THE TRUSTEES OF TE TĀWHARAU O NGĀTI PŪKENGA TRUST

AND

THE CROWN

FIFTH (CONSOLIDATED) DEED TO AMEND NGĀTI PŪKENGA DEED OF SETTLEMENT

FIFTH (CONSOLIDATED) DEED TO AMEND NGĀTI PŪKENGA DEED OF SETTLEMENT

THIS DEED is made on the 9th day of August 2017

BETWEEN

THE TRUSTEES OF TE TĀWHARAU O NGĀTI PŪKENGA TRUST

AND

THE CROWN

1. BACKGROUND

A. The Trustees of the Te Tāwharau o Ngāti Pūkenga Trust (the "**governance entity**") and the Crown are parties to:

(a) a Deed of Settlement dated 7 April 2013 (the "**Deed of Settlement**");

(b) a Deed to Amend the Deed of Settlement of Historical Claims dated 16 October 2013 (the "**First Deed to Amend**");

(c) a Deed to Amend the Ngāti Pūkenga Deed of Settlement (Tauranga) dated 20 October 2014 (the "**Tauranga Deed to Amend**"); and

(d) a Deed to Amend the Ngāti Pūkenga Deed of Settlement (Hauraki) dated 20 October 2014 (the "**Hauraki Deed to Amend**"); and

(e) a Fourth Deed to Amend the Ngāti Pūkenga Deed of Settlement dated 1 March 2016 (the "**Fourth Deed to Amend**").

B. Since the signing of the Deed of Settlement, Ngā Hapū o Ngāti Ranginui, Ngāi Te Rangi, Ngāti Pūkenga, the Tauranga Moana Iwi Collective Limited Partnership and the Crown have entered into the Tauranga Moana Collective Deed dated 21 January 2015 (the "**Collective Deed**"). The Collective Deed specifies the collective redress that the iwi comprising TMIC will receive from the Crown. TMIC and the Crown have agreed that the legislation that gives effect to the Tauranga Moana Framework, being part of the collective redress under the Collective Deed, will be separate from the TMIC legislation.

C. The governance entity and the Crown wish to enter this deed to:

(a) record certain amendments to the Deed of Settlement; and

(b) for clarity and ease of reference, consolidate the changes made by the First Deed to Amend, Tauranga Deed to Amend, Hauraki Deed to Amend and the Fourth Deed to Amend (together, the "**Deeds to Amend**"); and

(c) correct errors contained in the Deeds to Amend.

IT IS AGREED as follows:

EFFECTIVE DATE OF THIS DEED

1.1 This deed takes effect when it is properly executed by the parties.

AMENDMENTS TO THE DEED OF SETTLEMENT

1.2 The Deed of Settlement:

1.2.1 is amended by making the amendments set out in Schedule 1 to this deed; but

1.2.2 remains unchanged except to the extent provided by this deed.

1.3 The terms of the Deeds to Amend are superseded and replaced by this deed.

1.4 For ease of reference, a consolidated Deed of Settlement and its schedules, (incorporating the amendments set out in Schedules 1 to 11 of this deed) are attached as Schedule 12 to this deed.

DEFINITIONS AND INTERPRETATION

1.5 Unless the context otherwise requires:

1.5.1 terms or expressions defined in the Deed of Settlement have the same meanings in this deed; and

1.5.2 the rules of interpretation in the Deed of Settlement apply (with all appropriate changes) to this deed.

COUNTERPARTS

1.6 This deed may be signed in counterparts which together shall constitute one agreement binding on the parties, notwithstanding that both parties are not signatories to the original or same counterpart.

SIGNED as a Deed to Amend on 9th day of August 2017

SIGNED by the
TRUSTEES OF TE TĀWHARAU O NGĀTI PŪKENGA TRUST

SIGNED by)
JOCELYN ANNE MIKAERE-HOLLIS)
as trustee, in the presence of:)

Jocelyn Anne Mikaere-Hollis

Signature of Witness

Witness Name

Occupation

Address

SIGNED by **JUNE ELIZABETH PITMAN**)
as trustee, in the presence of:)

June Elizabeth Pitman

Signature of Witness

Rebecca Boyce
Witness Name

Administrator
Occupation

Tauranga
Address

SIGNED by **REGINA REHINA BERGHAN**)
as trustee, in the presence of:)

Regina Rehina Berghan

Signature of Witness

Rebecca Boyce
Witness Name

Administrator
Occupation

Tauranga
Address

SIGNED by
TURANGA HOTUROA BARCLAY-KERR
as trustee, in the presence of:

Turanga Hoturoa Barclay-Kerr

Signature of Witness

Witness Name

Occupation

Address

SIGNED by **DAWN RIRIA WIHONGI**
as alternate trustee, in the presence of:

Dawn Riria Wihongi

Signature of Witness

Witness Name

Occupation

Address

SIGNED by **DONNA WAIMIHI TUKARIRI**
as alternate trustee, in the presence of:

Donna Waimihi Tukariri

Signature of Witness

Witness Name

Occupation

Address

SIGNED by **HORI MOANAROA PARATA**)
as alternate trustee, in the presence of:)

Hori Moanaroa Parata

Signature of Witness

Rebecca Boyce

Witness Name

Administrator

Occupation

Tauranga

Address

SIGNED by **WHAKARONGOTAI KARIN MARGARET HOKOWHITU**)
as alternate trustee, in the presence of:)

Whakarongotai Karin Margaret Hokowhitu

Signature of Witness

Witness Name

Occupation

Address

SIGNED for and on behalf of)
THE CROWN by the Minister for Treaty of)
Waitangi Negotiations in the presence of:)

Christopher Finlayson

Honourable Christopher Finlayson

Signature of Witness

Alexander Lyons

Witness Name

Private Secretary

Occupation

11/42 Abel Smith St, Wellington

Address

SCHEDULE 1

AMENDMENTS TO THE DEED OF SETTLEMENT

Deed of Settlement

Current part and reference	Amendment
Part 5, new clause 5.3A	After clause 5.3.3, new clauses 5.3A to 5.3B are inserted as follows: "5.3A The parties acknowledge and agree that, despite clause 5.3, the historical claims described in clause 5.3B will not be settled through this deed or the settlement legislation. 5.3B The historical claims referred to in 5.3A are claims (or aspects of claims) relating to – 5.3B.1 the deterioration of the health and wellbeing of Tauranga Moana; or 5.3B.2 the use, management, or governance of Tauranga Moana, or 5.3B.3 the effects of that use, management, or governance, on the health and wellbeing of the people of Ngāti Pūkenga; or 5.3B.4 any failure to recognise or provide for a right of Ngāti Pūkenga in relation to Tauranga Moana that arises from Te Tiriti o Waitangi/the Treaty of Waitangi; or 5.3B.5 any failure to recognise or provide for the rangatiratanga and kaitiakitanga of Ngāti Pūkenga in relation to Tauranga Moana."
Part 5, new clause 5.5A	After clause 5.5.2, new clause 5.5A is inserted as follows: "5.5A The parties acknowledge that the Collective Deed and TMIC legislation will provide redress in relation to Tauranga Moana, Athenree Forest land and Mauao."
Part 5, clause 5.6.1	Clause 5.6.1 is amended by inserting "(excluding the claims described in clause 5.3B)" after "historical claims".
Part 5, clause 5.6.2	Clause 5.6.2 is amended by inserting "(excluding the claims described in clause 5.3B") after "historical claims".
Part 5, clause 5.6.3(a)	Replace clause 5.6.3(a) with the following: "(a) to a redress property or any RFR land; or".
Part 5, clause 5.6.3(b)	Clause 5.6.3(b) is amended by inserting the following after "representative entity": "(except that, to extent that the legislation referred to in part 4 of the legislative matters schedule applies in relation to a claim described in clause 5.3B, that legislation will continue to apply for the benefit of Ngāti Pūkenga or a representative entity)."
Part 5, clause 5.6.4	Replace clause 5.6.4 with the following: "5.6.4 part 4 of the legislative matters schedule, require any resumptive memorial to be removed from a computer register for a redress

Current part and reference	Amendment
	property or any RFR land."
Part 6, clause 6.25.2(e)	Replace "Ngāi Te Rangi settlement deed" with "Ngāi Te Rangi and Ngā Pōtiki deed of settlement".
Part 6, clauses 6.16 to 6.19	Clauses 6.16 to 6.19 are deleted and replaced with the following: "6.16 The settlement legislation will, on the terms provided by paragraph 7.6 of the legislative matters schedule: 6.16.1 provide Te Tihi o Hauturu (being part of the Coromandel Forest Park, as shown on deed plan OTS-060-010) ceases to be a conservation area under the Conservation Act 1987; and 6.16.2 vest the fee simple estate in Te Tihi o Hauturu as undivided third shares, with a one third share vested in each of the following as tenants in common: (a) the governance entity: (b) the trustees of the Ngāti Maru Rūnanga Trust: (c) the trustees of the Ngāti Tamaterā Treaty Settlement Trust; and 6.16.3 specify that clauses 6.16.1 and 6.16.2 are subject to the entities referred to in clause 6.16.2 providing the Crown with a registrable conservation covenant in relation to Te Tihi o Hauturu on the terms and conditions in part 7 of the documents schedule, with any necessary modifications. 6.17 The settlement legislation will provide that, subject to clause 6.16.3, clauses 6.16.1 and 6.16.2 will apply on the latest of the settlement date, the Ngāti Maru settlement date, and the Ngāti Tamaterā settlement date. 6.18 Not used. 6.19 Not used."
Part 6, new clauses 6.32 to 6.44	Clause 6.32 (Cultural Redress Generally Non-Exclusive) is renumbered to be clause 6.45. After clause 6.31, new clauses 6.32 to 6.44 as attached in Schedule 2 of this deed are inserted.
Part 7	Part 7 is deleted and replaced with the new part 7 as attached in Schedule 3 of this deed.
Clause 8.1.2	Clause 8.1.2(b) is amended by replacing "." with "; and". After clause 8.1.2(b), the following new clause 8.1.2(c) is inserted as follows: "(c) in respect of the historical claims described in clause 5.3B, set out in the Collective Deed, TMIC legislation, and/or other legislation."

New clauses 8.4 - 8.9	The following new clauses, and their associated heading, are inserted immediately after clause 8.3.2: **"TAURANGA MOANA FRAMEWORK** 8.4 The parties acknowledge that this deed and the Collective Deed provide for certain redress in relation to the Tauranga Moana. However, as set out in clause 5.3A, despite clause 5.3 of this deed, the parties acknowledge that the settlement legislation and the TMIC legislation do not yet provide for this redress and as set out in clause 5.3A the claims or aspects of claims described in clause 5.3B will not be settled through this deed or the settlement legislation. 8.5 The parties agree that, as contemplated by clause 5.3A, the Tauranga Moana Framework will be provided for in separate legislation as soon as the following matters have been resolved to the satisfaction of TMIC and the Crown, and in accordance with the principles of Te Tiriti o Waitangi/the Treaty of Waitangi: 8.5.1 whether a process is required and, if so the nature of that process, for resolving the disagreements referred to in Part 1, paragraph 10.3 of the Appendix to Part 3 of the TMIC legislative matters schedule; 8.5.2 how such legislation will provide for the participation of two or more iwi with recognised interests in Tauranga Moana through one seat on the Tauranga Moana Governance Group (as provided in Part 1, paragraph 1.1.5 of the Appendix to Part 3 of the TMIC legislative matters schedule); and 8.5.3 the scope of the area marked as 'A' on the Tauranga Moana in the attachments. 8.6 The Crown agrees to negotiate in good faith, as soon as reasonably practicable, to resolve the matters referred to in clauses 8.5.1 to 8.5.3. 8.7 Clauses 8.5 and 8.6 do not exclude the jurisdiction of the Court, tribunal or other judicial body in respect of the process in clauses 8.5 or 8.6. 8.8 The Crown recognises it is Ngāti Pūkenga and the governance entity's desire to have the recognised interest areas for iwi with recognised interests confirmed by the Crown following the process outlined in clauses 2.14 to 2.16 of the Collective Deed, before the separate legislation providing for the Tauranga Moana Framework is introduced. 8.9 Ngāti Pūkenga, the governance entity, and the Crown agree that the Tauranga Moana Framework is a critical element of the settlement. Ngāti Pūkenga and the governance entity consider, but without in any way derogating from clause 5.3, that the settlement is not complete until the separate legislation providing for the Tauranga Moana Framework comes into force. **ATHENREE FOREST LAND AND MAUAO** 8.10 The parties acknowledge that the Collective Deed and Pare Hauraki Collective Redress Deed provide for certain collective redress, including in relation to Athenree Forest land and Mauao. Other than the Crown apology redress, the parties acknowledge and agree that this deed does not provide for any redress in relation to -

	8.10.1 Athenree Forest land; 8.10.2 Mauao; or 8.10.3 other collective redress provided for in the Collective Deed or the Pare Hauraki Collective Redress Deed. 8.11 The Crown owes Ngāti Pūkenga a duty of good faith and will negotiate redress in relation to Athenree Forest land and Mauao with Ngāti Pūkenga in a manner consistent with the principles of Te Tiriti o Waitangi/the Treaty of Waitangi. 8.12 Ngāti Pūkenga and the governance entity acknowledge that the Crown is not in breach of this deed if the redress referred to in clause 8.10 has not been provided by any particular date if, on that date, the Crown is still willing to negotiate in good faith in an attempt to provide the redress. 8.13 The settlement legislation will settle all Ngāti Pūkenga historical claims in relation to the Athenree Forest land and Mauao. 8.14 The parties agree that the redress referred to in clause 8.10 is a critical element of the settlement. Ngāti Pūkenga and the governance entity consider, but without in any way derogating from clause 5.3, that the settlement is not complete until the separate legislation providing for such redress comes into force. 8.15 Ngāti Pūkenga are not precluded from making a claim to any court, tribunal or other judicial body in respect of the process referred to in clauses 8.10 to 8.14"
New part 8A	The following new part, and its associated heading, is added immediately after new clause 8.9: **"8A HARBOURS** **HAURAKI GULF / TĪKAPA MOANA** 8A.1 Hauraki Gulf / Tīkapa Moana (and the harbours within it) is of great cultural, historical, and spiritual importance to Ngāti Pūkenga and other iwi of Hauraki. 8A.2 Ngāti Pūkenga wish to record their aspirations for harbours redress that provides for co governance of the resource as envisaged under Te Tiriti o Waitangi/the Treaty of Waitangi that will: 8A.2.1 restore and enhance the ability of Tīkapa Moana (and the harbours within it) to provide nourishment and spiritual sustenance; and 8A.2.2 recognise the significance of Tīkapa Moana as a maritime pathway to settlements throughout the Hauraki rohe; and 8A.2.3 uphold the exercise by Ngāti Pūkenga of kaitiakitanga and rangatiratanga. **DEFERRAL OF HARBOURS NEGOTIATIONS** 8A.3 Even though the historical claims are settled by this deed and the settlement legislation, this deed does not provide for all redress in relation to Tīkapa Moana (and the harbours within it). The Crown will negotiate with Ngāti Pūkenga to develop redress for Tikapa Moana. Negotiations over Tīkapa Moana will also involve other iwi with interests.

	8A.4 The Crown owes Ngāti Pūkenga a duty of good faith and will negotiate redress in relation to Tīkapa Moana with Ngāti Pūkenga in a manner consistent with the principles of Te Tiriti o Waitangi/the Treaty of Waitangi. 8A.5 Ngāti Pūkenga acknowledge that the Crown is not in breach of this deed if the redress referred to in clauses 8A.4 has not been provided by any particular date if, on that date, the Crown is still willing to negotiate in good faith in an attempt to provide the redress. 8A.6 Ngāti Pūkenga are not precluded from making a claim to any court, tribunal or other judicial body in respect of the process referred to in clauses 8A.3 to 8A.5."
New clauses 9.5A - 9.5C	The following new clauses, and their associated heading, are inserted immediately after clause 9.5: **"AMENDMENT TO SETTLEMENT LEGISLATION** 9.5A The parties agree that the settlement legislation will be amended: 9.5A.1 to insert provisions relating to minerals, including but not limited to minerals vested in the governance entity (**vested minerals**) that are in cultural redress properties, the treatment of existing privileges and permits under the Crown Minerals Act 1991 over vested minerals, the application of that Act, and, in respect of vested minerals royalty-based payments. Any amendment will reflect the agreements reached with Pare Hauraki and given effect to in the settlement legislation provided for by the Pare Hauraki Collective Redress Deed; and 9.5A.2 to exclude the jurisdiction of courts, tribunals and other judicial bodies in relation to the following, to the extent that they relate to Ngāti Pūkenga: (a) a Pare Hauraki Collective Redress Deed: (b) legislation provided for in a Pare Hauraki Collective Redress Deed; and (c) the redress provided under a Pare Hauraki Collective Redress Deed and the legislation provided for in that deed. 9.5B Any amendment made in accordance with clause 9.5A must: 9.5B.1 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 9.5B.2 be in a form that is satisfactory to Ngāti Pūkenga and the Crown. 9.5C Ngāti Pūkenga and the governance entity must support the passage of an amendment made in accordance with clause 9.5A through Parliament."
Clause 9.7.1	Clause 9.7.1 is amended by inserting "and clauses 7.2 to 7.10" after "9.5".
Clause 9.10.1	Clause 9.10.1 is amended by deleting "36 months" and replacing it with "48 months".

Clause 9.11.4	Clause 9.11.4 is amended by deleting "on account payment is" and replacing with "on-account payments and the transferred early release commercial properties are".
Clause 10.5.3(a)	Clause 10.5.3(a) is amended by inserting "and" between "Te Tawera," and "Ngāti Hā".
Clause 10.5.3(c)	Clause 10.5.3(c) is deleted and replaced with the following: "(c) any whānau, hapū or group to the extent that it is composed of individuals referred to in paragraph 10.5.1".
Clause 10.6.1	Clause 10.6.1 is amended by deleting the phrase "in relation to the kāinga areas of interest".
Clause 10.6.1(b)	Clause 10.6.1(b) is amended by deleting "/or".
Clause 10.6.1(c)	Clause 10.6.1(c) is renumbered to be clause 10.6.2.

General Matters Schedule

Current part and reference	**Amendment**
Part 2	Part 2 of the general matters schedule is deleted and replaced with new part 2 attached in Schedule 4 of this deed.
New paragraph 3.3.3	Insert a new paragraph 3.3.3 after paragraph 3.3.2 as follows: "3.3.3 the transfer of RFR land under the settlement documentation."
New paragraph 3.4.5	Insert a new paragraph 3.4.5 after paragraph 3.4.4 as follows: "3.4.5 the transfer of RFR land under the settlement documentation is a taxable supply for GST purposes."
Paragraph 6.1	After the definition of "**assessable income**", the following new definition is inserted: "**Athenree Forest land** has the meaning given to "TMIC Athenree forest land" in the Collective Deed; and"
Paragraph 6.1, definition of "**Collective Deed**"	The definition of "**Collective Deed**" is deleted and replaced with the following: "**Collective Deed** means the Tauranga Moana Collective Deed between Ngā Hapū o Ngāti Ranginui, Ngāi te Rangi, Ngāti Pūkenga, the Tauranga Moana Iwi Collective Limited Partnership and the Crown dated 21 January 2015; and".
Paragraph 6.1, definition of "**Crown redress**"	The definition of "**Crown redress**" is deleted and replaced with the following: "**Crown redress**: (a) means redress: (i) provided by the Crown to the governance entity; or (ii) vested by the settlement legislation in the governance entity

Current part and reference	Amendment
	that was, immediately prior to the vesting, owned by or vested in the Crown; and (b) includes any right of the governance entity to acquire the Te Wharekura o Manaia School , including with another or other persons, under any right referred to in clause 7.16; and (c) includes the right of first refusal of the governance entity under the settlement documentation in relation to RFR land; and (d) includes any part of the Crown redress; and (e) does not include: (i) an obligation of the Crown to transfer the Te Wharekura o Manaia School under any right referred to in clause 7.16; or (ii) the Te Wharekura o Manaia School ; or (iii) an obligation on the Crown under the settlement documentation to transfer RFR land; or (iv) RFR land; or (v) any on-account payment made to entities other than the governance entity; and".
Paragraph 6.1	After the definition of "**documents schedule**", the following new definition is inserted: "**early release commercial property** means each commercial redress property specified in a notice given under clause 7.6"
Paragraph 6.1, definition of **"financial and commercial redress"**	Replace the definition of "**financial and commercial redress**" with a new definition as follows: "**financial and commercial redress** means the redress provided by or under: (a) part 7 of the deed of settlement (excluding clauses 7.14 and 7.15); and (b) the settlement legislation giving effect to part 7 of the deed of settlement (excluding clauses 7.14 and 7.15); and".
Paragraph 6.1	After the definition of "**GST**", the following new definition is inserted: "**Hauraki financial redress amount** has the meaning given to it by clause 1.3.3 of the on-account deed, and is equal to $2,000,000; and"
Paragraph 6.1	After the definition of "**mandated body**", the following new definition is inserted: "**Mauao** has the meaning given to "Mauao historic reserve" in the Mauao Historic Reserve Vesting Act 2008; and"
Paragraph 6.1	After the definition of "**New Zealand Historic Places Trust**" the following new definitions are inserted: "**Ngaati Whanaunga** means the iwi known as Ngaati Whanaunga; and **Ngaati Whanaunga deed of settlement** means a deed of settlement between the Crown and Ngaati Whanaunga settling the historical claims

