless the context otherwise requires, party means each of the governance entity and the Crown.

7.2 In this deed, unless the context otherwise requires, -

**actual TSP settlement date**, in relation to a purchased deferred selection property, means the date on which **settlement** of the property takes place; and

**disclosed encumbrance**, in relation to a purchased deferred selection property, means an encumbrance affecting or benefiting the property that is disclosed in the disclosure information about the property; and

**disclosure information**, in relation to a cultural redress property or a purchased deferred selection property, means the information given by the Crown about the property referred to in paragraph 1.1; and

**DSP settlement date**, in relation to a purchased deferred selection property, means the date that is 40 business days after the Crown receives an election notice from the governance entity electing to purchase the property; and

**election notice** means a written notice given by the governance entity in accordance with paragraph 4.3 electing whether or not to purchase a deferred selection property; and

**market value**, in relation to a deferred selection property, has the meaning provided in the valuation instructions in the appendix to part 4; and

**notice of interest**, in relation to a deferred selection property, means a notice given by the governance entity under paragraph 4.1 in relation to the property; and

**notification date**, in relation to a deferred selection property, means the date that the Crown receives a notice of interest in the property from the governance entity; and

**registered bank** has the meaning given to it by section 2(1) of the Reserve Bank of New Zealand Act 1989; and

**registered valuer** means a person registered as a valuer with the Valuers Act 1948; and

**settlement notice** has the meaning given to it by paragraph 5.44.1; and

**terms of transfer** means the terms of transfer set out in part 5; and

**transfer period** means, in relation to a deferred selection property, the period from the notification date for that property to its actual TSP settlement date; and

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### 7: DEFINITIONS

**transfer value** means, in relation to a deferred selection property, the amount payable by the governance entity for the transfer of the property determined or agreed in accordance with part 4; and

**TSP settlement date** means, in relation to a purchased deferred selection property, the DSP settlement date for the property; and

**valuation date**, in relation to a deferred selection property, means the notification date in relation to the property.