Current part and reference	Amendment
	of Ngaati Whanaunga; and **Ngāi Te Rangi and Ngā Pōtiki deed of settlement** means the deed entered into on 14 December 2013 between Ngāi Te Rangi, Ngā Pōtiki and the Crown, and includes any deed to amend that deed of settlement entered into between those parties in accordance with paragraph 5.1 of the General Matters Schedule to the Ngāi Te Rangi and Ngā Pōtiki deed of settlement; and".
Paragraph 6.1, definition of **"Ngāi Te Rangi Governance entity"**	In the definition of "**Ngāi Te Rangi Governance entity**", replace "Ngāi Te Rangi settlement deed" with "Ngāi Te Rangi and Ngā Pōtiki deed of settlement".
Paragraph 6.1	After the definition of "**Ngāi Te Rangi governance entity**" the following new definitions are inserted: "**Ngāi Te Rangi settlement date** has the meaning given to "settlement date" in the Ngāi Te Rangi and Ngā Pōtiki deed of settlement; and **Ngāti Maru** means the iwi known as Ngāti Maru; and **Ngāti Maru deed of settlement** means a deed of settlement between the Crown and Ngāti Maru settling the historical claims of Ngāti Maru; and".
Paragraph 6.1	After the new definition of "**Ngāi Te Rangi settlement date**" the following new definition is inserted: "**Ngāti He Hapu Trust** means the trustees for the time being of the Ngāti He Hapu Trust, in their capacity as trustees of the trust; and".
Paragraph 6.1, definition of **"Ngāi Te Rangi settlement deed"**	Delete the definition of "**Ngāi Te Rangi settlement deed**".
Paragraph 6.1	After the definition of "**Ngāti Maru governance entity**", the following new definition is inserted: "**Ngāti Maru Rūnunga Trust** means the trust known by that name and established by a trust deed dated 15 October 2013, and"
Paragraph 6.1	After the definition of **"Ngati Rangiwehiwehi settlement deed"**, the following new definitions are inserted: "**Ngāti Tamaterā Treaty Settlement Trust** means the trust known by that name and **established** by a trust deed dated 22 October 2013; and **Ngāti Tamaterā settlement date** means the settlement date under the Ngāti Tamaterā settlement legislation; and **Ngāti Tamaterā settlement legislation** means the settlement legislation that settles the historical **claims** of Ngāti Tamaterā; and"
Paragraph 6.1	After the definition of **"notice"**, the following new definition is inserted: "**on-account deed** means the deed recording on-account arrangement

Current part and reference	Amendment
	in relation to the Ngāti Pūkenga deed of settlement between the governance entity and the Crown dated 4 August 2014; and"
Paragraph 6.1 , definition of **"on-account payment"**	Replace the definition of **"on-account payment"** with the following new definition: "***on-account payments*** *means each of the payments described in clauses 7.2 to 7.4; and"*
Paragraph 6.1	After the definition of "**Pakikaikutu kāinga area of interest**", the following new definitions are inserted: "**Pare Hauraki**: (a) *means the collective group comprising the following iwi:* (i) Hako; (ii) Ngāi Tai ki Tāmaki; (iii) Ngāti Hei; (iv) Ngāti Maru; (v) Ngāti Paoa; (vi) Ngāti Porou ki Hauraki; (vii) Ngāti Pūkenga; (viii) Ngāti Rahiri Tumutumu; (ix) Ngāti Tamaterā; (x) Ngāti Tara Tokanui; (xi) Ngaati Whanaunga; (xii) Te Patukirikiri; and (b) includes individuals who are members of one or more of the iwi listed in paragraph (a); and (c) includes any whānau, hapū, or group to the extent that it is composed of those individuals; and **Pare Hauraki Collective Redress Deed** means a deed that may be signed by the Crown and for and on behalf of Pare Hauraki; and".
Paragraph 6.1	After the definition of **"person"**, the following definition is inserted: "**primary industries protocol"** means the protocol in the form set out in part 3A of the documents schedule; and"
Paragraph 6.1	After the definition of "**protocol**", the following new definition is inserted: "**recognised interests** for the purposes of clause 8.5.2 has the meaning set out in Part 1, Appendix to Part 3 of the TMIC legislative matters schedule; and".
Paragraph 6.1, definition of **"responsible Minister"**	The definition of "**responsible Minister**" is deleted and replaced with the following: "**responsible Minister**" means, in relation to - (a) the taonga tūturu protocol, the Minister for Arts, Culture and

Current part and reference	Amendment
	Heritage; and (b) the primary industries protocol, the Minister for Primary Industries; and (c) any protocol, any other Minister of the Crown authorised by the Prime Minister to exercise powers of perform functions and duties in relation to the protocol; and"
Paragraph 6.1	After the definition of "**RFR deed over quota**" insert the following new definition: "**RFR land** means land listed in the attachments as RFR land that, on the settlement date: (a) is vested in the Crown; or (b) the fee simple for which is held by the Crown; and".
Paragraph 6.1	After the definition of "**Tauranga and Maketū kāinga area of interest**", the following new definitions are inserted: "**Tauranga Moana** has the meaning given to "Tauranga Moana" and "moana" in the Collective Deed; and **Tauranga Moana Framework** is the redress referred to in the Collective Deed; and **Tauranga Moana Governance Group** has the meaning given to it in the TMIC legislative matters schedule; and".
Paragraph 6.1, definition of "**Te Tihi o Hauturu vesting date**"	The definition of "**Te Tihi o Hauturu vesting date**" is deleted.
Paragraph 6.1	After the definition of "**Te Tāwharau o Ngāti Pūkenga Trust**", insert the following new definition: "**Te Wharekura o Manaia School** means together the two sites described in part 3A of the Property Redress Schedule as "Te Wharekura o Manaia site (land only)", and "Manaia School House site (land only)"; and
Paragraph 6.1	After the definition of "**TMIC** or **Tauranga Moana Iwi Collective**", the following new definitions are inserted: "**TMIC attachments** means the attachments to the Collective Deed; and **TMIC legislation** has the meaning given to "collective legislation" in the general matters schedule to the Collective Deed; and **TMIC legislative matters schedule** means the legislative matters schedule to the Collective Deed; and"

Current part and reference	Amendment
Paragraph 6.1	After the definition of **"trustees of Te Tāwharau o Ngāti Pūkenga Trust Trust"**, the following new definitions are inserted: "**trustees of the Ngāti Maru Rūnanga Trust** means the trustees from time to time of the Ngāti Maru Rūnanga Trust, in their capacity as trustees of that trust; and **trustees of the Ngāti Tamaterā Treaty Settlement Trust** means the trustees from time to time of the Ngāti Tamaterā Treaty Settlement Trust, in their capacity as trustees of that trust; and".

Property Redress Schedule

Current part and reference	Amendment
New part 3A	After current part 3, insert a new part 3A of the Property Redress Schedule as attached in Schedule 10 of this deed.

Legislative Matters Schedule

Current part and reference	Amendment
New paragraph 3.3	After paragraph 3.2, insert a new paragraph 3.3 as follows: "3.3 The settlement legislation will provide that the historical claims referred to in paragraph 3.1.1 do not include settlement of the claims described in clause 5.3B of this deed."
New paragraph 4.1A	After paragraph 4.1, insert a new paragraph 4.1A as follows: "4.1A This paragraph (and its equivalent in the Ngāti Pūkenga Claims Settlement Act) will be amended to include references to the Collective Deed and TMIC legislation, and the Pare Hauraki Collective Redress Deed and legislation giving effect to the Pare Hauraki Collective Redress Deed."
Paragraph 4.2.	Amend paragraph 4.2.2 by replacing "." with "; and". After paragraph 4.2.2, insert a new paragraph 4.2.3 as follows: "4.2.3 is not to exclude the jurisdiction of a court, tribunal, or other judicial body in respect of the claims described in clause 5.3B of this deed, or the processes described in clauses 8.10 to 8.14 and part 8A of this deed."
Paragraph 4.4	Paragraph 4.4.2(e) is amended by replacing "." with "; and". After paragraph 4.4.2, new paragraph 4.4.3 is inserted as follows: "4.4.3 to the extent that the legislation listed in paragraph 4.4.2 applies in relation to a claim described in clause 5.3B of this deed, the legislation will continue to apply for the benefit of Ngāti Pūkenga."

Current part and reference	Amendment
Paragraph 7.6	Paragraph 7.6 is deleted and replaced with the following: "7.6 The settlement legislation is to provide that: 7.6.1 Te Tihi o Hauturu (being part of the Coromandel Forest Park, as shown on deed plan OTS-060-010) ceases to be a conservation area under the Conservation Act 1987; and 7.6.2 the fee simple estate in Te Tihi o Hauturu vests as undivided third shares, with a one third share vested in each of the following as tenants in common: (a) the trustees of Te Tāwharau o Ngāti Pūkenga Trust: (b) the trustees of the Ngāti Maru Rūnanga Trust: (c) the trustees of the Ngāti Tamaterā Treaty Settlement Trust; and 7.6.3 paragraph 7.6.1 and 7.6.2 are subject to the entities referred to in paragraph 7.6.2 providing the Crown with a registrable covenant in relation to Te Tihi o Hauturu on the terms and conditions in part 7 of the documents schedule, with any necessary modifications; and 7.6.4 the covenant is to be treated as a conservation covenant for the purposes of section 77 of the Reserves Act 1977 and section 27 of the Conservation Act 1987; and 7.6.5 subject to paragraph 7.6.3, paragraphs 7.6.1 to 7.6.4 will apply on the latest of the settlement date, the Ngāti Maru settlement date, and the Ngāti Tamaterā settlement date."
Paragraph 8.7	Paragraph 8.7 is amended by deleting the words "Otānewainuku, Pūwhenua and". Paragraph 8.7.1 is amended by deleting the first sentence of paragraph 8.7.1 and replacing it with the words: "create a computer freehold register for an undivided one third share of the fee simple estate in the property in the names of each of the trustees of Te Tāwharau o Ngāti Pūkenga Trust, the trustees of the Ngāti Maru Rūnanga Trust, and the trustees of the Ngāti Tamaterā Treaty Settlement Trust".
New paragraph 8.7A	After the paragraph 8.7, insert a new paragraph 8.7A as follows: "8.7A For Otānewainuku and Pūwhenua, the Registrar-General must, in accordance with a written application by an authorised person: 8.7A.1 create a computer freehold register for an undivided sixth share of the fee simple estate in the name of the governance entity; and 8.7A.2 record on the computer freehold register any interests that are registered, notified or notifiable and that are described in the application."

Current part and reference	Amendment
Paragraph 8.23.3	In paragraph 8.23.3, after "cultural redress property", insert the words: "(other than the Liens Block, Pae ki Hauraki, and Te Tihi o Hauturu)". Delete the full stop at the end of 8.23.3(b) and replace it with "; and".
New Paragraph 8.23.4	After paragraph 8.23.3, insert a new paragraph 8.23.4 as follows: "8.23.4 the vesting of the fee simple estate in the Liens Block, Pae ki Hauraki, and Te Tihi o Hauturu does not – (a) limit section 10 of the Crown Minerals Act 1991; or (b) affect other lawful rights to subsurface minerals."
New part 11A	After current part 11, insert a new part 11A of the Legislative Matters Schedule as attached in Schedule 5 of this deed.

Documents

Current part and reference	Amendment
New part 3A	After current part 3, insert a new part 3A of the Documents as attached in Schedule 6 of this deed.

Attachments

Current part and reference	Amendment
Part 2	The deed plan for "Te Tihi o Hauturu (OTS-060-010)" is replaced with the deed plan attached in Schedule 7 of this deed.
Part 2	The deed plan for "Pae ki Hauraki (OTS-606-003)" is replaced with the deed plan attached in Schedule 8 of this deed.
New part 2A	After current part 2, insert a new part 2A of the attachments as attached in Schedule 9 of this deed.
New part 2B	After new part 2A, insert a new part 2B of the attachments as attached in Schedule 11 of this deed.

SCHEDULE 2
NEW CLAUSES 6.32 TO 6.44 OF THE DEED OF SETTLEMENT

PRIMARY INDUSTRIES PROTOCOL

6.32 The primary industries protocol must, by or on the settlement date, be signed and issued to the governance entity by the responsible Minister.

6.33 The primary industries protocol sets out how the Crown will interact with the governance entity with regard to the matters specified in it.

6.34 The primary industries protocol will be –

6.34.1 in the form part 3A of the documents schedule; and

6.34.2 issued under, and subject to, the same terms as are provided by paragraphs 6.2 to 6.10 of the legislative matters schedule in relation to the taonga tūturu protocol (with any necessary changes).

6.35 *The settlement legislation must provide that* –

6.35.1 the chief executive of the Ministry for Primary Industries must note a summary of the terms of the primary industries protocol in any fisheries plan that affects the primary industries protocol area; and

6.35.2 the noting of the summary is –

(a) for the purpose of public notice only; and

(b) not an amendment to a fisheries plan for the purposes of section 11A of the Fisheries Act 1996; and

6.35.3 the primary industries protocol does not grant, create, or provide evidence of an estate or interest in, or rights relating to, assets or other property rights (including in relation to fish, aquatic life, or seaweed) that are held, managed, or administered under any of the following enactments:

(a) the Fisheries Act 1996:

(b) the Maori Commercial Aquaculture Claims Settlement Act 2004:

(c) the Maori Fisheries Act 2004:

(d) the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992; and

6.35.4 in this clause –

(a) **fisheries plan** means a plan approved or amended under section 11A of the Fisheries Act 1996; and

(b) **primary industries protocol area** means the area shown on the map attached to the primary industries protocol, together with adjacent waters.

6.36 A failure by the Crown to comply with the primary industries protocol is not a breach of this deed or the deed of settlement.

CONSERVATION RELATIONSHIP AGREEMENT

6.37 The parties must use reasonable endeavours to agree, and enter into, a conservation relationship agreement by the settlement date.

6.38 A conservation relationship agreement will be entered into by the governance entity and the Minister of Conservation and the Director-General of Conservation.

6.39 A party is not in breach of this deed if the conservation relationship agreement has not been entered into by the settlement date if the party has negotiated in good faith in an attempt to enter into it.

6.40 A failure by the Crown to comply with the conservation relationship agreement is not a breach of the deed of settlement.

STATEMENTS OF ASSOCIATION WITH MOEHAU AND TE AROHA

6.41 The Crown acknowledges that the following maunga are of significant spiritual, cultural, historical and traditional importance to Ngāti Pūkenga and the other Iwi of Hauraki:

6.41.1 Moehau maunga:

6.41.2 Te Aroha maunga.

6.42 The parties acknowledge that the acknowledgement in clause 6.41 is not intended to give rise to any rights or obligations.

SECTION 11 OF CROWN MINERALS ACT 1991 DOES NOT APPLY TO CERTAIN CULTURAL REDRESS PROPERTIES

6.43 The settlement legislation will provide that –

6.43.1 Crown owned mineral has the same meaning as in section 2(1) of the Crown Minerals Act 1991; and

6.43.2 despite section 11 of the Crown Minerals Act 1991, any Crown owned mineral in each of the following cultural redress properties vests with, and forms part of, the property:

(a) Liens Block (being the property described in the column by that name in appendix 2 to the legislative matters schedule):

(b) Pae ki Hauraki (being the property described in the column by that name in appendix 2 to the legislative matters schedule):

(c) Te Tihi o Hauturu (being the property described in the column by that name in appendix 2 to the legislative matters schedule.

ACKNOWLEDGEMENT IN RELATION TO MINERALS IN MĀORI CUSTOMARY LAND

6.44 The Crown acknowledges, to avoid doubt, that it has no property in any minerals existing in their natural condition in Maori customary land (as defined in Te Ture Whenua Maori Act 1993), other than those minerals referred to in section 10 of the Crown Minerals Act 1991 or under any other enactment.

SCHEDULE 3
NEW PART 7 OF THE DEED OF SETTLEMENT

7 FINANCIAL AND COMMERCIAL REDRESS

7.1 The Crown must pay the governance entity on the settlement date the financial and commercial redress amount of $7,000,000 less -

7.1.1 $1,000,000 being the on-account payment referred to in clause 7.2;

7.1.2 $240,000 being the on-account payment referred to in clause 7.3;

7.1.3 $1,880,000 being the total transfer value of the early release commercial properties;

7.1.4 $800,000 being the on-account payment referred to in clause 7.4.1;

7.1.5 $100,000 being the on-account payment referred to in clause 7.4.2, if this payment is made in accordance with clause 2.4 of the on-account deed.

ON ACCOUNT PAYMENTS

7.2 On 2 May 2013, the Crown paid $1,000,000 to the governance entity on account of the financial and commercial redress amount.

7.3 On 3 December 2013, the Crown paid $240,000 to the governance entity on account of the financial and commercial redress amount.

7.4 In accordance with the on-account deed, the Crown–

7.4.1 paid $800,000 to the governance entity on 2 September 2014; and

7.4.2 will pay $100,000 to the governance entity, if the Crown receives a written request from the governance entity in accordance with clause 2.3 of the on-account deed,

on account of the financial and commercial redress amount.

COMMERCIAL REDRESS PROPERTIES

7.5 Subject to clause 7.6, the commercial redress properties are to be –

7.5.1 transferred by the Crown to the governance entity on the settlement date –

(a) as part of the redress to settle the historical claims, and without any other consideration to be paid or provided by the governance entity or any other person; and

(b) on the terms of transfer in part 4 of the property redress schedule; and

7.5.2 as described, and are to have the transfer values, in part 3 of the property redress schedule.

7.6 The governance entity may, by giving written notice to the Crown at any time before 31 March 2014, elect that one or more commercial redress properties specified in the notice, are no longer commercial redress properties and instead are early release commercial properties.

7.7 The governance entity may not give a notice under clause 7.6 in respect of the commercial redress property described as 447-449 Welcome Bay Road, Tauranga in part 3 of the property redress schedule.

7.8 Each early release commercial property is no longer a commercial redress property for the purposes of this deed and the settlement legislation.

7.9 Within ten working days after receipt of a notice under 7.6, or such other time as agreed by the parties, the Crown and the governance entity must use all reasonable endeavours to enter into one or more agreements for sale and purchase of any one or more of the early release commercial properties –

7.9.1 at a purchase price, in respect of each property, equal to the transfer value for the property which will be satisfied by an on-account deduction from the financial and commercial redress amount; and

7.9.2 otherwise on terms to be agreed.

7.10 Each early release commercial property that does not become the subject of an agreement for the sale and purchase by the date that is 4 months after receipt of notice under clause 7.6 in respect of the property reverts to being a commercial redress property for the purposes of this deed and the settlement legislation.

7.11 The transfer of each commercial redress property will be subject to, and where applicable with the benefit of, the encumbrances provided in the property redress schedule in relation to that property.

7.12 The commercial redress property for no consideration, being the property referred to in clause 7.7 –

7.12.1 is to be described in part 3 of the property redress schedule; and

7.12.2 is to be transferred by the Crown to the governance entity –

(a) as redress, for no consideration; and

(b) subject to paragraph 4.1 of the property redress schedule, on the terms of transfer in part 4 of the property redress schedule.

SETTLEMENT LEGISLATION

7.13 The settlement legislation will, on the terms provided by part 10 of the legislative matters schedule, enable the transfer of the commercial redress properties to the extent required.

TAURANGA GIRLS' COLLEGE SITE AND GATE PĀ SCHOOL SITE

7.14 Under the Ngāi Te Rangi and Ngā Pōtiki deed of settlement, the properties described as Tauranga Girls' College site and Gate Pā School site are to be purchased by the Ngāi Te Rangi governance entity and leased back to the Crown, immediately after their transfer to the Ngāi Te Rangi governance entity on the terms and conditions provided by the lease for each property in part 3A of the documents schedule of that deed of settlement (being a

registrable ground lease for the property, ownership of the improvements remaining unaffected by the purchase).

7.15 Following the settlement of the properties described as Tauranga Girls' College site and Gate Pā School site under the Ngāi Te Rangi and Ngā Pōtiki deed of settlement, the Ngāi Te Rangi governance entity intends to transfer those properties subject to the leaseback referred to in clause 7.14 to the governance entity and the Ngāti He Hapu Trust, pursuant to terms of trust or other terms the Ngāi Te Rangi governance entity agrees with the governance entity and the Ngāti He Hapu Trust."

TE WHAREKURA O MANAIA SCHOOL

7.16 The parties agree that any right to purchase the Te Wharekura o Manaia School as a deferred selection property (land only and subject to a registrable ground lease to the Crown) will be –

7.16.1 a contingent and collective right exercisable only if that site is provided as redress in a Ngāti Maru deed of settlement and/or a Ngaati Whanaunga deed of settlement; and

7.16.2 exercisable by the governance entity on the same terms and conditions, and subject to the same rights and obligations, as are exercisable, and would apply, under that deed of settlement or those deeds of settlement, and as if the governance entity had signed that deed or those deeds.

7.17 The parties agree that, in relation to any transfer of the Te Wharekura o Manaia School to the governance entity, including to the governance entity and another or other persons, under any right referred to in clause 7.16 –

7.17.1 the tax indemnity (as defined in the deed of settlement) does not apply to that transfer; and

7.17.2 that transfer is –

(a) subject to normal tax treatment; and

(b) a taxable supply for GST purposes.

RIGHT OF FIRST REFUSAL OVER QUOTA

7.18 The Crown agrees to grant to the governance entity a right of first refusal to purchase certain quota as set out in the RFR deed over quota.

Delivery by the Crown of a RFR deed over quota

7.19 The Crown must, by or on the settlement date, provide the governance entity with two copies of a deed (the **"RFR deed over quota"** on the terms and conditions set out in part 4 of the documents schedule and signed by the Crown.

Signing and return of RFR deed over quota by the governance entity

7.20 The governance entity must sign both copies of the RFR deed over quota and return one signed copy to the Crown by no later than 10 business days after the settlement date.

Terms of RFR deed over quota

7.21 The RFR deed over quota will:

7.21.1 relate to the RFR area;

7.21.2 be in force for a period of 50 years from the settlement date; and

7.21.3 have effect from the settlement date as if it had been validly signed by the Crown and the governance entity on that date.

Crown has no obligation to introduce or sell quota

7.22 The Crown and the governance entity agree and acknowledge that:

7.22.1 Nothing in this deed, or the RFR deed over quota, requires the Crown to:

(a) purchase any provisional catch history, or other catch rights, under section 37 of the Fisheries Act 1996;

(b) introduce any applicable species (being the species referred to in Schedule 1 of the RFR deed over quota) into the quota management system (as defined in the RFR deed over quota); or

(c) offer for sale any applicable quota (as defined in the RFR deed over quota) held by the Crown; and

7.22.2 The inclusion of any applicable species (being the species referred to in Schedule 1 of the RFR deed over quota) in the quota management system may not result in any, or significant, holdings by the Crown of applicable quota.

RFR FROM THE CROWN

7.23 The governance entity is to have a right of first refusal in relation to a disposal by the Crown of RFR land, being land listed in the attachments as RFR land that, on the settlement date:

7.23.1 is vested in the Crown; or

7.23.2 the fee simple for which is held by the Crown.

7.24 The right of first refusal is:

7.24.1 to be on the terms provided by part 11A of the legislative matters schedule; and

7.24.2 in particular, to apply:

(a) for a term of 174 years from the settlement date; but

(b) only if the RFR land is not being disposed of in the circumstances described in paragraph 11A.11 of the legislative matters schedule.

SCHEDULE 4
NEW PART 2 OF THE GENERAL MATTERS SCHEDULE

2 INTEREST

2.1 The Crown must pay to the governance entity on the settlement date, interest on the following amounts:

2.1.1 $5,000,000 being the financial and commercial redress amount less the Hauraki financial redress amount:

2.1.2 $4,000,000 being the amount referred to in paragraph 2.1.1 less the on-account payment of $1,000,000 referred to in clause 7.2:

2.1.3 $6,000,000 being the amount referred to in paragraph 2.1.2 plus the Hauraki financial redress amount of $2,000,000:

2.1.4 $4,120,000 being the amount referred to in paragraph 2.1.3 less $1,880,000 being the total transfer value of the early release commercial properties:

2.1.5 $3,880,000 being the amount referred to in paragraph 2.1.4 less the on-account payment of $240,000 referred to in clause 7.3:

2.1.6 $3,080,000 being the amount referred to in paragraph 2.1.5 less the on account payment of $800,000 referred to in clause 7.4.1:

2.1.7 if the on-account payment of $100,000, referred to in clause 7.4.2 is made before the settlement date, on $2,980,000 being the amount referred to in paragraph 2.1.6 less the on account payment of $100,000.

2.2 The interest under paragraph 2.1.1 is payable for the period –

2.2.1 beginning on the date this deed is initialled, being 23 November 2012; and

2.2.2 ending on the day before the on-account payment referred to in clause 7.2 is made, being 2 May 2013.

2.3 The interest under paragraph 2.1.2 is payable for the period –

2.3.1 beginning on the date the on-account payment referred to in clause 7.2 is made, being 3 May 2013; and

2.3.2 ending on the day before the parties agreed the Hauraki financial redress amount, being 16 May 2013..

2.4 The interest under paragraph 2.1.3 is payable for the period –

2.4.1 beginning on the date the parties agreed the Hauraki financial redress amount, being 17 May 2013; and

2.4.2 ending on the day before the early release commercial properties referred to in clause 7.6 are transferred to the governance entity, being 20 November 2013.

2.5 The interest under paragraph 2.1.4 is payable for the period –

2.5.1 beginning on the date the early release commercial properties referred to in clause 7.6 are transferred to the governance entity, being 21 November 2013; and

2.5.2 ending on the day before the on-account payment referred to in clause 7.3 is made, being 2 December 2013.

2.6 The interest under paragraph 2.1.5 is payable for the period –

2.6.1 beginning on the date the on-account payment referred to in clause 7.3 is made, being 3 December 2013; and

2.6.2 ending on the day before the on-account payment referred to in clause 7.4.1 is made, being 2 September 2014.

2.7 The interest under paragraph 2.1.6 is payable for the period –

2.7.1 beginning on the date the on-account payment referred to in clause 7.4.1 is made, being 3 September 2014; and

2.7.2 ending on either -

(a) the day before the on-account payment referred to in clause 7.4.2 is made, if that on-account payment is made; or

(b) the day before the settlement date, if the on-account payment referred to in clause 7.4.2 is not made.

2.8 If the on-account payment referred to in clause 7.4.2 is made, the interest under paragraph 2.1.7 is payable for the period –

2.8.1 beginning on the date the on-account payment referred to in clause 7.4.2 is made; and

2.8.2 ending on the day before the settlement date.

2.9 The interest amounts payable under paragraph 2.1 are –

2.9.1 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

2.9.2 subject to any tax payable in relation to it; and

2.9.3 payable after withholding any tax required by legislation to be withheld.

SCHEDULE 5
NEW PART 11A OF THE LEGISLATIVE MATTERS SCHEDULE

11A. RFR PROVISIONS

Definitions to be provided

11A.1 The settlement legislation is to provide that in the provisions relating to the RFR:

11A.1.1 **dispose of**, in relation to RFR land:

(a) means to:

(a) transfer or vest the fee simple estate in the land; or

(b) grant a lease of the land for a term that is, or will be (if any rights of renewal or extension are exercised under the lease), for 50 years or longer; but

(b) to avoid doubt, does not include to:

(a) mortgage, or give a security interest in, the land; or

(b) grant an easement over the land; or

(c) consent to an assignment of a lease, or to a sub-lease, of the land; or

(d) remove an improvement, fixture, or fitting from the land; and

11A.1.2 **expiry date**, in relation to an offer, means its expiry date under paragraphs 11A.5.1 and 11A.6; and

11A.1.3 **nominee** has the meaning given to it by paragraph 11A.9.1; and

11A.1.4 **notice** means a notice under this part; and

11A.1.5 **offer** means an offer, made in accordance with paragraph 11A.5, by an RFR landowner to dispose of RFR land to the governance entity; and

11A.1.6 **public work** has the meaning given to it in section 2 of the Public Works Act 1981; and

11A.1.7 **RFR land** has the meaning given to it by paragraphs 11A.2 and 11A.3; and

11A.1.8 **RFR landowner**, in relation to RFR land;

(a) means the Crown, if the land is vested in the Crown or the Crown holds the fee simple estate in the land; and

(b) means a Crown body if it holds the fee simple estate in the land; and

(c) includes a local authority to whom RFR land has been disposed of under paragraph 11A.10.2; and

(d) to avoid doubt, does not include an administering body in which RFR land is vested after the settlement date under paragraph 11A.10.3; and

11A.1.9 **RFR period** means the period of 174 years from the settlement date.

RFR land to be defined

11A.2 **RFR land** is to mean:

11A.2.1 land described as RFR land in the attachments to this deed if, on the settlement date, the land is vested in the Crown, or the Crown holds the fee simple estate in the land; and

11A.2.2 land obtained in exchange for a disposal of RFR land under paragraph 11A.11.5(c) or 11A.11.6.

11A.3 However, land ceases to be RFR land when any of the following things happen:

11A.3.1 the fee simple estate in the land transfers from the RFR landowner to:

(a) the governance entity (or a nominee); or

(b) any other person (including the Crown or a Crown body) in accordance with paragraph 11A.4.4; or

11A.3.2 the fee simple estate in the land transfers or vests from the RFR landowner to or in a person other than the Crown or a Crown body under:

(a) paragraphs 11A.11 or 11A.12.1; or

(b) an enactment, rule of law, encumbrance, legal or equitable obligation, mortgage or security interest referred to in paragraph 11A.11; or

(c) the fee simple estate in the land transfers or vests from the RFR landowner in accordance with a waiver or variation given under paragraphs 11A.20.1 to 11A.20.3; or

11A.3.3 the RFR period for the land ends.

Restrictions on disposal of RFR land to be provided

11A.4 The settlement legislation is to provide that an RFR landowner must not dispose of RFR land to a person other than the governance entity or its nominee unless the land is disposed of:

11A.4.1 under paragraphs 11A.10, 11A.11, or 11A.12.1; or

11A.4.2 under an enactment, rule of law, encumbrance, legal or equitable obligation, mortgage or security interest referred to in paragraph 11A.13; or

11A.4.3 in accordance with a waiver or variation given under paragraphs 11A.20.1 to 11A.20.3; or

11A.4.4 within two years after the expiry date of an offer by the RFR landowner to dispose of the land to the governance entity, if the offer was:

(a) made in accordance with paragraph 11A.5; and

(b) on terms that were the same as, or more favourable to the governance entity than, the terms of the disposal to the person; and

(c) not withdrawn under paragraph 11A.7; and

(d) not accepted under paragraph 11A.8.

Requirements for offer to governance entity to be specified

11A.5 An offer by an RFR landowner to dispose of RFR land to the governance entity must be by written notice to the governance entity, incorporating:

11A.5.1 the terms of the offer, including its expiry date; and

11A.5.2 a legal description of the land, including:

(a) the reference for any computer register that contains the land; and

(b) any encumbrances affecting it; and

11A.5.3 a street address for the land (if applicable); and

11A.5.4 a street address, postal address, and fax number for the governance entity to give notices to the RFR landowner in relation to the offer.

Expiry date of offer to be required

11A.6 The settlement legislation is to specify that the expiry date of an offer:

11A.6.1 must be on or after the 20th business day after the day on which the governance entity receive notice of the offer; but

11A.6.2 may be on or after the 10th business day after the day on which the governance entity receive notice of the offer if:

(a) the governance entity have received an earlier offer to dispose of the land; and

(b) the expiry date of the earlier offer was no earlier than 6 months before the expiry date of the later offer; and

(c) the earlier offer was not withdrawn.

Withdrawal of offer to be permitted

11A.7 An RFR landowner is to be permitted, by notice to the governance entity, to withdraw an offer at any time before it is accepted.

Acceptance of offer and formation of contract to be provided for

11A.8 The settlement legislation is to provide that:

11A.8.1 the governance entity may, by notice to the RFR landowner who made an offer, accept the offer if:

(a) it has not been withdrawn; and

(b) its expiry date has not passed.

11A.8.2 the governance entity must accept all the RFR land offered unless the offer permits it to accept less; and

11A.8.3 if the governance entity accepts an offer by an RFR landowner to dispose of RFR land:

(a) a contract for the disposal of the land is formed between the landowner and the governance entity on the terms in the offer; and

(b) the terms of the contract may be varied by written agreement between the RFR landowner and the governance entity.

Transfer to governance entity or a nominee to be provided for

11A.9 The settlement legislation is to provide that if a contract for the disposal of RFR land is formed between an RFR landowner and the governance entity under paragraph 11A.8.3:

11A.9.1 the RFR landowner will dispose of the RFR land to:

(a) the governance entity; or

(b) in the case of a transfer of the fee simple estate, a person nominated by the governance entity (a nominee) under paragraph 11A.9.2; and

11A.9.2 the governance entity may nominate a nominee by giving written notice:

(a) to the RFR landowner at least 10 business days before the RFR land is to be transferred under the contract for disposal of the RFR land; and

(b) providing the name of, and all other relevant details about, the nominee; and

11A.9.3 a nominee must not be a person to whom it would not be lawful to transfer the fee simple estate in the RFR land; and

11A.9.4 if the governance entity nominates a nominee, the governance entity remains liable for all the transferees' obligations under the contract for disposal of the RFR land.

Certain disposals by RFR landowner permitted but land remains RFR land

11A.10 The settlement legislation is to permit an RFR landowner to dispose of RFR land:

To the Crown or Crown bodies

11A.10.1 to the Crown or a Crown body, including, to avoid doubt, under section 143(5) or section 206 of the Education Act 1989; or

If a public work

11A.10.2 that is a public work, or part of a public work, to a local authority (as defined in section 2 of the Public Works Act 1981) in accordance with section 50 of that Act; or

For reserves purposes

11A.10.3 in accordance with section 26 or 26A of the Reserves Act 1977.

Certain disposals by RFR land owner permitted and land may cease to be RFR land

11A.11 The settlement legislation is to permit an RFR landowner to dispose of RFR land:

Under legislative and rule of law obligations

11A.11.1 in accordance with an obligation under any legislation or rule of law; or

Under legal or equitable obligations

11A.11.2 in accordance with a legal or equitable obligation that:

(a) was unconditional before the settlement date; or

(b) was conditional before the settlement date but become unconditional on or after the settlement date; or

(c) arose after the exercise (whether before, on, or after the settlement date) of an option existing before the settlement date; or

11A.11.3 in accordance with the requirements, existing before the settlement date, of a gift, endowment, or trust relating to the land; or

Under certain legislation

11A.11.4 if the RFR landowner is the Crown, in accordance with:

(a) section 54(1)(d) of the Land Act 1948; or

(b) section 355(3) of the Resource Management Act 1991; or

(c) subpart 3 of part 2 of the Marine and Coastal Area (Takutai Moana) Act 2011; or

Public works land

11A.11.5 in accordance with:

(a) section 40(2), 40(4) or 41 of the Public Works Act 1981 (including as applied by other legislation); or

(b) section 52, 105(1), 106, 114(3), 117(7), or 119 of the Public Works Act 1981; or

(c) section 117(3)(a) of the Public Works Act 1981; or

(d) section 117(3)(b) of the Public Works Act 1981 if the land is disposed of to the owner of adjoining land; or

(e) sections 23(1) or (4), 24(4), or 26 of the New Zealand Railways Corporation Restructuring Act 1990; or

For reserves or conservation purposes

11A.11.6 in accordance with:

(a) section 15 of the Reserves Act 1977; or

(b) section 16A or 24E of the Conservation Act 1987; or

For charitable purposes

11A.11.7 as a gift for charitable purposes; or

To tenants

11A.11.8 that was held on settlement date for education purposes, if the RFR landowner is the Crown, to a person who, immediately before the disposal, is a tenant of:

(a) all or part of the land; or

(b) a building, or part of a building, on the site; or

11A.11.9 under section 67 of the Land Act 1948, if the disposal is to a lessee under a lease of the land granted:

(a) before the settlement date; or

(b) on or after the settlement date as a renewal of a lease granted before the settlement date; or

11A.11.10 under section 93(4) of the Land Act 1948.

Certain matters to be clarified

11A.12 The settlement legislation is to provide, to avoid doubt, that:

11A.12.1 RFR land may be disposed of by an order of the Maori Land Court under section 134 Te Ture Whenua Maori Act 1993, after an application by an RFR landowner under section 41(e) of the Public Works Act 1981; and

11A.12.2 if RFR land is disposed of to a local authority under paragraph 11A.10.2, the local authority becomes:

(a) the RFR landowner of the land; and

(b) subject to the obligations of an RFR landowner under this subpart; and

11A.12.3 to avoid doubt, if RFR land that is a reserve is vested in an administering body under paragraph 11A.10.3, the administering body does not become:

(a) the RFR landowner of the land; and

(b) subject to the obligations of an RFR landowner under this part; and

11A.12.4 however, if RFR land vests back in the Crown under section 25 or 27 of the Reserves Act 1977, the Crown becomes:

(a) the RFR landowner; and

(b) subject to the obligations of the RFR landowner under this part in relation to the land.

RFR landowner's obligations to be subject to specified matters

11A.13 An RFR landowner's obligations under the settlement legislation in relation to RFR land are to be subject to:

11A.13.1 any other enactment or rule of law but, in the case of a Crown body, the obligations apply despite its purpose, functions or objectives; and

11A.13.2 any encumbrance, or legal or equitable obligation, that:

(a) prevents or limits an RFR landowner's disposal of RFR land to the governance entity; or

(b) the RFR landowner cannot satisfy by taking reasonable steps; and

11A.13.3 the terms of a mortgage over, or security interest in, RFR land.

11A.14 Reasonable steps, for the purposes of paragraph 11A.13.2(b), are not to include steps to promote the passing of legislation.

Notice to LINZ of RFR land to be required after settlement date

11A.15 The settlement legislation is to provide that:

11A.15.1 if a computer register is first created for RFR land after the settlement date, the RFR landowner must give the chief executive of LINZ notice that the register has been created; and

11A.15.2 if land for which there is a computer register becomes RFR land after the settlement date, the RFR landowner must give the chief executive of LINZ notice that the land has become RFR land; and

11A.15.3 the notice must:

(a) include:

(a) the reference for the computer register; and

(b) a legal description of the land; and

(b) be given as soon as reasonably practicable after:

(a) a computer register is first created for the RFR land; or

(b) the land becomes RFR land.

Notice to governance entity of disposals of RFR land to be required

11A.16 The settlement legislation is to require that:

11A.16.1 an RFR landowner must give the governance entity notice of the disposal of RFR land by the landowner to a person other than the governance entity; and

11A.16.2 the notice must:

(a) be given on or before the day that is 20 business days before the disposal; and

(b) include a legal description of the land, including any encumbrances affecting it; and

(c) include a street address for the land (if applicable); and

(d) identify the person to whom the land is being disposed; and

(e) explain how the disposal complies with paragraph 11A.4; and

(f) if the disposal is made under paragraph 11A.4.4, include a copy of any written contract for the disposal.

Notice to LINZ of land ceasing to be RFR land to be required

11A.17 The settlement legislation is to provide that:

11A.17.1 the following provisions apply if land contained in a computer register is to cease being RFR land because:

(a) the fee simple estate in the land is to transfer from the RFR landowner to:

(i) the governance entity (or nominee) (for example under a contract formed under paragraphs 11A.8 or 11A.9); or

(ii) any other person (including the Crown or a Crown body) under paragraph 11A.4.3; or

(b) the fee simple estate in the land is to transfer or vest from the RFR landowner to or in a person (other than the Crown or a Crown body) under:

(i) paragraphs 11A.11 or 11A.12.1; or

(ii) an enactment, rule of law, encumbrance, legal or equitable obligation, mortgage or security interest referred to in paragraph 11A.13; or

the fee simple in the land is to transfer or vest from the RFR landowner in accordance with a waiver or variation given under paragraphs 11A.20.1 to 11A.20.3; and

11A.17.2 the RFR landowner must, as early as practicable before the transfer or vesting, give the chief executive of LINZ notice that the land is to cease being RFR land; and

11A.17.3 the notice must include:

(a) the legal description of the land and the reference for the computer register for the land; and

(b) the details of the transfer or vesting of the land.

Provision for recording of memorials on RFR land to be made

11A.18 The settlement legislation is to provide that:

Certificates identifying RFR land to be issued

11A.18.1 the chief executive of LINZ must:

(a) issue to the Registrar-General of Land one or more certificates that specify the legal descriptions of, and identify the computer registers that contain:

(i) the RFR land for which there is a computer register on the settlement date; and

(ii) the RFR land for which a computer register is first created after the settlement date; and

(iii) land for which there is a computer register that becomes RFR land after the settlement date; and

(b) provide a copy of each certificate to the governance entity as soon as reasonably practicable after issuing it; and

11A.18.2 a certificate issued under paragraph 11A.18.1 must:

(a) state that is issued under the clause giving effect to this paragraph; and

(b) be issued as soon as reasonably practicable after:

(i) the settlement date, in the case of RFR land for which there is a computer register on settlement date; or

(ii) receiving notice under paragraph 11A.17 that a computer register has been created for the RFR land or that the land has become RFR land; and

Memorials to be recorded

11A.18.3 the Registrar-General of Land must, as soon as reasonably practicable after receiving a certificate issued under paragraph 11A.18.1, record on the computer register for the RFR land identified in the certificate that the land is:

(a) RFR land as defined in paragraphs 11A.2 and 11A.3; and

(b) subject to this part (which restricts disposal, including leasing, of the land).

Provision for removal of memorials from RFR land to be made

11A.19 The settlement legislation is to provide that:

Certificates to be issued identifying land ceasing to be RFR land after transfer or vesting

11A.19.1 the chief executive of LINZ must:

(a) before registration of the transfer or vesting of land described in a notice under paragraph 11A.17, issue to the Registrar-General of Land a certificate that:

(i) specifies the legal description of the land and identifies the computer register that contains that land; and

(ii) specifies the details of the transfer or vesting of the land; and

(iii) states that it is issued under this paragraph; and

(b) as soon as reasonably practicable after issuing a certificate, provide a copy of it to the governance entity; and

Memorials to be removed

11A.19.2 if the Registrar-General of Land receives a certificate issued under paragraph 11A.19.1, he or she must remove a memorial recorded under paragraph 11A.18.3 from any computer register for land identified in the certificate before registering the transfer or vesting described in the certificate.

Certificates to be issued identifying land ceasing to be RFR land on expiry of RFR period

11A.19.3 the chief executive of LINZ must:

(a) as soon as reasonably practicable after the RFR period ends, issue to the Registrar-General of Land a certificate that:

(i) identifies each computer register that has a memorial recorded on it under paragraph 11A.18.3; and

(ii) states that it is issued under this paragraph; and

(b) provide a copy of each certificate to the governance entity as soon as reasonably practicable after issuing it; and

Memorials to be removed

11A.19.4 the Registrar-General of Land must, as soon as reasonably practicable after receiving a certificate issued under paragraph 11A.19.3, remove a memorial recorded under paragraph 11A.18.3 from any computer register identified in the certificate.

General provisions to be included

11A.20 The settlement legislation is to provide that:

Waiver and variation of rights to be permitted

11A.20.1 the governance entity may, by notice to an RFR landowner, waive any or all of the rights the governance entity has in relation to the landowner under this part; and

11A.20.2 the RFR landowner and the governance entity may agree in writing to vary or waive any of the rights each has in relation to the other under this part; and

11A.20.3 a waiver or agreement under paragraphs 11A.20.1 or 11A.20.2 is on the terms, and applies for the period, specified in it; and

Crown's ability to dispose of Crown bodies not affected

11A.20.4 this part does not limit the ability of the Crown, or a Crown body, to sell or dispose of a Crown body; and

Assignment of RFR right

11A.20.5 paragraph 11A.20.6 will apply if, at any time, an RFR holder:

(a) assigns the RFR holder's RFR rights to an assignee in accordance with the RFR holder's constitutional documents; and

(b) has given the notices required by paragraph 11A.20.7;

11A.20.6 this part will apply, with all necessary modifications, to an assignee as if the assignee were the governance entity;

11A.20.7 an RFR holder must give a notice to each RFR landowner:

(a) stating that the RFR rights of the RFR holder are to be assigned under paragraphs 11A.20.5 to 11A.20.8; and

(b) specifying the date of the assignment; and

(c) specifying the name of the assignee and, if assignees are the trustees of a trust, the name of the trust; and

(d) specifying the street or postal address or fax number or electronic address for notices to the assignee;

11A.20.8 in paragraphs 11A.20.5 to 11A.20.7:

(a) assignee means one or more persons to whom an RFR holder assigns the RFR rights;

(b) constitutional documents means, as the case requires, the trust deed of the trustees or the constitutional document of an assignee;

(c) RFR holder means, as the case requires:

(i) the governance entity; or

(ii) an assignee;

(d) RFR rights means the rights and obligations provided for by or under this part.

Notice provisions to be specified

11A.21 The settlement legislation is to provide that a notice to or by an RFR landowner, or the governance entity, under this part:

Notice requirements

11A.21.1 must be in writing; and

11A.21.2 signed by:

(a) the person giving it; or

(b) in the case of the governance entity, at least two of the trustees for the time being of the Te Tāwharau o Ngāti Pūkenga Trust; and

11A.21.3 addressed to the recipient at the street address, postal address, fax number or electronic address:

(a) specified for the governance entity in accordance with this deed, in the case of a notice to the Te Tāwharau o Ngāti Pūkenga Trust; or

(b) specified by the RFR landowner in an offer made under paragraph 12.5, or in a later notice given to the governance entity, in the case of a notice to the RFR landowner; or

(c) at the national office of LINZ, in the case of a notice given to the chief executive of LINZ; and

11A.21.4 given by:

(a) delivering it by hand to the recipient's street address; or

(b) posting it to the recipient's postal address; or

(c) faxing it to the recipient's fax number; or

(d) sending it by electronic means such as email; and

11A.21.5 despite paragraph 11A.21.1 to 11A.21.4, a notice that must be given in writing and signed, as required by section 11A.21.1 and 11A.21.2, may be given by electronic means as long as the notice is given with an electronic signature that satisfied section 22(1)(a) and (b) of the Electronic Transactions Act 2002; and

Time when notice received

11A.21.6 is to be treated as having been received:

(a) at the time of delivery, if delivered by hand; or

(b on the second day after posting, if posted; or

(c) at the time of transmission, if faxed or sent by other electronic means;

11A.21.7 however, is to be treated as having been received on the next business day if, under paragraph 11A.21.6, it would be treated as having been received:

(a) after 5 pm on a business day; or

(b) on a day that is not a business day.

SCHEDULE 6
NEW PART 3A OF THE DOCUMENTS SCHEDULE

Ministry for Primary Industries
Manatū Ahu Matua

THE PRIMARY INDUSTRIES PROTOCOL WITH NGĀTI PŪKENGA

Issued by

the Minister for Primary Industries

PART ONE - RELATIONSHIP

PURPOSE

1. The purpose of this Primary Industries Protocol (the "**Protocol**") is to set out how Ngāti Pūkenga, the Minister for Primary Industries (the "**Minister**") and the Director- General of the Ministry for Primary Industries (the "**Director-General**") will establish and maintain a positive, co-operative and enduring relationship.

CONTEXT

2. The Protocol should be read in a manner that best furthers the purpose of the Ngāti Pūkenga Deed of Settlement (the "**Deed of Settlement**").

3. The Protocol is a living document that should be updated to take account of the relationship between the parties, future developments and additional relationship opportunities.

PRINCIPLES UNDERLYING THE PROTOCOL

4. The Ministry and Ngāti Pūkenga are seeking a relationship consistent with Te Tiriti o Waitangi/the Treaty of Waitangi and its principles. The principles of Te Tiriti o Waitangi/the Treaty of Waitangi provide the basis for the relationship between the parties to the Protocol. The relationship created by the Protocol is intended to assist the parties to exercise their respective responsibilities with the utmost cooperation to achieve over time the outcomes sought by both.

5. The parties recognise that to successfully implement the Protocol, the parties will need to work in partnership and in the spirit of collaboration.

6. The parties also acknowledge the below relationship and their importance to successfully achieve the purpose of the Protocol. These relationship principles provide that the Ministry and Ngāti Pūkenga will:

   a. work in a spirit of co-operation;

   b. ensure early engagement on issues of known mutual interest;

   c. operate on a 'no surprises' approach;

   d. acknowledge that the relationship is evolving, not prescribed;

   e. respect the independence of the parties and their individual mandates, roles and responsibilities; and

   f. recognise and acknowledge that both parties benefit from working together by sharing their vision, knowledge and expertise.

7. The Minister and the Director-General have certain functions, powers and duties in terms of legislation that they are responsible for administering. With the intention of creating a relationship that achieves, over time, the policies and outcomes sought by both Ngāti Pūkenga and the Ministry. The Protocol sets out how the Minister, Director-General and the Ministry will exercise their functions, powers and duties in relation to matters set out in the Protocol. In accordance with the Protocol, the Governance Entity will have the opportunity for input into the policy and planning processes relating to matters set out in the Protocol.

8. The Ministry will advise the Governance Entity whenever it proposes to consult with a hapū of Ngāti Pūkenga or with another iwi or hapū with interests inside the Protocol Area on matters that could affect the interests of Ngāti Pūkenga.

PART TWO - SCOPE AND INTERPRETATION

SCOPE

9. The Protocol applies to agriculture (agriculture includes animal welfare and horticulture), forestry, fisheries, biosecurity and food safety portfolios administered by the Ministry for Primary Industries (the "**Ministry**").

10. The Protocol does not cover processes regarding the allocation of aquaculture space, or the Treaty settlement processes established for assets held by the Ministry's Crown Forestry unit.

11. The Ministry is required to provide for the utilisation of fisheries resources while ensuring sustainability, to meet Te Tiriti o Waitangi/the Treaty of Waitangi and international obligations, to enable efficient resource use and to ensure the integrity of fisheries management systems.

12. The Protocol applies to the Protocol Area as noted and described in the attached map ("**Appendix A**").

DEFINITIONS AND INTERPRETATION

13. In the Protocol:

    a. "**Protocol**" means a statement in writing, issued by the Crown through the Minister to the trustees of Te Tāwharau o Ngāti Pūkenga Trust under the Settlement Legislation and the Deed of Settlement and includes this Protocol;

    b. "**Protocol Area**" means the land area as noted in the attached map at Appendix A;

    c. "**Crown**" means The Sovereign in right of New Zealand and includes, where appropriate, the Ministers and Departments of the Crown that are involved in, or bound by, the terms of the Deed of Settlement to participate in any aspect of the redress under the Deed of Settlement;

    d. "**Fisheries Legislation**" means the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992, the Fisheries Act 1983 and the Fisheries Act 1996, and any regulations made under the Fisheries Act 1983 and the Fisheries Act 1996; ~

    e. "**Governance Entity**" and "the trustees of Te Tāwharau o Ngāti Pūkenga Trust"' mean the trustees for the time being of Te Tāwharau o Ngāti Pūkenga Trust, in their capacity as trustees of that trust;

    f. "**iwi of Hauraki**" means the iwi referred to in clause 23 of this Protocol; and

    g. "**the parties**" means the trustees of Te Tāwharau o Ngāti Pūkenga Trust, the Minister for Primary Industries (acting on behalf of the Crown), and the Director-General of the Ministry of Primary Industries (acting on behalf of the Ministry for Primary Industries).

TERMS OF ISSUE

14. The Protocol is issued pursuant to section ***[insert number]*** of the Ngāti Pūkenga Claims Settlement Act ***[date]*** (the "**Settlement Legislation**") and clause 4.2 of the deed (No.2)

amending the Deed of Settlement and is subject to the Settlement Legislation and the Deed of Settlement.

PART THREE - FISHERIES

15. The Minister and the Director-General have certain functions, powers and duties in terms of the Fisheries Legislation. With the intention of creating a relationship that achieves, over time, the policies and outcomes sought by both Ngāti Pūkenga and the Ministry.

16. The Protocol sets out how the Minister, Director-General and the Ministry will exercise their functions, powers and duties in relation to matters set out in the Protocol. In accordance with the Protocol, the Governance Entity will have the opportunity for input into the policy and planning processes relating to matters set out in the Protocol.

INPUT INTO AND PARTICIPATION INTO THE MINISTRY'S NATIONAL FISHERIES PLANS

17. The Ministry's national fisheries plans will reflect the high level goals and outcomes for fisheries. The plans will guide annual identification of the measures (which may include catch limits, research, planning and compliance services) required to meet these goals and outcomes.

18. There are five National Fisheries Plans, which relate to:

    a. inshore fisheries;

    b. shellfish;

    c. freshwater fisheries;

    d. highly migratory fisheries; and

    e. deepwater fisheries.

19. The National Fisheries Plans are implemented through an Annual Review Report and Annual Operational Plan.

20. The Annual Review Report presents information on:

    a. the current status of fisheries relative to the performance measures recorded in the National Fisheries Plans; and

    b. the extent of the delivery of previous and existing services and management actions.

21. The Annual Review Report is developed through engagement with tāngata whenua about what future services are required to meet agreed objectives, address gaps in performance and meet tāngata whenua interests, including research, compliance and special permits. The Ministry will engage with the parties to produce the Annual Review Report.

22. The Annual Operational Plan will record the future services agreed through the Annual Review Report process to be delivered to fisheries for the next financial year (1 July - 30 June). The demand for services is often greater than can be provided by the Ministry. The Ministry undertakes a prioritisation of proposed services to address competing interests.

23. The Ministry will provide for the input and participation of the twelve iwi of Hauraki, Hako, Ngāi Tai ki Tāmaki, Ngāti Hei, Ngāti Maru, Ngāti Paoa, Ngāti Porou ki Hauraki, Ngāti Pūkenga, Ngāti Rahiri Tumutumu, Ngāti Tamaterā, Ngaati Whanaunga and Te Patukirikiri,

which includes Ngāti Pūkenga, into national fisheries plans through iwi forum fisheries plans. Iwi forum fisheries plans allow the Ministry to engage and involve iwi in fisheries management activities and national fisheries planning.

IWI FORUM FISHERIES PLANS

24. The twelve iwi of Hauraki collectively will have input into the relevant forum fisheries plan. The plan must incorporate:

    a. the objectives of the iwi of Hauraki for the management of their customary, commercial, recreational, and environmental interests;

    b. views of the iwi of Hauraki on what constitutes the exercise of kaitiakitanga within the Protocol Area;

    c. how the iwi of Hauraki will participate in fisheries planning and management; and

    d. how the customary, commercial, and recreational fishing interests of forum members will be managed in an integrated way.

25. The iwi of Hauraki, which includes Ngāti Pūkenga, will have the opportunity to jointly develop an iwi fisheries plan that will inform the content of the relevant forum fisheries plan.

26. Any person exercising functions, powers and duties under sections 12 to 14 of the Fisheries Act 1996 will have particular regard to forum plans interpretation of kaitiakitanga (see section 12(1) (b) of the Fisheries Act 1996).

MANAGEMENT OF CUSTOMARY NON-COMMERCIAL FISHERIES

27. The Ministry, with available resources, undertake to provide the Governance Entity with such information and assistance as may be necessary for the proper administration of the Fisheries (Kaimoana Customary Fishing) Regulations 1998. This information and assistance may include, but is not limited to:

    a. discussions with the Ministry on the implementation of the Fisheries (Kaimoana Customary Fishing) Regulations 1998 within the Protocol Area; and

    b. making available existing information relating to the sustainability, biology, fishing activity and fisheries management within the Protocol Area.

RĀHUI

28. The Ministry recognises that rāhui is a traditional use and management practice of Ngāti Pūkenga and supports their rights to place traditional rāhui over their customary fisheries.

29. The Ministry and the Governance Entity acknowledge that a traditional rāhui placed by the Governance Entity over their customary fisheries has no force in law and cannot be enforced by the Ministry, and that adherence to any rāhui is a matter of voluntary choice. The Governance Entity undertakes to inform the Ministry of the placing and the lifting of a rāhui by Ngāti Pūkenga over their customary fisheries, and also the reasons for the rāhui.

30. The Ministry undertakes to inform a representative of any fishery stakeholder groups that fish in the area to which the rāhui has been applied, to the extent that such groups exist, of the placing and the lifting of a rāhui by Ngāti Pūkenga over their customary fisheries, in a manner consistent with the understandings outlined in clause 28 of this Protocol.

31. As far as reasonably practicable, the Ministry undertakes to consider the application of section 186A of the Fisheries Act 1996 to support a rāhui proposed by Ngāti Pūkenga over their customary fisheries for purposes consistent with the legislative requirements for the application of section 186A of the Fisheries Act 1996, noting these requirements preclude the use of section 186A to support rāhui placed in the event of a drowning.

PROVISION OF FISHERIES SERVICES AND RESEARCH

32. Each party acknowledges that there is potential for the other to provide services to, or conduct research for, the other.

33. Ngāti Pūkenga input and participation into Ministry fisheries services and research will occur through Ngāti Pūkenga input and participation into the Ministry's national fisheries plans.

PART FOUR - STRATEGIC PARTNERSHIPS

INFORMATION SHARING AND COLLABORATION

34. The Governance Entity and the Ministry will use reasonable endeavours to exchange and share information relevant of mutual benefit, subject to the provisions of the Governance Entity legislation, any other enactment, and the general law.

35. For the purpose of carrying out its function, the Governance Entity may make a request of the Ministry to:

    a. provide information or advice to the Governance Entity requested by the Governance Entity, but only on matters relating to fisheries, agriculture (agriculture includes animal welfare and horticulture), forestry, food safety and biosecurity; and/or

    b. provide a Ministry representative to attend a meeting with the Governance Entity.

36. In respect of the above requests for information or advice:

    a. where reasonably practicable, the Ministry will provide the information or advice; and

    b. in deciding whether it is reasonably practicable to provide the information or advice, the Ministry will have regard to any relevant consideration, including:

        i. whether, where a request has been made under the Official Information Act 1982, or the Local Government Official Information and Meetings Act 1987, there are permitted reasons for withholding the information;

        ii. whether making the information available would contravene the provisions of an enactment;

        iii. the time and cost involved in researching, collating and providing the information or advice; and

        iv. whether making the information available would put at risk any of the Ministry's wider stakeholder relationships.

37. In respect of requests for the Ministry to attend a meeting with the Governance Entity:

    a. only where reasonably practicable, the Ministry will comply with the request;

    b. the Ministry will determine the appropriate representative to attend any meeting; and

c. in deciding whether it is reasonably practicable to comply with the request, the Ministry may have regard to any relevant consideration, including:

i. the number and frequency of such requests the Ministry has received from the Governance Entity;

ii. the time and place of the meeting and the adequacy of notice given; and

iii. the time and cost involved in complying with the request.

JOINT WORK PROGRAMMES

38. If agreed to by both parties, the Ministry and the Governance Entity, will work together to develop and implement joint work programmes on matters relating to fisheries, agriculture (agriculture includes animal welfare and horticulture), forestry, food safety and biosecurity.

39. The work programme/s must be beneficial to both parties, must align with the parties objectives and priorities relating to the primary sector, and be based on agreed-to terms of delivery.

PROVISION OF SERVICE AND RESEARCH RELATING TO AGRICULTURE, FORESTRY, FOOD SAFETY AND BIOSECURITY

40. Each party acknowledges that there is potential for the other to provide services to, or conduct research for, the other.

41. Where the Ministry undertakes or contracts for services or research relating to agriculture (agriculture includes animal welfare and horticulture), forestry, food safety or biosecurity, and where the Ministry considers it to have a direct impact on the Protocol Area, the Ministry will:

a. notify the Governance Entity of its intention to do so and provide the Governance Entity with an opportunity to be involved in the planning for services or research, as appropriate;

b. where applicable, invite the Governance Entity to provide a representative to be a member of the tender evaluation panel, subject to the Ministry's conflict of interest policy;

c. advise the Governance Entity of the provider it has chosen;

d. require any research provider to engage with the Governance Entity; and

e. provide the Governance Entity with the results of that research, as appropriate.

CONSULTATION

42. Where the Ministry is required to consult in relation to the Protocol, the principles that will be followed by the Ministry in consulting with the Governance Entity in each case are:

a. ensuring that the Governance Entity is consulted as soon as reasonably practicable following the identification and determination by the Ministry of the proposal or issues to be the subject of the consultation;

b. providing the Governance Entity with sufficient information to make informed decisions and submissions in relation to any of the matters that are the subject of the consultation;

c. ensuring that sufficient time is given for the participation of the Governance Entity in the decision making process including the preparation of submissions by the Governance Entity in relation to any of the matters that are the subject of the consultation;

d. ensuring that the Ministry will approach the consultation with the Governance Entity with an open mind, and will genuinely consider their submissions in relation to any of the matters that are the subject of the consultation; and

e. where the Ministry has consulted with the Governance Entity in relation to this Protocol, the Ministry will report back to the Governance Entity, either in person or in writing, on the decision made as a result of any such consultation.

PART FIVE - IMPLEMENTATION

MAINTAINING THE RELATIONSHIP

43. Each party will identify a senior representative to oversee the implementation of the Protocol. The senior representatives will be the key point of contact for any matters relating to the Protocol, and will be responsible for ensuring the outcomes and deliverables of the Protocol are monitored, and achieved.

44. Where elements of the Protocol may not be achievable, the parties will communicate this as soon as possible and work towards a common understanding of the issues and a positive way forward for both parties to achieve the outcomes of the Protocol.

45. Representatives of the parties will meet as required, and as agreed to by both parties.

ESCALATION OF MATTERS

46. If one party considers that there has been a breach of the Protocol then that party may give notice to the other that they are in dispute.

47. As soon as possible, upon receipt of the notice referred to in clause 46, the Ministry and the Governance Entity representative(s) will meet to work in good faith to resolve the issue.

48. If the dispute has not been resolved within 45 working days despite the process outlined in clauses 46 and 47 having been followed, the Ministry and Governance Entity may seek to resolve the dispute by asking an agreed trusted third party to mediate the dispute with a view to reaching a mutually satisfactory outcome for both parties.

REVIEW AND AMENDMENT

49. The parties agree that this Protocol is a living document which should be updated and adapted to take account of any future developments and relationship opportunities.

50. The parties may only vary or terminate this Protocol in writing.

ISSUED *on*

SIGNED for and on behalf of **THE SOVEREIGN** in right of New Zealand by the Minister for Primary Industries

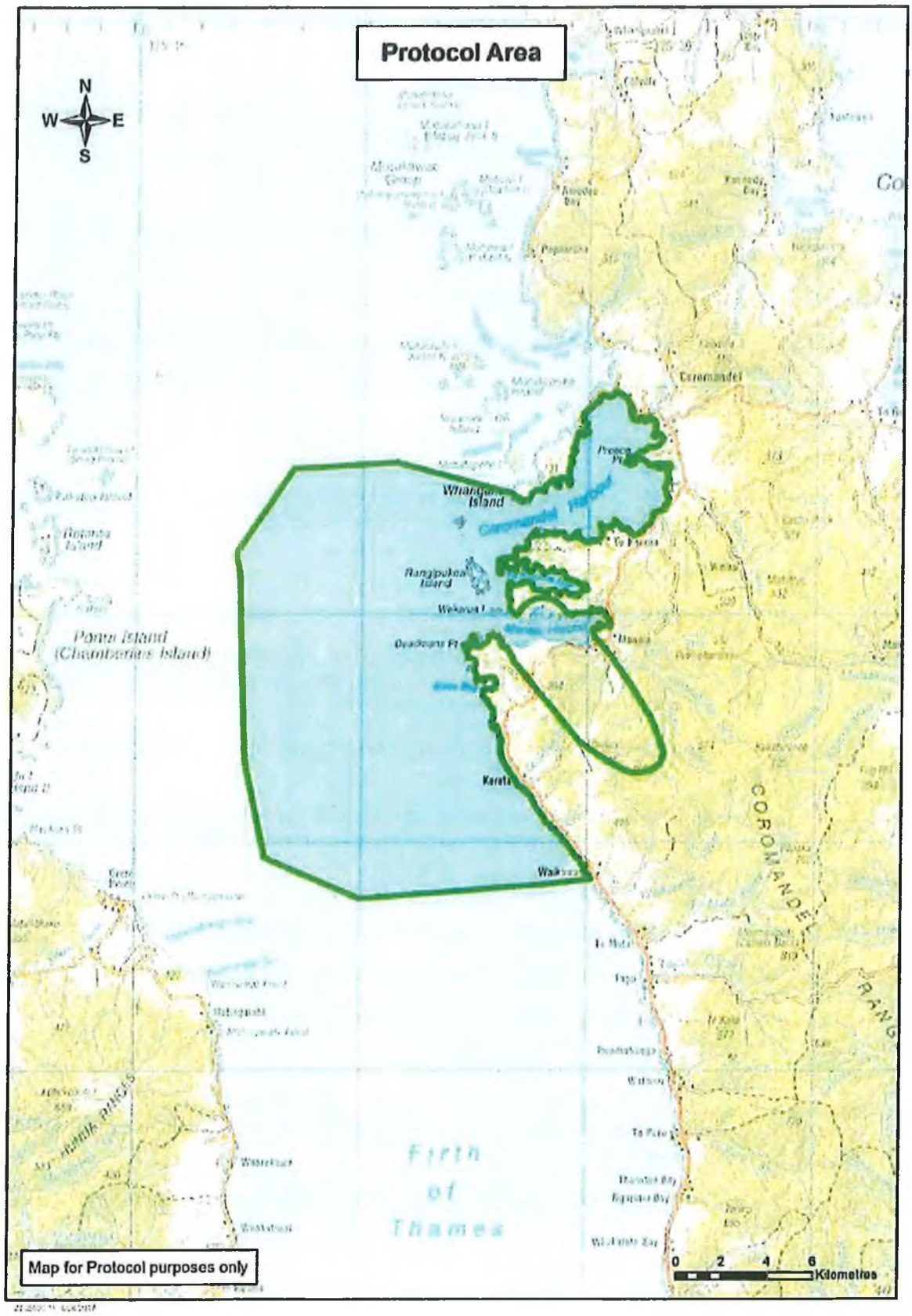
WITNESS

Name:

Occupation:

Address:

APPENDIX A:
PROTOCOL AREA



APPENDIX B:
SUMMARY OF THE TERMS OF ISSUE

This Protocol is subject to the Deed of Settlement and the Settlement Legislation. A summary of the relevant provisions is set out below.

1. Amendment and cancellation

1.1 The Minister may amend or cancel this Protocol, but only after consulting with the Governance Entity and having particular regard to their views *(section **[number]**)*.

2. Noting

2.1 A summary of the terms of this Protocol must be noted in the fisheries plans affecting the Protocol Area, but the noting:

2.1.1 is for the purpose of public notice only; and

2.1.2 does not amend the fisheries plans for the purposes of the Fisheries Act 1996 *(section **[number]**)*.

3. Limits

3.1 This Protocol does not:

3.1.1 restrict the Crown from exercising its powers, and performing its functions and duties, in accordance with the law and government policy, including:

(a) introducing legislation; or

(b) changing government policy; or

(c) issuing a protocol to, or interacting or consulting with anyone the Crown considers appropriate, including any iwi, hapū, marae, whānau, or representative of tāngata whenua *(section **[number]**)*; or

3.1.2 restrict the responsibilities of the Minister or the Ministry or the legal rights of Ngāti Pūkenga *(section **[number]**)*; or

3.1.3 grant, create, or evidence an estate or interest in, or rights relating to, assets or property rights (including in relation to fish, aquatic life, or seaweed) under:

(a) the Fisheries Act 1996; or

(b) the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992; or

(c) the Maori Commercial Aquaculture Claims Settlement Act 2004; or

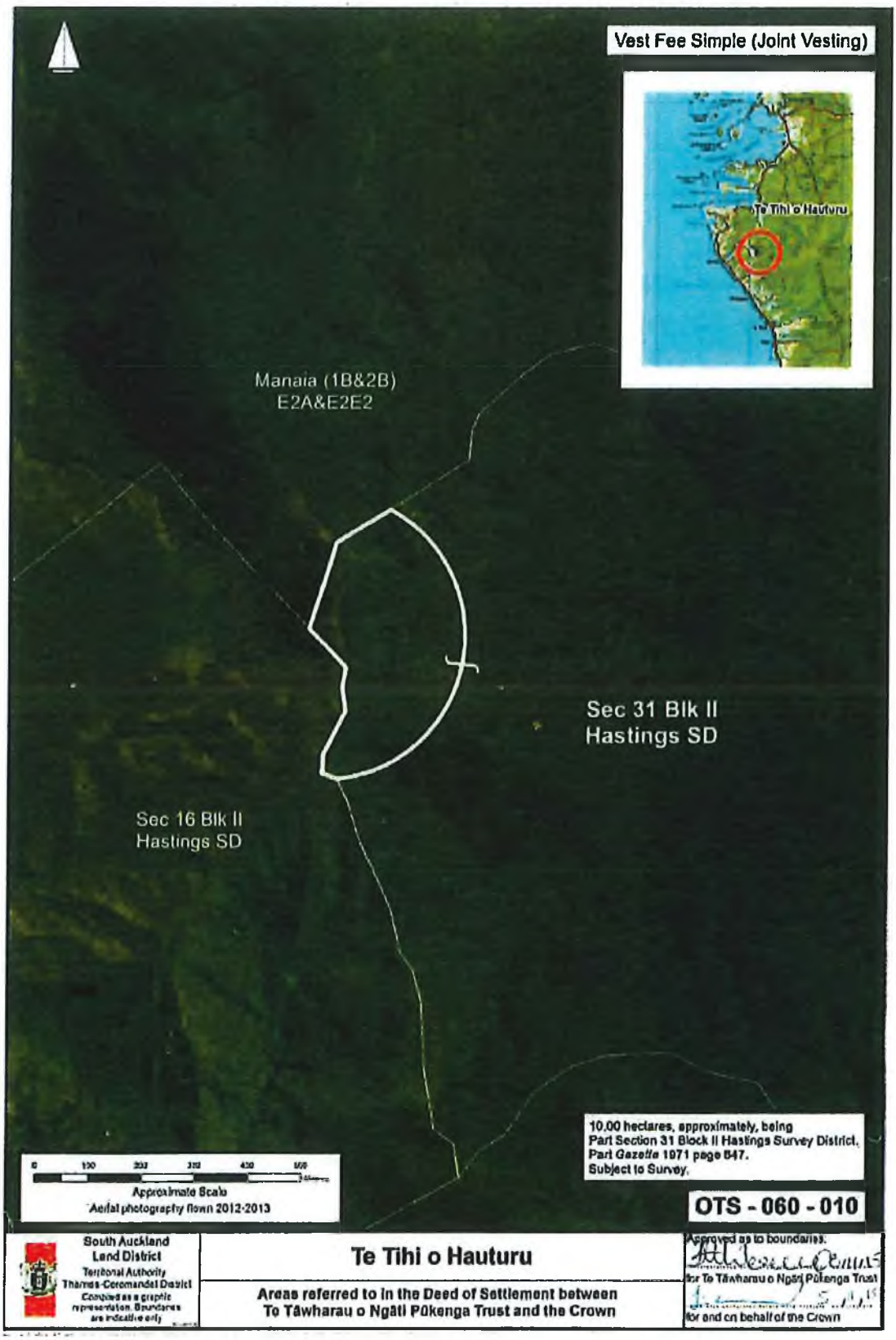
(d) the Maori Fisheries Act 2004 *(section **[number]**)*.

4. Breach

4.1 Subject to the Crown Proceedings Act 1950, the Governance Entity may enforce this Protocol if the Crown breaches it without good cause, but damages or monetary compensation will not be awarded *(section **[number]**)*.

4.2 A breach of this Protocol is not a breach of the Deed of Settlement *(clause **[number]**)*.

SCHEDULE 7
TE TIHI O HAUTURU (OTS-060-010)



SCHEDULE 8
PAE KI HAURAKI (OTS-606-003)

SCHEDULE 9
NEW PART 2A OF THE ATTACHMENTS

2A. RFR LAND

Agency	Name of site	Location	Legal description
Ministry of Education	Tauranga Intermediate	Eighteenth Avenue Tauranga	4.3514 hectares, more or less, being Part Allotments 25, 26 and 27 Suburbs of Tauranga and Part Lot 2 DP 35258. Balance Proclamation S110844. 1.4308 hectares, more or less, being Allotments 143 and 144 Suburbs of Tauranga. All *Gazette* notice H066339.
New Zealand Defence Force	Army Centre	Eleventh Avenue, Devonport Road	0.4767 hectares, more or less, being Parts Lot 12 DP 969. All *Gazette* notice H222491.

SCHEDULE 10
NEW PART 3A OF THE PROPERTY REDRESS SCHEDULE

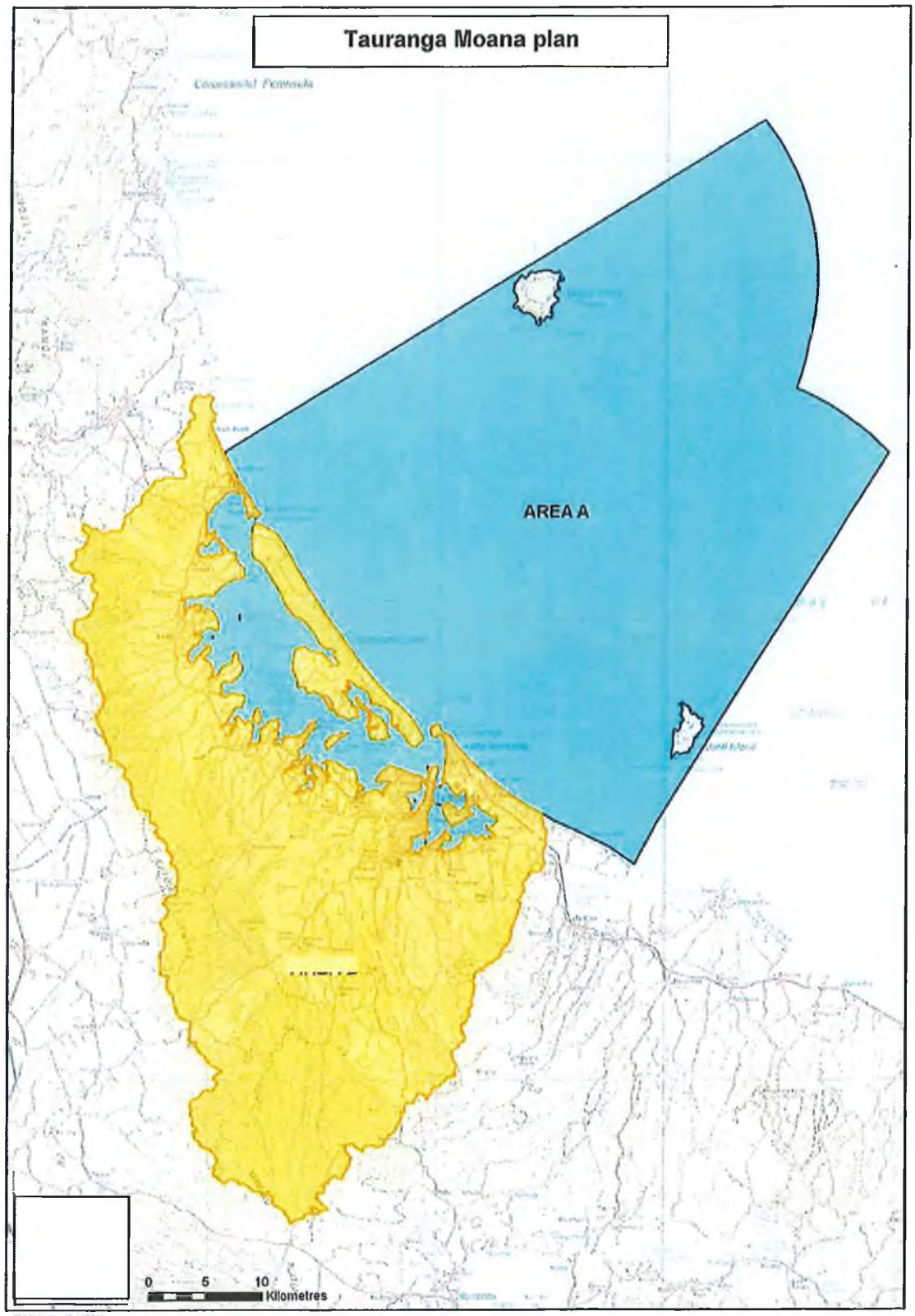
3A. TE WHAREKURA O MANAIA SCHOOL

Name/Address	Description (all South Auckland Land District)	Valuation process (Separately / Jointly)	Land holding agency	Deferred selection period	Leaseback?
Te Wharekura o Manaia site (land only)	1.6 hectares, approximately, being Part Makomako Block. Part Gazette notice S466207. Subject to survey. Description for Te Wharekura o Manaia site (land only) subject to clauses 6.10 and 6.11 of the Ngaati Whanaunga Deed of Settlement.	To be separately valued	Ministry of Education	Two years	Yes

Name/Address	Description (all South Auckland Land District)
Manaia School House site (land only)	0.06 hectares, approximately – subject to ground verification, being part Makomako Block. Part Gazette notice S466207. As shown bordered yellow on the Manaia School House site (land only) diagram in part 3 of the Ngaati Whanaunga Deed of Settlement attachments. Related school: the property described as Te Wharekura o Manaia site (land only) above.

SCHEDULE 11
NEW PART 2B OF THE ATTACHMENTS

2B. TAURANGA MOANA PLAN



SCHEDULE 12
CONSOLIDATED DEED OF SETTLEMENT AND SCHEDULES

Ngāti Pūkenga

and

The Trustees of Te Tāwharau o Ngāti Pūkenga Trust

and

THE CROWN

DEED OF SETTLEMENT OF HISTORICAL CLAIMS

DATE 7 April 2013

PURPOSE OF THIS DEED

This deed –

- sets out an account of the acts and omissions of the Crown before 21 September 1992 that affected Ngāti Pūkenga and breached the Treaty of Waitangi and its principles; and
- provides an acknowledgment by the Crown of the Treaty breaches and an apology; and
- settles the historical claims of Ngāti Pūkenga; and
- specifies the cultural redress, and the financial and commercial redress, to be provided in settlement to the governance entity that has been approved by Ngāti Pūkenga to receive the redress; and
- includes definitions of –
  - the historical claims; and
  - Ngāti Pūkenga; and
- provides for other relevant matters; and
- is conditional upon settlement legislation coming into force.

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2. Te Takapau Hora Nui o Pūkenga
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Deed plans
RFR Land
Tauranga Moana plan

DEED OF SETTLEMENT

THIS DEED is made between

Ngāti Pūkenga

and

The Trustees of Te Tāwharau o Ngāti Pūkenga Trust

and

THE CROWN

1 BACKGROUND

CLAIMS BEFORE THE WAITANGI TRIBUNAL

1.1 Treaty of Waitangi claims brought by Ngāti Pūkenga were heard by the Waitangi Tribunal in the following inquiries –

1.1.1 The Tauranga Moana Inquiry, Stage One, which was reported in Te Raupatu o Tauranga Moana: Report on the Tauranga Confiscation Claims (2004)

1.1.2 The Tauranga Moana Inquiry, Stage Two, which was reported in *Tauranga Moana 1886-2006: Report on the Post-Raupatu Claims* (2010)

1.1.3 He Maunga Rongo: The Report on Central North Island Claims, Stage 1 (2008)

1.1.4 Report on Proposed Discharge of Sewage Welcome Bay (1990)

1.1.5 The Hauraki Report (2006)

1.1.6 The Hauraki Gulf Marine Park Act Report (2001).

1.2 Treaty of Waitangi claims brought by Ngāti Pūkenga are being heard by the Waitangi Tribunal in the Te Paparahi o Te Raki Inquiry.

NEGOTIATIONS

1.3 Ngāti Pūkenga gave the mandated body, being Te Au Māro o Ngāti Pūkenga Charitable Trust, a mandate to negotiate a deed of settlement with the Crown.

1.4 The Crown recognised the mandate on 25 January 2010.

1.5 The mandated body and the Crown –

1.5.1 by terms of negotiation dated 25 January 2010, agreed the scope, objectives, and general procedures for the negotiations; and

1.5.2 by way of statement of position and intent dated 27 July 2012, agreed, in principle, that Ngāti Pūkenga and the Crown were willing to enter into a deed of settlement on the basis set out in the statement of position and intent; and

1.5.3 since the statement of position and intent, have –

(a) had negotiations conducted in good faith; and

(b) negotiated and initialled a deed of settlement.

1.6 Ngāti Pūkenga, Ngā Hapū o Ngāti Ranginui and Ngāi Te Rangi entered into a collective negotiations arrangement with one another in 2010 in order to negotiate collective redress and became known as the Tauranga Moana Iwi Collective (**TMIC**).

1.7 On 15 December 2010 TMIC were advised of the Crown's negotiation parameters in relation to TMIC.

1.8 The redress in respect of each individual iwi comprising TMIC is to be set out in their respective individual deeds of settlement and insofar as their collective interests are concerned, in the Collective Deed.

1.9 The Crown is currently negotiating collective redress in the Hauraki region with Ngāti Pūkenga and other relevant iwi consistent with the Agreement in Principle Equivalent between Ngāti Pūkenga and the Crown dated 22 July 2011.

1.10 The Crown acknowledges that Ngāti Pūkenga wish to engage with the Crown in respect of potential collective redress with other relevant iwi in the Maketū and Pakikaikutu kāinga.

1.11 The Crown acknowledges that Ngāti Pūkenga has non-exclusive cultural, spiritual, historical and traditional associations with the areas described by and in the Ngāti Pūkenga statements of association contained in part 1 and Te Takapau Hora Nui o Pūkenga contained in part 2 of the documents schedule.

RATIFICATION AND APPROVALS

1.12 Ngāti Pūkenga have, since the initialling of the deed of settlement, by a majority of –

1.12.1 97.69%, ratified this deed and approved its signing on their behalf by the governance entity; and

1.12.2 95.94%, approved the governance entity receiving the redress.

1.13 The majority referred to in clause 1.12 is of valid votes cast in a ballot by eligible members of Ngāti Pūkenga.

1.14 The governance entity approved entering into, and complying with, this deed by resolution on 27 March 2013.

1.15 The Crown is satisfied –

1.15.1 with the ratification and approvals of Ngāti Pūkenga referred to in clause 1.12; and

1.15.2 with the governance entity's approval referred to in clause 1.14; and

1.15.3 the governance entity is appropriate to receive the redress.

AGREEMENT

1.16 Therefore, the parties –

1.16.1 in a spirit of co-operation and compromise wish to enter, in good faith, into this deed settling the historical claims; and

1.16.2 agree and acknowledge as provided in this deed.

2 NGĀTI PŪKENGA TRADITIONAL HISTORY

'He aha kia kīa Ngāti Pūkenga patu kai tangāta, he paruparu te kai,

he taniwha ngā tangata'

'What can be said of Ngāti Pūkenga - destroyers and devourers of men, they that eat of the very mud upon the estuary; and whose people are demi-gods.'

2.1 The following is an account and history of Ngāti Pūkenga drawn from the traditions of Ngāti Pūkenga.

2.2 Ngāti Pūkenga today is an iwi comprising the descendants of Te Tāwera, Ngāti Ha and Ngāti Pūkenga.

NGĀTI PŪKENGA

2.3 Pūkenga was born and grew up in the eastern Bay of Plenty at Rūātoki. He was a fifth generation descendant from Toroa, captain of the Mataatua waka. His mother, Tānehiwarau of Te Whānau a Tairongo from Rūātoki married Tānemoeahi a senior leader of the Mataatua people. Pūkenga lived at his father's pā, Ōhae, located near Whaitiripapā and Pūtiki on the northern side of the Ohinemataroa River where the Owhakatoro stream flows through the Rūātoki valley.

2.4 As he grew older, Pūkenga began to look beyond the valley at Rūātoki and eventually travelled to the west by the coast with his younger brother. On arriving at Tauranga Moana, they were struck by the rich food resources of the harbour and adjacent lands. To gain a better perspective over the wider region, the two men climbed the highest peak arriving at the summit towards the evening. As the sun set, they prepared their camp and their evening meal. Pūkenga, wanting to make the most of this opportunity, said to his brother Āhuru 'Kia kai mai tāua i konei' ('Let us partake of our meal here'). This statement was the basis of the name of the range of mountains, 'Kaimai', and symbolises the connection of Pūkenga and his descendants with the region. That connection was cemented further when Pūkenga laid claim to Tauranga Moana as follows: *"Ko koe ki te tuawhenua. Ko ahau ki te takutai moana" (You go inland and I will go to the coast)*

2.5 Pūkenga returned to Rūātoki to tell his parents that he and his brother planned to leave their home and settle on the new lands to which they had travelled. However, war had come to the Rūātoki valley and he was obliged to fight for his whānau. He was killed during later battles and buried in a sacred cave called Ōkawekawe that is associated with his mother's people. He did not realise his dream of returning to Tauranga Moana but his descendants did.

NGĀTI HA

2.6 Rongowhakaata, was the father of Rongopopoia who was raised in the house of Pūkenga's father, Tānemoeahi. Rongopopoia is the eponymous ancestor of Ngāti Ha, who take their name from his son Hakopūrākau. Over many generations, Ngāti Ha merged with the descendants of Pūkenga. Hakopūrākau's grand-daughter married Pūkenga's grandson Tūhokia (Te Whetūoterangi's son). The merging of these two

great tribes saw both tribal names Ngāti Ha and Ngāti Pūkenga in common usage, though Ngāti Ha was the predominant name for many generations. The iwi established their presence in Maketū, marrying into the original inhabitants. Ngāti Ha built settlements and remain at Maketū today under the tribal name Ngāti Pūkenga.

2.7 Further fighting took place in Tauranga Moana through which Ngāti Ha strengthened their foothold there. Later migrations of Ngāti Ha saw Te Ikaiti and his people also make their way to Tauranga Moana. By this time they had married into the descendants of Kūmaramaoa. Ngāti Ha's main settlements at Tauranga Moana were at Te Whaaro and the Rangataua area in general, from Matapihi (Ohuki) back to Maketū. These lands were shared with the descendants of Tamapahore who had married the descendants of Kūmaramaoa. Land at Uretureture on Matakana island was also given to Ngāti Ha by another iwi. Ngāti Ha, led by Kamaukiterangi, had assisted them in avenging the deaths of a number of their chiefs.

TE TĀWERA

2.8 The third of the tribe's names, Te Tāwera, had arisen by the nineteenth century. The name Te Tāwera emerged during the time of Taitaui, the father of Te Kou o Rehua. He and his people were descendants of the tupuna Kūmaramaoa (a descendant of Waitaha) and Pūkenga. Te Tāwera was not an alternative name for Ngāti Pūkenga but described a particular group within the iwi who were descendants of earlier marriages between Ngāti Pūkenga ancestors and ancestors of another iwi. Prior to the incident, Taitaui and his people were known as Ngāti Pūkenga.

2.9 The origin of the name 'Te Tāwera' comes from a korero concerning a woman called Ngahokainga of Ngāti Pūkenga, who lived with her people at their kāinga at Maketū. Ngahokainga and another woman were out early one morning fishing for taunahanaha. As she caught each fish, she cleaned it and placed it in her kete hidden among the beach reeds. Another woman waiting on the shore decided that it was easier to simply steal the fish rather than catch her own. When Ngahokainga discovered that her hard earned fish had been stolen, she began to wail at her misfortune. Gazing upon the early morning star which was then shining high in the sky she cried 'Aue te Tāwera, te whetu marama i te ata' ('Alas oh Venus, the bright star in the morning sky'). From this point on, those who descended from the intermarriages between the descendants of Kūmaramaoa and Pūkenga were known as Te Tāwera and those without descent from Kūmaramaoa retained the name Ngāti Pūkenga.

2.10 Te Kou o Rehua was the paramount leader of Te Tāwera and Ngāti Pūkenga. During the 1850s and 1860s, he conducted negotiations with the Crown. Te Tāwera had significant land interests in Te Puna, Katikati and the confiscated lands at Tauranga Moana. They were harshly punished by the raupatu even though they did not participate in the conflict. They were unable to return to Tauranga Moana and instead remained at the kāinga at Manaia and Pakikaikutu. Te Tāwera were not awarded interests in Ngāpeke or in land at Maketū, and they are particularly associated with Manaia and Pakikaikutu in consequence. Nowadays and for the purposes of the Historical Account, all of Te Tāwera are Ngāti Pūkenga and all of Ngāti Pūkenga are Te Tāwera.

NGĀTI PŪKENGA BEYOND TAURANGA MOANA AND MAKETŪ

2.11 During the period of intense intertribal warfare which followed the introduction of muskets in the early nineteenth century, Ngāti Pūkenga acquired landholdings through tuku at Manaia in the Coromandel and at Pakikaikutu, near present day Whangarei.

2.12 The tuku of Manaia to Ngāti Pūkenga took place at Haowhenua pa (near present day Cambridge) in 1830. It was many more years before Ngāti Pūkenga took up the offer. During this time, they continued to reside on their own ancestral lands which extended from Tauranga Moana to Maketū, traversing the Kaimai ranges and travelling by waka to Hauraki and beyond to assist and support their allies.

2.13 Ngāti Pūkenga were involved in intertribal conflicts at Hauraki, the Waikato and the Bay of Plenty which required the iwi to have ready supplies of firearms and ammunition. A section of Ngāti Pūkenga went north to the Bay of Islands to acquire both from the European and American arms traders based there. On the trip one of the men in the taua was killed near Parua Bay and land at Pakikaikutu was offered by the local people as compensation for his death.

2.14 All four Ngāti Pūkenga kāinga are located alongside coastal and harbour areas which form a significant part of the way in which the tribe and its members identify themselves. As well, these areas were critical sources of kai and underline the significance of water based modes of transport by which tupuna moved between the kāinga. Indeed, the iwi figure prominently in nineteenth century shipping records which shows them operating a coastal fleet of several vessels transporting goods and produce from Maori communities north and south of Tamaki to the fledgling capital of Auckland.

3 NGĀTI PŪKENGA HISTORICAL ACCOUNT

INTRODUCTION

3.1 Ngāti Pūkenga descend from the original inhabitants of Tauranga Moana and the pre-waka people who traversed and occupied Te Moana ā Toi te Huatahi (the entire Bay of Plenty). The iwi comprises the descendants of Te Tāwera, Ngāti Ha and Ngāti Pūkenga. The Ngāti Pūkenga customary lands are located at four dispersed kāinga. Ngāti Pūkenga describe their ancestral lands and area of interest as extending from Amaru Te Waihi at Tauranga Moana inland to Te Aroha, and south to Ngatamahinerua, Waianuanu, Te Weraiti, Pūwhenua and Otānewainuku. From Otānewainuku, the area continues east to the coast at Waihi Estuary in Maketū (including the maunga Kopukairoa, Otara and Otawa) and from there to Amaru Te Waihi. Other iwi have interests in this area.

3.2 Ngāti Pūkenga also obtained lands through tuku whenua in the nineteenth century at Manaia in the Coromandel, and at Pakikaikutu, near Whāngārei.

NGĀTI PŪKENGA AND TAURANGA MOANA

3.3 Ngāti Pūkenga are tangata whenua of Tauranga Moana and in 1840 their ahi kāroa had been sustained in accordance with their tikanga in Tauranga Moana over many generations. Ngāti Pūkenga were a prominent iwi with strength and mana in the region.

3.4 Tauranga Moana was a rich source of food which sustained a substantial population. The region was closely settled and tribes were spread across the harbour. Relationships evolved through conflict, peacemaking and intermarriage. Ngāti Pūkenga were renowned as warriors and priests. Though they were a mobile people, called upon often to assist other tribal groups with their disputes, Tauranga Moana was their kāinga matua. Ngāti Pūkenga had various pā and kāinga as well as mahinga kai and other significant sites throughout their rohe.

TE TIRITI O WAITANGI AND THE EARLY COLONIAL PERIOD

3.5 Prior to 1840 the British Crown was faced with impending uncontrolled Pakeha settlement in New Zealand. It decided to seek agreement from Māori to the establishment of British authority in New Zealand. Through a Treaty signed in 1840 the Crown sought to regulate its subjects and provide protection to Māori. Some leading rangatira signed te Tiriti o Waitangi, while others chose not to do so.

3.6 Te Kou o Rehua, the Ngāti Pūkenga leader who represented Ngāti Pūkenga in most negotiations with the Crown during his lifetime, signed Te Tiriti o Waitangi at Maungatapu at some point on or after 10 April 1840 as 'Te Kou'. Te Kou o Rehua expected that the Crown would protect his people's rights, property, and privileges. Te Kou o Rehua later observed –

> *We have heard from former Governors and from yourself that the law would protect the lands, persons and property of those who lived in peace. This was a sacred word of the Queen and also of you the Governor.*

3.7 During the 1840s there was fighting in Tauranga Moana as iwi from outside the region attacked Ngāti Pūkenga and other Tauranga Moana iwi. Ngāti Pūkenga took an active role in these conflicts which had their origins in earlier battles.

3.8 In the late 1850s, Ngāti Pūkenga allied with hapū of other Tauranga Moana iwi in renewed conflict. During this time the Ngāti Pūkenga leaders Takaroki and Raparoa were murdered on their lands at Ōhuki. Other Ngāti Pūkenga leaders chose not to seek utu for these deaths. Instead, Ngāti Pūkenga put their confidence in the Queen's law. Of this episode Te Kou o Rehua stated –

> *Now, when these men died I wondered in my heart, should I fight or what? And I reached a decision, which was this: I do not want to fight. Rather I shall apply to the Governor, because he has been placed as a head for the peoples of New Zealand; it is he who will settle this fight, and it is he and I who will secure the land…*

Te Kou spoke of the partnership which he believed flowed from Te Tiriti.

3.9 In 1863 Ngāti Pūkenga reached a peace agreement with the iwi they had been in conflict with. Ngāti Pūkenga rangatira Wiremu Te Mangemange, also known as Wiremu Te Whareiro, stated, 'He uri ahau no Rongopopoia-tangata-kotahi, e kore e whati i a koe' (I am a descendant of Rongopopoia united as one man, and will never be broken by you). Balance between the two iwi was restored. Neither had been able to subdue the other and as a result their mana remained intact.

THE QUEEN'S LAW

The Kawau Incident

3.10 Te Kou o Rehua and others were willing to put their faith in the Queen's law. However, by the mid-1850s, Ngāti Pūkenga were concerned that the laws of the colonial government discriminated against Māori. In protest, on 31 March 1856, Ngāti Pūkenga residing at Manaia seized 107 barrels of gun powder from a mining store at Kawau Island. Wiremu Te Mangemange explained that those who had taken the gun powder feared Maori would 'soon be destroyed, as were the black people of some places far off, who have disappeared from off the face of their land, from the wars raised against them, with guns and canon'. The powder was held until 18 November 1856 when, after extensive negotiations, it was returned to the Crown. The Crown also confiscated two vessels. Ngāti Pūkenga oral traditions state that Te Kou o Rehua gave the Crown an undertaking that he would not take up arms against the Crown.

Kohimarama Conference

3.11 Ngāti Pūkenga fears regarding the application of the Queen's law intensified when, in March 1860, war broke out between the Crown and some Taranaki iwi over a disputed land purchase. In July, the Crown invited Māori leaders to attend a conference at Kohimarama to secure their support for Crown actions in Taranaki as well as discuss issues relating to the Treaty of Waitangi, land sales and law and order. Those Ngāti Pūkenga rangatira who attended the conference were Tamati Hapimana, Maketū Petera, Te Rongotoa and Whakaheke Pauro. Tamati Hapimana expressed concern about the discriminatory nature and inconsistent application of the law by the government. He stated –

Na, e te Makarini, te ma o oku ringa, kahore ano kia poka noa i te toto Pakeha.

Na, aku Pakeha te noho nei—na, aku minita te noho nei. Na te Wiremu au i ako ki te whakapono. Kotahi ano taku ture, ko te ture o te Atua. Na te mihinare ahau i matau ai ki te tika. E rite ana hoki ki te kupu a te Atua ki a Hoani—Haere whakatikaia te ara. Inahoki na te minita nga kupu I kawe mai. Nana i para te ara, ka tae mai teAriki. Ko te taha pouri o to koutou ture i a matou. E whakakahoretia mai ana e koutou te tikanga ki a matou.

McLean my hands are clean, I am yet to spill Pakeha blood without cause.

See, my Pakeha dwell with me, and my minister too. Williams taught me about the faith. I have one law, the law of God. It was because of the missionaries that I came to know what is right. It is like the word of God to John - Go and prepare the path, Inasmuch it was the minister who brought the word. It was he who cleared the pathway and then the Lord arrived. The dark side of your law though is applied to us. You are denying us justice (You make the law void where it concerns us.).

3.12 While those leaders who attended did not give their active support to the Crown over the events in Taranaki, many restated their commitment to the Crown under Te Tiriti o Waitangi.

THE WAR IN TAURANGA MOANA

3.13 In the early 1860s tensions between the Crown and iwi supporting the Maori King continued to grow. In July 1863 war broke out after Crown troops invaded the King's territory in the Waikato. Tauranga Moana was on the route taken by some of the King's supporters to reach the Waikato. Some Tauranga Moana hapū sent men and provisions to the King's forces in this conflict but Ngāti Pūkenga did not participate.

3.14 Crown troops arrived in Tauranga on board the HMS Miranda on 21 January 1864 and occupied the mission station at Te Papa. Their presence was intended to prevent the flow of men and supplies to Waikato and to draw Māori away from the fighting in Waikato. Over the next few months tension between Māori and Crown troops increased.

3.15 In early April 1864, the Crown redirected troops originally intended for Taranaki, following the defeat of Waikato forces, increasing the garrison at Te Papa to 1,700 troops. In mid-April 1864, Māori at Tauranga Moana fortified Pukehinahina, also known as Gate Pa, close to Te Papa. On 29 April 1864 Crown forces attacked Pukehinahina. A sustained artillery bombardment did not destroy the pa's defences and a Crown assault force was overwhelmed with heavy casualties. The Māori defenders withdrew during the night and Crown forces entered the pa unopposed the next morning.

3.16 Ngāti Pūkenga as an iwi was not involved in the conflict, although some individuals participated in the fighting. At this time Ngāti Pūkenga were continuing to strengthen their relationships with other Tauranga Moana iwi after concluding the 1863 peacemaking. As a result of these relationships, Wiremu Te Whareiro and a small group of warriors joined the forces who occupied Pukehinahina. However, one source suggests he may have fought instead at Te Ranga. Other Ngāti Pūkenga were located at various places including Waikato, Manaia, Maketū, Pakikaikutu. According to Ngāti Pūkenga iwi tradition, after the battle at Pukehinahina Te Kou o Rehua directed Te Whareiro and those with him to withdraw to Manaia to avoid conflict with the Crown. Ngāti Pūkenga took no part in any of the later conflicts.

THE CONFISCATION OF THE TAURANGA DISTRICT

3.17 The New Zealand Settlements Act 1863 provided the legal framework for the Crown's confiscation of Māori land. The Act was designed to punish any Māori who had taken up arms or supported those involved in armed resistance against the Crown. The Crown's confiscation policy implemented in Tauranga Moana was also driven by a determination to open up large areas of land for settlers, to have a land bank to pay for the war, and its commitment to place military settlers on the land.

3.18 The Act empowered the Governor in Council to proclaim confiscation districts and take specific sites within a confiscation district for military settlements. The Order in Council relating to Tauranga Moana confiscated the entire district rather than particular areas within it.

3.19 The confiscation at Tauranga Moana was originally part of a greater plan devised by the Crown. This confiscation would have included the large natural harbour at Tauranga Moana and the fertile flat country of the Waikato while avoiding the densely forested hill country of the Kaimai ranges. Governor Grey subsequently planned a more limited confiscation. On 5 and 6 August 1864 Governor Grey held discussions with Māori at Tauranga to arrange a confiscation. There is no record of Ngāti Pūkenga having attended this meeting which took place after they had withdrawn to Manaia. Addressing those who had been in military action against the Crown the Governor stated that the Crown would retain a quarter of any land confiscated and return the rest to Māori. To those who, like Ngāti Pūkenga, had not been involved in the fighting he said,

> *I now speak to you, the friendly Natives. I thank you warmly for your good conduct under circumstances of great difficulty. I will consider in what manner you shall be rewarded for your fidelity. In the meantime, in any arrangement which may be made about the lands of your tribe, your rights will be scrupulously respected.*

3.20 In May 1865, the Crown issued an Order in Council confiscating approximately 214,000 acres of land at Tauranga Moana under the New Zealand Settlements Act 1863. The Order in Council described the land of Tauranga Moana as 'all the lands of the tribe Ngaiterangi'. At that time this term was used by Crown officials to describe all Māori of Tauranga Moana. The chief judge of the Native Land Court warned the Crown that the confiscation might not include all of the 214,000 acres because there were other iwi with interests in this land not identified in the Order in Council. However, the Order in Council confiscated all the land described in the schedule, regardless of the iwi to whom it belonged or whether they had fought against the Crown. This disregarded Grey's assurances that the rights of 'friendly Natives' would be 'scrupulously respected'.

3.21 The Tauranga District Lands Act 1867 retrospectively validated the Order in Council and agreements entered into by the Crown involving land in the confiscation district. The Tauranga District Lands Act 1868 corrected errors in the description of the boundaries and increased the area included in the original Order in Council by 76,000 acres. The Crown eventually retained a block of 50,000 acres, between the Wairoa and Waimapu rivers, which became known as the confiscated block.

THE CROWN'S ACQUISITION OF THE KATIKATI AND TE PUNA BLOCKS

3.22 Meanwhile, in mid August 1864, the Crown initiated the acquisition of more than 93,000 acres of land within the confiscation district from leaders of another Tauranga Moana

iwi. This was nine months before the Crown implemented the confiscation. Despite Grey's assurances, Ministers of the Crown wanted the land fronting the large natural harbour of Tauranga Moana for settlement. The acquisition covered that land within the confiscation district from the Te Puna Stream to its northern boundary. The Crown did not investigate the ownership of this block before concluding the transaction.

3.23 This transaction allowed the Crown to acquire most of the lands fronting the harbour at Tauranga Moana, as originally proposed by the Crown. It also enabled the Crown to acquire more land in the confiscation district than had been proposed by Governor Grey while not increasing the area of the 50,000 acre confiscated block. In this way the Crown honoured the letter, but not the spirit, of the Governor's promise to return three quarters of the land confiscated at Tauranga Moana. The Crown's purchase of Katikati Te Puna ignored the interests of Ngāti Pūkenga and other groups.

3.24 Ngāti Pūkenga soon protested the Crown's acquisition of the Katikati and Te Puna blocks. Just over a month after the acquisition was agreed, Te Kou o Rehua wrote to the Crown pointing out that Tauranga Moana, from Kaituna to Amaru Te Waihi, belonged to Ngāti Pūkenga –

> *Friend. Salutations to you. Great is the love to you. Friend, release my land at Tauranga because I am a man without offence. I have committed no offence. If I had gone to fight at Tauranga and Waikato it would then have been right to punish me, that is my people. While you were fighting at Waikato and at Tauranga I lived quietly at Hauraki. That is my word to you to fetch me to stand within my storehouse. That is the first. This second is, I am living under the Queen's law.*
>
> *Third. We have heard from former Governors and from yourself that the law would protect the lands, persons and property of those who lived in peace. This was a sacred word of the Queen and also of you the Governor.*
>
> *Fourth. If any person or tribe gave (sold) Tauranga it would not be right because the land did not belong to him (or them). The land belonged to us.*
>
> *Fifth. If (another tribe) have received money for Tauranga, that piece will not be right with us for their offence. Rather let the payment of their offence and for the money be their land at Opotiki and Paparoa, the name of the place of their ancestors.*
>
> *Sixth. Tauranga moana (sea) and Tauranga whenua (land) belong to us going all (the way) to Katikati, this belongs to us and to Taraia and people, the southern boundary is Kaituna.*
>
> *Seventh. We are quite aware of the origin (cause) of our land, of our ancestors left to us, on the day of adjudication it will come forth (it will be done).*

3.25 Ngāti Pūkenga consider this to be one of the most significant statements of their interests in Tauranga Moana. Their understanding of the protective nature of the law was consistent with the assurances Grey made to those iwi who had not fought against the Crown.

3.26 Te Kou added that he had remained at his kāinga at Hauraki and had not participated in the conflict with the Crown. He also referred to the nature of the negotiations, which he believed were secret, and contrasted them with the governor's involvement in other negotiations –

> *... We will not talk secretly to you, our talk will always be in daylight. Do you understand this?*

He planned to participate in any further discussions at Auckland involving the other iwi.

3.27 Nevertheless, lands in which Ngāti Pūkenga claimed an interest were later confiscated by the Crown and the acquisition of Katikati and Te Puna was arranged without reference to Ngāti Pūkenga or their interests.

3.28 In September and October 1864 Ngāti Pūkenga also sought the intervention of the Aboriginal Protection Society in London. The first letter endorsed two points already made by the society in an address to the Governor on the recent wars: '1st. That the war in the country be at once terminated; and 2ndly. That the land of the Maoris should not be taken from them'. The second letter requested that the Society establish an inquiry into the causes of the war. Ngāti Pūkenga, sometimes with other Tauranga Moana iwi, also sent several petitions to the Crown protesting against the confiscation of their land.

3.29 Another letter repeated these sentiments and restated the earlier commitments given by Te Kou to the Governor from the time of the Kawau incident –

> *For this was my word to you, before, at the commencing of the fighting at Waikato, that I must be taken from my house and dragged forth.*
>
> *Te Kou o Rehua stated, in relation to his land at Tauranga Moana, 'this my hand clasps tightly on Tauranga'. The letter concluded 'the land at the present time belongs to me and I am taught by the law to hold on to my place for my posterity after me forever'.*

3.30 Te Kou o Rehua took a leading role in December 1864 when several Tauranga Moana iwi wrote to the Crown protesting the Crown's land dealings at Tauranga Moana and asking for an investigation. The letter stated –

> *Friends. Salutations to you all, in the love of our heavenly father. Salutations. This is our word for you to consider. Show your regard to us by returning to us our land which has been taken... (the) land which has been taken is Tauranga and Katikati.*
>
> *What we mean by returning to us our land is that you should investigate it.*
>
> *Te Kou continued to place his faith in the Governor's assurances and the Queen's law. He characterised the Crown's dealings for all of Katikati, Te Puna and Te Papa as 'kua riro' ('taken by the hand of others') and concluded that these areas were the 'land for which I am obstinate'.*

3.31 That same month the Crown initiated investigations into the interests of Ngāti Pūkenga and other groups in Te Puna-Katikati. The investigation of Ngāti Pūkenga interests was undertaken by two Crown officials who had been involved in the Te Puna-Katikati transaction. It took them six months to complete their inquiry. In June 1865, they reported that Ngāti Pūkenga had been driven from Tauranga in the late eighteenth

century and returned in 1857. The officials concluded that Ngāti Pūkenga had been reinstated on land outside the Te Puna, Katikati and confiscated blocks by a hapū of another iwi after their return. Although the report stated that Ngāti Pūkenga were absent from Tauranga until 1857, it also concluded that Ngāti Pūkenga could fairly claim other lands they retained in Tauranga Moana. They did not specify the extent of any of these interests or where they were located.

3.32 This report was the first expression of what would become a consistently held Crown view of Ngāti Pūkenga interests at Tauranga Moana. This was a view which severely restricted their interests there, yet according to their tikanga, Ngāti Pūkenga had maintained ahi karoa in Tauranga Moana over many generations.

3.33 On 14 August 1866, Te Tawera, Ngāti Pūkenga and the Crown signed a deed dealing with the iwi's interests in the confiscated block and the Te Puna and Katikati blocks. Ngāti Pūkenga received compensation of £500. This comprised £350 for Ngāti Pūkenga interests in the confiscated block and £150 for the iwi's interests in the Te Puna-Katikati blocks.

3.34 The Crown returned 8,700 acres from the 50,000 acre confiscated block to Māori as reserves. Of this, individuals of Ngāti Pūkenga received just 98.5 acres. This was made up of two 49-acre blocks and two quarter acre township allotments. The iwi lost all their ancestral lands at Tauranga Moana through confiscation and the acquisition of Te Puna and Katikati. Under the terms of the deed the 98.5 acres was returned to three senior rangatira in four individualised titles. Ngāti Pūkenga believe that the fears earlier expressed by Ngāti Pūkenga leaders were realised at Tauranga Moana when their lands were confiscated by the Crown.

3.35 Through the deed, the Crown recognised that Te Tāwera and Ngāti Pūkenga retained interests in the confiscated block and in the Katikati and Te Puna blocks. These dealings also show that the Crown viewed Ngāti Pūkenga as a Hauraki iwi, rather than an iwi of Tauranga Moana. It was one of several deeds the Crown concluded in relation to the Tauranga confiscation and Te Puna Katikati purchase with groups that it termed Hauraki iwi.

THE RETURN OF LAND IN TAURANGA MOANA

3.36 The New Zealand Settlements Act 1863 provided for a compensation court to determine compensation due to Māori whom the court deemed not to have been in rebellion. However, no compensation court was established in Tauranga. Rather, part-time commissioners were appointed to return land to Māori in individualised title. It took more than two decades for all of the returned land to be awarded to Māori.

3.37 By 1874 little progress had been made in the return of lands. The Commissioners appointed to undertake the return of land had yet to consider a number of blocks in which Ngāti Pūkenga claimed interests. Ngāti Pūkenga sought to secure their land interests through the Native Land Court. The Crown's confiscation of land in Tauranga Moana in 1865 and the subsequent Tauranga District Lands Act 1867 extinguished all customary title over this land. This meant that the Native Land Court had no jurisdiction to hear any claims to it. However, Ngāti Pūkenga and other Tauranga Moana iwi and hapū, sought to have the Native Land Court investigate their claims to lands within the Tauranga confiscation district east of the Waimapu River. Ngāti Pūkenga claimed some blocks exclusively and others jointly with other Tauranga Moana groups.

3.38 In August 1874 the Court notified various Crown officials of the claims by Ngāti Pūkenga and others. The native land legislation provided for these officials to examine applications to the Court and identify any Crown land included in them. The Court had no jurisdiction to hear claims over Crown land. In September 1874, before these officials had made this assessment, the Crown issued a proclamation which suspended the operation of the Native Land Court over a wide area of the central North Island. In October 1874, despite Tauranga Moana not being included within this area, the Chief Judge withdrew all the claims for land in Tauranga Moana as a result of the Crown's proclamation.

3.39 It was not until March 1877 that a commissioner investigated the greater Otawa block, which included the Otawa, Ngāpeke, Papamoa and Mangatawa blocks. Ngāti Pūkenga were prevented by the commissioner from presenting their ancestral claim in the open hearing process. The commissioner subsequently said they could only present a claim in private and without other claimants in attendance. The commissioner awarded the Ngapeke block to Ngāti Pūkenga but did not believe that they held any interest in it. He stated that this block would have been awarded to a hapū of another iwi but for that hapū informing him that they had given over their claim to Ngāti Pūkenga. As a result, Ngāti Pūkenga were awarded their only land in Tauranga Moana through a tuku aroha made at the hearing rather than on the basis of their ancestral claim to the land.

3.40 Ngāti Pūkenga sought a rehearing of the Otawa blocks because their claims had not been heard and they were dissatisfied with the award of Ngāpeke alone. Their grievances were described in a letter to the Premier on 27 May 1877, which stated –

> *Friend. Salutations to you. We apply to you for a rehearing of the case of Otawa, land in the Tauranga district, the title to which was gone into before the Native Land Court at Te Papa Tauranga which commenced on the 9th March 1877. Well, our tribe the Ngati Pūkenga were not allowed by the judge to stand up in Court and state our grounds of claim or put questions to members of other Tauranga tribes. We are vainly trying to ascertain why we were not allowed to make our statements in Court.*

Two months later they made a further request for a rehearing in a letter to the Native Minister.

3.41 Later in 1877 Ngāti Pūkenga repeated their grievance in a petition to Parliament. The Native Affairs Committee which considered the petition only heard evidence from the official who had been civil commissioner at Tauranga during the confiscation and Te Puna-Katikati transaction, and had largely rejected their ancestral claims within the Te Puna-Katikati blocks. This official maintained that Ngāti Pūkenga had stated that they had no interest in land east of the Waimapu River, which included the Otawa block. The committee subsequently dismissed Ngāti Pūkenga claims to Otawa as having 'little or no value'.

3.42 The committee noted that there would be a rehearing on the application of another iwi. A rehearing was conducted in February and March 1878 by the same Crown official who had repeatedly rejected Ngāti Pūkenga's broad ancestral claims to land at Tauranga Moana from 1864 to this time. There was no modification to the award to Ngāti Pūkenga.

3.43 Ngāti Pūkenga believe they were prejudiced by the Crown relying on the advice of the same official for all decisions affecting their land interests at Tauranga Moana. This Crown official, who had been involved in the Te Puna-Katikati transaction, was

consistently called upon to advise on the interests of Ngāti Pūkenga in Tauranga Moana, and then to review or inform inquiries about those decisions. On some occasions only minor Ngāti Pūkenga interests were admitted. At other times the Crown denied Ngāti Pūkenga had any interests in Tauranga Moana. Evidence to the contrary and the significant protest by the iwi against these decisions did not alter the Crown's position.

3.44 After 1865, individuals of Ngāti Pūkenga were left with 98.5 acres of ancestral land to occupy at Tauranga Moana and all but a section of the iwi resided at Manaia in consequence. The Manaia lands were previously utilised primarily as a base for trade into Auckland. This pattern of specific utilisation changed with the Tauranga confiscation. The loss of customary interests at Tauranga Moana left Ngāti Pūkenga unable to occupy traditional kāinga in their rohe and increasingly dependent on their lands at Maketū and tuku lands at Ngapeke, Manaia and Pakikaikutu.

NGĀTI PŪKENGA LAND AT MAKETŪ

3.45 Ngāti Pūkenga have a long history of occupation at Maketū over many generations. During this time, Ngāti Pūkenga became closely aligned with iwi of Te Arawa who also resided at Maketū. The alliance between the iwi was so strong that Ngāti Pūkenga in Maketū fought alongside Te Arawa at one time even though it meant fighting against their Ngāti Pūkenga kin from Tauranga Moana (each took care to spare the lives of their relations on the other side).

3.46 Through the Native Land Court process, individuals of Ngāti Pūkenga were awarded interests in blocks of land in the Maketū region through ancestry, through intermarriage, and te rau o te patu.

The Native Land Court

3.47 Ngāti Pūkenga lands outside of Tauranga Moana were subject to title determination hearings by the Native Land Court. The Court was established by the Native Lands Act 1862. There were many subsequent amendments to this initial statute and several consolidations of native land legislation through the nineteenth century. An important function of the Court was determining the ownership of Māori land and the conversion of customary land titles into titles derived from the Crown.

3.48 The Waewaetutuki block (1,370 acres), which borders the Waihi estuary, was the largest award to individuals of Ngāti Pūkenga. Some individuals were also awarded interests in the Marotoroa and Matawhero blocks on the Maketū peninsula, as well as part of the Ngahikakino block, and in the Pukaingataru, and Paengaroa North blocks located adjacent to or inland from Maketū. These awards were the only ancestral lands awarded to any Ngāti Pūkenga by the Native Land Court in the Bay of Plenty. The Court dismissed the Ngāti Pūkenga claim, along with the claims of a number of other iwi, to the Tumu Kaituna block. In addition, in their applications to the Court in 1874, representatives of the iwi included an area of what would become the Te Puke block acquired by the Crown.

3.49 Ngāti Pūkenga also claimed interests in the Ohineahuru and Okarito blocks but their representatives did not appear at subsequent hearings and the land was awarded to other iwi.

3.50 Ngati Pūkenga traditionally held all their lands in tribal tenure. However, the Native Land Court awarded titles to individuals who were able to deal with the land without

regard to the iwi. The Native Land Court awarded land on the Maketū peninsula to individuals who descended from four Ngāti Pūkenga rangatira. When a listed owner died their interests were succeeded by that owner's descendants alone. Today only the descendants of the four rangatira hold interests in the Maketū lands. Before 1894 the native land laws provided no option for Māori to be awarded titles which facilitated tribal control over their land. By this time all but a tiny fragment of Ngāti Pūkenga's remaining land had passed through the Native Land Court.

The Arawa Consolidation Scheme

3.51 The land tenure reform imposed by the Crown meant that the remaining Ngāti Pūkenga landholdings were held in increasingly fragmented titles. Ongoing successions to the interests of deceased owners made the problem worse. During the 1920s, the Crown attempted to resolve the problem of Maori being left with fragmented and often uneconomic land holdings by introducing consolidation schemes. Consolidation was intended to promote the development of land by whānau groups.

3.52 From 1926 to 1928, interests in land awarded to Ngāti Pūkenga owners were subject to the Maketū series of the Arawa Consolidation Scheme. This had the effect of severing Ngāti Pūkenga connections to some of their ancestral lands. Although Ngāti Pūkenga land owners received the same land value as they took into the scheme, they were sometimes located on land to which they had a lesser connection.

3.53 The consolidation scheme was administered by the Crown. The primary focus of the scheme was to consolidate the land interests of individuals of neighbouring iwi and their trust board. Ngāti Pūkenga had less influence on the development and implementation of the scheme by the Crown. Ngāti Pūkenga tribal interests in this region were vulnerable in such a process because they had no comparable organisation of their own. The tribe's kainga at Maketū consolidated into different locations from the original awards and their customary association with Maketū was diminished.

Maketū and Little Waihi Estuaries

3.54 Since the nineteenth century the development of meat processing, agricultural farming and horticulture has caused considerable damage to the waterways which feed into the Maketū and Little Waihi estuaries. This has badly affected the water quality in the estuaries. Urban development at Little Waihi, including leaching from septic tanks, has also had a detrimental impact on the Little Waihi estuary. There have been significant reductions in the quantity and variety of kaimoana and birdlife in the Maketū and Little Waihi estuaries caused in particular by the diversion of the Kaituna River into the sea at Te Tumu in the 1950s..

3.55 Ngāti Pūkenga consider that the estuaries are no longer a major source of kai because of the way in which they have been managed by the Crown for decades and that their customary associations with the Maketū and Little Waihi estuaries have been diminished by the Crown's management.

PAKIKAIKUTU

3.56 In the 1830s Ngāti Pūkenga received land at Pakikaikutu, on the shores of the Whangarei harbour, as tuku whenua. This land and the adjoining harbour became increasingly important to Ngāti Pūkenga following the confiscation at Tauranga Moana. In 1877 this land was awarded to them after a hearing by the Native Land Court.

Following the award of Pakikaikutu by the court Ngāti Pūkenga found it difficult to maintain ownership of the block.

3.57 From the 1860s a strip of Ngāti Pūkenga land along the coast at Pakikaikutu was utilised as a road. The usage of this road became so common that the local council expended public money on its development and upkeep. In 1927 the Crown compulsorily acquired the land under the Native Land Amendment Act 1913, taking a significant area of the block of great cultural importance to Ngāti Pūkenga. The land had been used as a site for the iwi to land their waka while residing at the kāinga. Compensation for the taking of road-lines was payable under the Act. There is nothing to indicate whether the Ngāti Pūkenga landowners claimed or received any compensation for the land they lost.

3.58 In the 1960s, following an application from one owner for a partition of her interests in Pakikaikutu 2C2, the Maori Land Court arranged a subdivision of Ngati Pūkenga land at Pakikaikutu overlooking the Whangarei harbour. After dividing off part of the block for one owner, the Court subsequently partitioned the balance into nineteen residential sections and a hill country block. All the sections and the hill country block were vested in the Maori Trustee under section 438 of the Maori Affairs Act 1953. The sections were to be sold, with the cash realised from sales to fund the development, while the hill country block was to be leased to one of the owners. Some owners did appear before the court to oppose the subdivision application. They explained their aspirations for the land but the court rejected their proposal.

3.59 Preference for sale was given to the owners where they held sufficient shares or had the available finance. However, none of the owners held the required number of shares or were able to obtain the finance needed to purchase. Deceased owners' shares were sold without first seeking succession orders and a consent to sell from the successors. As a result the best pieces of Pakikaikutu land were sold outside of Ngāti Pūkenga ownership leaving them with the steep back parts of the block which are unsuitable for housing, business, or marae development.

MANAIA: HE PATAKA KAI

3.60 Manaia became a much more important pataka kai for Ngāti Pūkenga after the raupatu at Tauranga Moana. The land and resources in the valley were made freely available to Ngāti Pūkenga by another iwi as a place to stand and sustain Ngāti Pūkenga. After Ngāti Pūkenga lost their customary land and food resources at Tauranga Moana, the pataka kai became crucial to the iwi's physical and spiritual survival.

The Native Land Court

3.61 In August 1872 the Native Land Court awarded the Manaia 1 and 2 blocks to eight individuals chosen by Ngāti Pūkenga to each represent a hapū of the iwi. Prolonged litigation over several decades followed as the iwi attempted to have those named in the title recognised as trustees for the hapū. However, in 1888 a successor to the representative of Ngāti Whākina, successfully applied to have her interests in the block partitioned out. Under the native land legislation individual owners were able to deal with tribal lands as their own personal property.

3.62 This was strenuously opposed by Ngāti Pūkenga. In a letter to the Native Land Court, their representatives explained their status in holding the land on behalf of their iwi:

> *It was written down before, and it is correct, that Manaia was given by Ngati Maru for all Ngati Pūkenga. We, the eight in the grants for those two lands, are*

representatives for all the people of the eight hapu within Ngāti Pūkenga...We are the people chosen by the committee of Ngati Pūkengaas representatives from those eight hapu. (The original named owner) is representative of one of these hapu above, Ngati Whakina...Their share has gone...

3.63 The partition order issued by the Court had, however, already been cancelled.

3.64 In 1889, the same owner applied for a partition of Manaia 1 and 2 blocks, an action unsuccessfully opposed by the other owners. The applicant was awarded 611 acres. This was Ngāti Whākina land but was dealt with as personal property. This land was acquired by the Crown in 1891.

3.65 Under the Native Land Court Act 1894, the Native Land Court was empowered to determine whether individuals awarded titles to Maori land were intended to be trustees for other owners. In 1907, the court addressed the question of whether the eight original owners were trustees or absolute owners. The land acquired by the Crown was no longer in the court's jurisdiction and was not considered in these proceedings. The Court found that the original owners of the Manaia block were trustees for the wider iwi and issued a revised list of 113 beneficial owners for Manaia 1B and 2B.

3.66 In 1913 the Crown took 320 acres of land in settling survey liens placed on the land when it was subdivided. This included some land taken to pay for surveys necessitated by Crown purchase. One of these Crown-purchase surveys was never undertaken, despite the owners being charged £30 with respect to it.

Crown land purchases

3.67 In April 1914, the Crown decided to open negotiations to purchase the Manaia 1B and 2B Section E2 block after a non resident owner offered to sell his interests. The native land legislation in force at the time provided for district Maori land boards to convene meetings of the assembled owners of Maori land blocks to consider any proposed alienations. In December 1915 the Waikato-Maniapoto District Maori Land Board organised a meeting of the assembled owners of Manaia 1B and 2B Section E2 to consider the sale of this land to the Crown. However the owners refused to elect a chair, and the Crown's proposal was not even considered. Despite this, in January 1916, the Crown authorised the purchase of individual interests without calling for another meeting of the owners. However, no further negotiations were attempted for several years.

3.68 Early in 1921 the Crown acquired its first interests in Manaia which it purchased from three individual owners. Later in 1921 the Crown attempted to purchase further interests from non resident owners by asking the Land Board to organise a meeting of the assembled owners at Te Puke. However the owners again would not even consider the Crown's proposal, and once more refused to elect a chair. They criticised the decision to hold the meetings at Te Puke as they insisted those living on the land should make decisions on such proposals.

3.69 Between 1924 and 1932, the Crown acquired further individual interests in the block. In 1933 and 1934 the Crown took steps to consolidate the individual interests it had acquired into a single block. An arrangement was made for some non sellers living at Maketū to transfer their interests in Manaia 1 and 2B section E2 to the Crown in exchange for land at Maketū. In 1935 the Crown concluded that the land at Manaia was unsuitable for settlement, and ceased purchasing there. In 1935 the Native Land Court

awarded the Crown 1976 acres and a further 732 acres 2 roods 24 perches were awarded to those owners who had not sold their interests.

3.70 From an original area of approximately 4912 acres, less than half (2004 acres) remains Maori freehold land today, due to the Crown purchases in the nineteenth and twentieth centuries totalling 2908 acres.

The Manaia 1C School site

3.71 In 1897, though concerned at the loss of their lands, Ngāti Pūkenga gifted a site for a school at Manaia. In 1962 the school was moved off the site. After several years of consultation between Ngāti Pūkenga and Crown officials the school site was vested in the Maori Trustee for sale or lease. Crown officials and the Maori Land Court rejected a proposal by Ngāti Pūkenga leaders, on behalf of the iwi, to retain the land in a tribal title. In 1967, after several years of consultation between the community at Manaia and Crown officials the school was sold by tender to an individual from another iwi. The proceeds from the sale were paid to the Ahimia Marae with the exception of a fee paid to the Maori Trustee to cover its costs in dealing with the land.

Gold, timber, and environmental impacts

3.72 Significant environmental impacts followed gold mining and timber extraction at Manaia. In 1868 the Crown leased land from Ngāti Pūkenga at Manaia for gold mining purposes. In the mid 1880s deposits of gold were discovered, and a road was constructed from the coast inland through the land of local residents. However, little gold was produced.

3.73 Mining activity had a profound impact on the environment. Land was cleared of vegetation. According to Ngāti Pūkenga oral traditions chemical waste from gold extraction was discharged into waterways. The timber industry expanded through the nineteenth century and extraction became more extensive and comprehensive. Streams and rivers in the Manaia catchment were dammed and released to create floods that moved timber to the coast. Eel weir constructed in the rivers were destroyed by such practices. Ngāti Pūkenga oral traditions record that cultivations on the lowlands adjacent to the river were likewise destroyed.

3.74 The destruction of native vegetation on the Manaia block led to erosion of the land. Land at the bottom of the valley near the harbour has been frequently inundated by floodwaters. The construction of State Highway 25 across the estuary at Manaia has exacerbated flooding as the highway acts as a barrier to water draining from the catchment. Regular flooding has prevented iwi landowners from effectively cultivating and farming low lying land near the coast. Māra kai and traditional sources of kaimoana were adversely affected by sedimentation, flooding and erosion of the Manaia catchment and this severely weakened the Ngāti Pūkenga community at Manaia. In particular, Ngāti Pūkenga have been unable to exercise kaitiakitanga, manakitanga and whanaungatanga consistently.

TAURANGA MOANA KĀINGA

3.75 The 98.5 acres of reserves set aside for three Ngāti Pūkenga individuals in Te Puna and Bethlehem were alienated soon after they were returned. The tuku aroha of Ngāpeke, which had been awarded to Ngāti Pūkenga through the Commissioner's Court process, was all that remained for Ngāti Pūkenga to occupy at Tauranga Moana.

3.76 Ngāti Pūkenga struggled to maintain land holdings in tribal ownership under the native land laws. In 1896 the Native Land Court considered a partition application for the Ngāpeke block. Ngāti Pūkenga chiefs requested that the title for the Ngāpeke block remain undivided and opposed individualisation of the title. Hīrama Mokopapaki stated:

> *The land was given to Ngāti Pūkenga. They have no other land. They want to hold this land in its undivided state – and they entirely disapprove of a partition being made in it. We occupy tribally not individually. As long as we occupy collectively our shares are undispersed and no one claims more than another.*

3.77 However, some owners did wish to define their interests. The block was divided into five parts. Ngāti Pūkenga arranged the ownership lists for two partitions but were unable to agree on the boundaries of the three remaining partitions. After inspecting the block the presiding Judge determined the boundaries of these partitions.The individualisation and partition of the Ngāpeke block facilitated alienations. An area of approximately 176 hectares is no longer Maori freehold land. These alienations saw the loss of the most valuable, best, flat and arable lands along the coastline of the Ngāpeke block. These losses also limited the iwi's access to the Rangataua arm of the harbour and its resources. Among the sales were two Ngāpeke blocks sold to the Crown in 1946. Both blocks contained wāhi tapu that remain important to Ngāti Pūkenga. Ngāti Pūkenga also suffered through the loss of the summits of Kōpūkairoa and Ōtawa maunga, both through twentieth century public works acquisitions.

The Tauranga Development Scheme

3.78 The increasing fractionation of Māori land at Ngāpeke created difficulties for Ngāti Pūkenga in the development of this land. In the 1930s the Crown sought to address these problems through the Tauranga Development Scheme. Thirteen partitions containing 789 acres 1 rood 15 perches were administered as one unit by the Board of Māori Affairs with the aim of clearing and developing the land. The Crown advanced money towards the development of the land. These advances became a charge against the blocks.

3.79 Ngāti Pūkenga was advised that labour costs would be fully subsidised by the government's Unemployment Fund. This was a significant factor in the land owners including their land in the scheme. However, the Crown later decided that part of the labour cost for the scheme should become a charge on the land. In 1946 the Crown purchased two blocks involved in the development scheme. In 1957, after twenty years of Crown administration, the remaining blocks were returned to the owners to manage as two farming units. These units were subject to leases of 42 years duration. The loss of control over their land for more than sixty years was significant for Ngāti Pūkenga. Over this period, only a few people were able to occupy the land as farmers.

Uneconomic interests and status changes

3.80 From 1953 the Crown sought to address the problem of increasingly fractionated Māori land titles through the compulsorily purchasing of uneconomic land interests. The Māori Trustee administered Conversion Fund, established by the Maori Affairs Act 1953, was used to compulsorily acquire any Māori land interests where those interests were defined by the Crown as uneconomic. Many of the Ngāti Pūkenga owners lost their interests at Ngāpeke through this process. The loss of interests, however small, was a cause of great pain for Ngāti Pūkenga, severing their connection to the land.

3.81 The Maori Affairs Amendment Act 1967 extended existing provisions relating to the change of the status of Māori land to European land in cases where there were fewer than four owners. A status change was achieved by declaration by a Māori Land Court official which did not require the consent of the Māori landowners. This affected sixteen partitions of the Ngāpeke block and was a further mechanism which weakened the relationship of many Ngāti Pūkenga with the tuku aroha.

Urban development

3.82 Since the Second World War, the Tauranga district has experienced rapid urbanisation. Ngāti Pūkenga consider that they have benefitted little from this transformation. The resources of Tauranga Moana, particularly in the Waitao awa and Rangataua arm of the harbour, have been affected by population increase and environmental degradation following rapid changes in land use to accommodate intensive pastoral agriculture, forestry, horticulture and quarrying. Siltation of the harbour and over fishing for commercial purposes has seen a decline in the quality and quantity of many fish and shellfish species.

3.83 Ngāti Pūkenga believe that they have been unable to maintain their kaitiaki responsibilities as tangata whenua to manage the lands and waters of Tauranga Moana as a result of the loss customary interests experienced there. Until recently Ngāti Pūkenga were excluded from any involvement in planning or resource management.

THE NGĀTI PŪKENGA IDENTITY

Te Ōhāki a Te Kouorehua

'Paroto, i muri i a au me hoki te whenua nei ki a Ngati Maru,
na ka whakahoki koe i te iwi ki te wa kainga ki Tauranga'.

The Dying Speech of Te Kouorehua

'Paroto, after I am gone this land must return to Ngāti Maru, and
then it is your duty to take our tribe back home to Tauranga'

3.84 Custom dictates that Ngāti Pūkenga should return all the tuku lands when they are no longer required. Te Kou o Rehua through his ōhākī, clearly recognised this custom. However Ngāti Pūkenga consider that they have had no option but to occupy their tuku lands following the Crown's confiscation of Tauranga Moana lands. Ngāti Pūkenga lost much of their kainga matua, or unifying hub, through the confiscation and were dispersed between their four small and scattered kainga as a result.

3.85 None of the kāinga, alone, has been sufficient to sustain the iwi as a whole. They are geographically dislocated communities and it became increasingly difficult to maintain relationships and communication across the iwi as a whole. The kāinga of Ngāti Pūkenga have operated as four iwi and have functioned as autonomous entities within their own regions. Particular kāinga hui together but there are few occasions where Ngāti Pūkenga has gathered in hui. Nevertheless, the iwi has continued to foster their relationships and shared whakapapa.

3.86 The iwi consider that the loss of the Ngāti Pūkenga land holdings at Tauranga Moana following the confiscation and the absence of a written record to explain their

relationship to Tauranga Moana land, has resulted in the iwi being marginalised in histories which deal with the relationship between Maori and the Crown.

4 ACKNOWLEDGEMENTS AND APOLOGY

ACKNOWLEDGEMENTS

4.1 The Crown acknowledges that Ngāti Pūkenga rangatira Te Kou o Rehua made a commitment to te Tiriti o Waitangi/the Treaty of Waitangi and the relationship with the Crown that flowed from it. The Crown further acknowledges that Ngāti Pūkenga has always maintained this commitment through to the present day.

4.2 The Crown acknowledges:

4.2.1 that despite the promise of te Tiriti o Waitangi/Treaty of Waitangi, many Crown actions created long-standing grievances for Ngāti Pūkenga; and

4.2.2 the Crown failed to deal in an appropriate way with grievances raised by successive generations of Ngāti Pūkenga; and

4.2.3 recognition of Ngāti Pūkenga grievances is long overdue.

War in Tauranga

4.3 The Crown acknowledges that:

4.3.1 Ngāti Pūkenga, as an iwi, did not take part in the war in Tauranga as they were committed to upholding te Tiriti o Waitangi/the Treaty of Waitangi; and

4.3.2 the Crown was ultimately responsible for the outbreak of war in Tauranga in 1864 and its actions were a breach of te Tiriti o Waitangi/the Treaty of Waitangi and its principles.

Tauranga confiscation/raupatu

4.4 The Crown acknowledges that, despite it leading Te Tāwera and Ngāti Pūkenga to believe their interests would be scrupulously respected, the confiscation/raupatu at Tauranga Moana and the Tauranga District Lands Acts 1867 and 1868, unjustly extinguished the customary title of Te Tāwera and Ngāti Pūkenga in the land within the confiscation district, and breached Te Tiriti o Waitangi/the Treaty of Waitangi and its principles.

4.5 The Crown acknowledges that its confiscation/raupatu at Tauranga Moana left Ngāti Pūkenga increasingly dependent on tuku whenua lands outside of Tauranga for their support, and that the wish Te Kou o Rehua expressed in his ōhākī for all Ngāti Pūkenga at Manaia to return to Tauranga Moana has not occurred.

4.6 The Crown also acknowledges that:

4.6.1 it returned just 98.5 acres of the Tauranga confiscation block to three Ngāti Pūkenga individuals;

4.6.2 it did not offer the same opportunity to Ngāti Pūkenga to pursue their ancestral claim to the greater Otawa block, which included the Otawa, Ngāpeke, Pāpāmoa and Mangatawa blocks, that it offered others and in so doing failed

to acknowledge the ancestral claim of Ngāti Pūkenga at Tauranga Moana; and

4.6.3 it returned land to Ngāti Pūkenga in the form of individualised title rather than Māori customary title.

4.7 The Crown further acknowledges that the confiscation/raupatu and the subsequent Tauranga District Lands Acts 1867 and 1868:

4.7.1 deprived Ngāti Pūkenga of wāhi tapu, access to natural resources and opportunities for development at Tauranga Moana;

4.7.2 prevented Ngāti Pūkenga from exercising mana and rangatiratanga over land and resources within Tauranga Moana; and

4.7.3 severed the ability of Ngāti Pūkenga to nurture the traditions associated with its long connections with its customary lands including wāhi tapu, natural resources and other sites in Tauranga Moana and marginalised Ngāti Pūkenga as an iwi in Tauranga Moana.

Te Puna-Katikati purchase

4.8 The Crown acknowledges that, it failed to actively protect Ngāti Pūkenga interests in lands they wished to retain when it initiated the purchase of Te Puna and Katikati blocks in 1864 without investigating the rights of Ngāti Pūkenga or involving Ngāti Pūkenga in purchase negotiations and completed the purchase despite Ngāti Pūkenga opposition, and this failure was in breach of te Tiriti o Waitangi/the Treaty of Waitangi and its principles.

The Native land laws

4.9 The Crown acknowledges that:

4.9.1 the operation and impact of the native land laws at Tauranga Moana, Manaia, Maketū and Pakikaikutu, in particular the awarding of land to individual Ngāti Pūkenga rather than to iwi or hapū, made those lands more susceptible to partition, fragmentation, and alienation. This contributed to the further erosion of the traditional tribal structures of Ngāti Pūkenga which were based on collective tribal and hapū custodianship of land. This had a prejudicial effect on Ngāti Pūkenga and was a breach of te Tiriti o Waitangi/the Treaty of Waitangi and its principles;

4.9.2 it did not provide any means in the native land law legislation until 1894 for a form of collective title enabling Ngāti Pūkenga to administer and utilise their lands by which time title to much Ngāti Pūkenga land had been awarded to individual Ngāti Pūkenga; and

4.9.3 the failure to provide a legal means for the collective administration of Ngāti Pūkenga land was a breach of te Tiriti o Waitangi/the Treaty of Waitangi and its principles.

4.10 The Crown acknowledges that:

4.10.1 Ngāti Pūkenga reasonably believed that the eight individuals to whom the Native Land Court awarded title of Manaia 1 and 2 in 1871 were representatives of the hapū of Ngāti Pūkenga;

4.10.2 the Native Land Court awarded the lands of Ngāti Whakina at Manaia 1 and 2 in 1889 to a successor of one of the individual owners despite the opposition to this award by Ngāti Pūkenga;

4.10.3 the Crown purchased Manaia 1 and 2 in 1891 from the individual owner recognised under the Native land laws leaving Ngāti Whakina landless; and

4.10.4 by, allowing this individual owner to sell hapū lands, the native land legislation did not reflect the Crown's obligation to actively protect the interests of Ngāti Whakina in Manaia 1 and 2, and this was a breach of te Tiriti o Waitangi/the Treaty of Waitangi and its principles.

4.11 The Crown acknowledges that between 1921 and 1932 it purchased a large area of land at Manaia from individual owners despite two meetings of the assembled owners of this land refusing to even consider the Crown's offer.

Pakikaikutu Coastal Road

4.12 The Crown acknowledges that its taking of land for the coastal road at Pakikaikutu severed the Ngāti Pūkenga kāinga at Pakikaikutu from the sea, and that this has caused great distress for Ngāti Pūkenga.

Surveys at Manaia

4.13 The Crown acknowledges that Ngāti Pūkenga was deprived of nearly 320 acres of their land at Manaia when the Crown took this land to pay for surveys. The Crown further acknowledges that the 320 acres included approximately 35 acres for surveys which were never carried out, and this was a breach of Te Tiriti o Waitangi/the Treaty of Waitangi and its principles.

Maketū Consolidation Scheme

4.14 The Crown acknowledges that the Maketū consolidation scheme carried out by the Crown resulted in Ngāti Pūkenga losing interests in some of the land to which they had customary connections and acquiring interests in land to which they had lesser connections.

Tauranga Development Scheme

4.15 The Crown acknowledges that its administration of the Tauranga development scheme deprived Ngāti Pūkenga of effective control of a significant part of their land for many years. The Crown also acknowledges that Ngāti Pūkenga did not receive all the benefits they were led to expect from the development scheme and many owners effectively lost the opportunity to live on and use their land under the development scheme.

Uneconomic Interests

4.16 The Crown acknowledges that, between 1953 and 1974, legislation empowered the Māori Trustee to compulsorily acquire Ngāti Pūkenga land interests which the Crown considered uneconomic. The Crown acknowledges this was in breach of te Tiriti o Waitangi/the Treaty of Waitangi and its principles and deprived Ngāti Pūkenga of a direct link to their turangawaewae.

Land status changes

4.17 The Crown acknowledges that the compulsory status changes to Māori land titles carried out under the Māori Affairs Amendment Act 1967 weakened the connection of many Ngāti Pūkenga to their turangawaewae.

Insufficiency of land

4.18 The Crown acknowledges that it failed to ensure that Ngāti Pūkenga were left with sufficient land at Tauranga for their present and future need and that this failure was a breach of the Treaty of Waitangi and its principles.

The environment

4.19 The Crown acknowledges:

4.19.1 that Ngāti Pūkenga describe Tauranga Moana and the Maketū and Little Waihi estuaries as significant taonga and sources of spiritual and material wellbeing;

4.19.2 that Ngāti Pūkenga also describe Whangarei Harbour as of great importance to them;

4.19.3 the significance of the land, awa, and harbour at Manaia to Ngāti Pūkenga as a pataka kai; and

4.19.4 that environmental degradation has been a source of distress to Ngāti Pūkenga because of adverse impacts on:

(a) Tauranga Moana, especially the Waitao awa and Rangataua arm of the harbour; the Maketū and Little Waihi estuaries;

(b) the land, awa and harbour at Manaia; and

(c) the quantity and quality of species at these locations which were important to Ngāti Pūkenga.

APOLOGY

4.20 The Crown makes this apology to Ngāti Pūkenga, their ancestors and descendants.

4.21 The Crown unreservedly apologises for bringing war to Tauranga Moana, and unjustly extinguishing all customary title to land within the Tauranga Moana confiscation district. The Crown is sorry that Ngāti Pūkenga did not receive the same opportunity as others to protect and nurture their interests in Tauranga Moana after the raupatu, and that Ngāti Pūkenga were left increasingly dependent on lands outside Tauranga Moana for their support. For the Crown, the marginalisation of Ngāti Pūkenga in Tauranga Moana, and the harm this caused, are sources of profound regret.

4.22 The Crown apologises for exacerbating this harm by consistently failing to respect the rangatiratanga of Ngāti Pūkenga in their remaining lands.

4.23 The Crown acknowledges the suffering it caused Ngāti Pūkenga through its breaches of the Treaty of Waitangi. This settlement will, the Crown sincerely hopes, mark the beginning of a new relationship between the Crown and Ngāti Pūkenga which is founded on respect for the Treaty of Waitangi and its principles.

5 SETTLEMENT

ACKNOWLEDGEMENTS

5.1 Each party acknowledges that -

5.1.1 the other parties have acted honourably and reasonably in relation to the settlement; but

5.1.2 full compensation by the Crown to Ngāti Pūkenga is not possible; and

5.1.3 in agreeing to this settlement, which is intended to enhance the ongoing relationship between Ngāti Pūkenga and the Crown (in terms of the Treaty of Waitangi, its principles and otherwise), Ngāti Pūkenga are foregoing full compensation to contribute to New Zealand's development.

5.2 Ngāti Pūkenga acknowledge that, taking all matters into consideration (some of which are specified in clause 5.1), the settlement is fair in the circumstances.

SETTLEMENT

5.3 Therefore, on and from the settlement date, -

5.3.1 the historical claims are settled; and

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

5.3.3 the settlement is final.

5.3A The parties acknowledge and agree that, despite clause 5.3, the historical claims described in clause 5.3B will not be settled through this deed or the settlement legislation.

5.3B The historical claims referred to in 5.3A are claims (or aspects of claims) relating to –

5.3B.1 the deterioration of the health and wellbeing of Tauranga Moana; or

5.3B.2 the use, management, or governance of Tauranga Moana, or

5.3B.3 the effects of that use, management, or governance, on the health and wellbeing of the people of Ngāti Pūkenga; or

5.3B.4 any failure to recognise or provide for a right of Ngāti Pūkenga in relation to Tauranga Moana that arises from Te Tiriti o Waitangi/the Treaty of Waitangi; or

5.3B.5 any failure to recognise or provide for the rangatiratanga and kaitiakitanga of Ngāti Pūkenga in relation to Tauranga Moana.

5.4 Except as provided in this deed or the settlement legislation, the parties' rights and obligations remain unaffected.

REDRESS

5.5 The redress, to be provided in settlement of the historical claims, –

5.5.1 is intended to benefit Ngāti Pūkenga collectively; but

5.5.2 may benefit particular members, or particular groups of members, of Ngāti Pūkenga if the governance entity so determines in accordance with the governance entity's procedures.

5.5A The parties acknowledge that the Collective Deed and TMIC legislation will provide redress in relation to Tauranga Moana, Athenree Forest land and Mauao.

IMPLEMENTATION

5.6 The settlement legislation will, on the terms provided by, -

5.6.1 part 3 of the legislative matters schedule, settle the historical claims (excluding the claims described in clause 5.3B); and

5.6.2 part 4 of the legislative matters schedule, exclude the jurisdiction of any court, tribunal, or other judicial body in relation to the historical claims (excluding the claims described in clause 5.3B) and the settlement; and

5.6.3 part 4 of the legislative matters schedule, provide that the legislation referred to in part 4 of the legislative matters schedule does not apply, -

(a) to a redress property or any RFR land; or

(b) for the benefit of Ngāti Pūkenga or a representative entity (except that, to the extent that the legislation referred to in part 4 of the legislative matters schedule applies in relation to a claim described in clause 5.3B, that legislation will continue to apply for the benefit of Ngati Pukenga or a representative entity); and

5.6.4 part 4 of the legislative matters schedule, require any resumptive memorial to be removed from a computer register for a redress property, or any RFR land.

5.7 The settlement legislation will, on the terms provided by part 11 of the legislative matters schedule, –

5.7.1 provide that the rule against perpetuities and the Perpetuities Act 1964 does not –

(a) apply to a settlement document; or

(b) prescribe or restrict the period during which –

(i) the trustees of Te Tāwharau o Ngāti Pūkenga Trust, being the governance entity, may hold or deal with property; and

(ii) the trustees of Te Tāwharau o Ngāti Pūkenga Trust, may exist; and

5.7.2 require the Secretary for Justice to make copies of this deed publicly available.

5.8 Part 1 of the general matters schedule provides for other action in relation to the settlement.

6 CULTURAL REDRESS

STATUTORY ACKNOWLEDGEMENT

6.1 The settlement legislation will, on the terms provided by part 5 of the legislative matters schedule, -

6.1.1 provide the Crown's acknowledgement of the statements by the settling group of their particular cultural, spiritual, historical, and traditional association with the following areas:

(a) Te Tumu to Waihi Estuary Coastal Statutory Acknowledgement Area (as shown on deed plan OTS-060-007):

(b) Hauturu Block (as shown on deed plan OTS-060-005):

(c) Pakikaikutu Coastal Statutory Acknowledgement Area (as shown on deed plan OTS-060-009):

(d) Manaia Harbour Statutory Acknowledgement Area (as shown on deed plan OTS-060-006):

(e) Manaia River Statutory Acknowledgement Area (as shown on deed plan OTS-060-011); and

6.1.2 require relevant consent authorities, the Environment Court, and the New Zealand Historic Places Trust to have regard to the statutory acknowledgement; and

6.1.3 require relevant consent authorities to forward to the governance entity

(a) summaries of resource consent applications within, adjacent to or directly affecting a statutory area; and

(b) a copy of a notice of a resource consent application served on the consent authority under section 145(10) of the Resource Management Act 1991; and

6.1.4 enable the governance entity, and any member of the settling group, to cite the statutory acknowledgement as evidence of the settling group's association with an area; and

6.1.5 record that the statutory acknowledgement does not have the effect of granting, creating, or providing evidence of an estate or interest in, or rights relating to, an area.

6.2 The statements of association recognised by statutory acknowledgements are in part 1 of the documents schedule.

6.3 The provision by the Crown of statutory acknowledgements does not prevent the Crown from –

6.3.1 providing, or agreeing to introduce legislation providing or enabling, the same or similar redress to any other iwi or settling group;

6.3.2 disposing of land; or

6.3.3 doing anything that is consistent with the statutory acknowledgements.

PROTOCOL

6.4 The taonga tūturu protocol must, by or on the settlement date, be signed and issued to the governance entity by the responsible Minister.

6.5 The protocol sets out how the Crown will interact with the governance entity with regard to the matters specified in it.

FORM AND EFFECT OF PROTOCOL

6.6 The protocol will be –

6.6.1 in the form in part 3 in the documents schedule; and

6.6.2 issued under, and subject to, the terms provided by part 6 of the legislative matters schedule.

6.7 A failure by the Crown to comply with the protocol is not a breach of this deed.

RELATIONSHIP AGREEMENTS

6.8 The parties agree that the Collective Deed will provide for a relationship agreement between the Tauranga Moana Iwi Collective and the Minister of Conservation. This relationship agreement will set out how Ngāti Pūkenga and the Director-General of Conservation will engage on conservation matters within the area set out in the Collective Deed.

RELATIONSHIP WITH MINISTRY OF BUSINESS, INNOVATION AND EMPLOYMENT

6.9 The Crown acknowledges the interest Ngāti Pūkenga has in creating a tribal culture of innovation and entrepreneurship, especially with respect to opportunities for Ngāti Pūkenga, as a small iwi, to –

6.9.1 create sustainable, economic and business development;

6.9.2 enhance the profile of Ngāti Pūkenga;

6.9.3 strengthen the development of Ngāti Pūkenga whānau; and

6.9.4 cultivate strong and responsive tribal leadership.

6.10 To recognise this, the Ministry of Business, Innovation and Employment and the governance entity agree to develop a relationship agreement that –

6.10.1 creates links between the strategic objectives of the Ministry and the tribal development outcomes of Ngāti Pūkenga;

6.10.2 supports Ngāti Pūkenga's strategic initiatives;

6.10.3 connects Ngāti Pūkenga with relevant sources of support.

PROMOTION OF RELATIONSHIPS INTERNAL TO CROWN

6.11 By the settlement date, the Minister for Treaty of Waitangi Negotiations will, to the extent the Minister has not already done so, write to each of the Ministries of the Crown listed in clause 6.12 to –

6.11.1 advise that the Crown has entered into a deed of settlement with Ngāti Pūkenga and to introduce Ngāti Pūkenga; and

6.11.2 encourage the Ministry to enter into an effective and durable working relationship with Ngāti Pūkenga to the extent this has not already been achieved and/or given effect to by a protocol or a document between the Ministry and the governance entity recording the relationship, by the settlement date.

6.12 The Ministries referred to in clause 6.11 are –

6.12.1 Ministry of Business, Innovation and Employment; and

6.12.2 Ministry of Education; and

6.12.3 Ministry for the Environment; and

6.12.4 Ministry for Primary Industries; and

6.12.5 Ministry of Social Development; and

6.12.6 Ministry for Culture and Heritage.

PROMOTION OF OTHER RELATIONSHIPS

6.13 By the settlement date, the Director of the Office of Treaty Settlements will write to the Chief Executives of the entities listed in clause 6.14 to –

6.13.1 advise that the Crown has entered into a deed of settlement with Ngāti Pūkenga and to introduce Ngāti Pūkenga; and

6.13.2 encourage the entity to enter into an effective and durable working relationship with Ngāti Pūkenga to the extent this has not already been achieved and/or given effect to by a document between the entity and the governance entity recording the relationship by the settlement date.

6.14 The entities referred to in clause 6.13 are –

6.14.1 the Bay of Plenty Tertiary Partnership; and

6.14.2 University of Waikato; and

6.14.3 University of Auckland; and

6.14.4 Massey University; and

6.14.5 NorthTec; and

6.14.6 Te Wananga o Aotearoa; and

6.14.7 Te Wananga o Raukawa; and

6.14.8 Waiariki Institute of Technology; and

6.14.9 Telecom New Zealand Limited; and

6.14.10 the Whangarei District Council; and

6.14.11 the Northland Regional Council; and

6.14.12 the Thames Coromandel District Council; and

6.14.13 the Waikato Regional Council; and

6.14.14 the Bay of Plenty Polytechnic; and

6.14.15 Te Whare Wananga o Awanuiarangi.

CULTURAL REDRESS PROPERTIES

6.15 The settlement legislation will vest in the governance entity on settlement date:

In fee simple

6.15.1 the fee simple estate in Liens Block;

In fee simple subject to a conservation covenant

6.15.2 the fee simple estate in Pae ki Hauraki (as shown on deed plan OTS-060-003), subject to the governance entity providing a registrable conservation covenant in relation to Pae ki Hauraki in the form set out in part 6 of the documents schedule;

In fee simple and in fee simple subject to recreation reserve

6.15.3 the part of Ōtūkōpiri shown as A on deed plan OTS-060-004 vests in fee simple;

6.15.4 the parts of Ōtūkōpiri shown as B, C and D on deed plan OTS-060-004 to vest as recreation reserve with Ngāti Pūkenga as the governance entity.

Jointly vested subject to a conservation covenant

6.16 The settlement legislation will, on the terms provided by paragraph 7.6 of the legislative matters schedule –

6.16.1 provide Te Tihi o Hauturu (being part of the Coromandel Forest Park, as shown on deed plan OTS-060-010) ceases to be a conservation area under the Conservation Act 1987; and

6.16.2 vest the fee simple estate in Te Tihi o Hauturu as undivided third shares, with a one third share vested in each of the following as tenants in common:

(a) the governance entity:

(b) the trustees of the Ngāti Maru Rūnanga Trust:

(c) the trustees of the Ngāti Tamaterā Treaty Settlement Trust; and

6.16.3 specify that clauses 6.16.1 and 6.16.2 are subject to the entities referred to in clause 6.16.2 providing the Crown with a registrable conservation covenant in relation to Te Tihi o Hauturu on the terms and conditions in part 7 of the documents schedule, with any necessary modifications.

6.17 The settlement legislation will provide that, subject to clause 6.16.3, clauses 6.16.1 and 6.16.2 will apply on the latest of the settlement date, the Ngāti Maru settlement date, and the Ngāti Tamaterā settlement date.

6.18 Not used.

6.19 Not used.

Jointly vested as a scenic reserve

6.20 The settlement legislation will, on the terms provided by paragraph 7.8 of the legislative matters schedule, jointly vest the fee simple estate in Pūwhenua (recorded name is Puwhenua) (as shown on deed plan OTS-060-013) as a scenic reserve in the following entities as tenants in common –

6.20.1 the trustees of Te Kapu o Waitaha as to an undivided 1/6 share;

6.20.2 the trustees of Tapuika Iwi Authority Trust as to an undivided 1/6 share;

6.20.3 the trustees of Te Tahuhu o Tawakeheimoa Trust as to an undivided 1/6 share;

6.20.4 the trustees of Ngā Hapū o Ngāti Ranginui Settlement Trust as to an undivided 1/6 share;

6.20.5 the Ngāi Te Rangi governance entity as to an undivided 1/6 share; and

6.20.6 the trustees of Te Tāwharau o Ngāti Pūkenga Trust as to an undivided 1/6 share.

6.21 The settlement legislation will on the terms provided by paragraph 9.7 of the legislative matters schedule establish a joint management body, which will be the administering body for the reserve.

Jointly vested as a scenic reserve subject to a right of way easement

6.22 The settlement legislation will, on the terms provided by paragraph 7.7 of the legislative matters schedule, vest the fee simple estate in Otānewainuku (recorded name is Otanewainuku) (as shown on deed plan OTS-060-012) as a scenic reserve in the following entities as tenants in common –

6.22.1 the trustees of Te Kapu o Waitaha as to an undivided 1/6 share;

6.22.2 the trustees of Tapuika Iwi Authority Trust as to an undivided 1/6 share;

6.22.3 the trustees of Te Tahuhu o Tawakeheimoa Trust as to an undivided 1/6 share each;

6.22.4 the trustees of Ngā Hapū o Ngāti Ranginui Settlement Trust as to an undivided 1/6 share;

6.22.5 the Ngāi Te Rangi governance entity as to an undivided 1/6 share; and

6.22.6 the trustees of Te Tāwharau o Ngāti Pūkenga Trust as to an undivided 1/6 share.

6.23 The settlement legislation will, on the terms provided by paragraph 9.7 of the legislative matters schedule, establish a joint management body, which will be the administering body of the reserve.

Vesting date for Pūwhenua and Otānewainuku

6.24 The settlement legislation will, on the terms provided by parts 7.7 to 7.9 of the legislative matters schedule, provide that the vestings of, and establishment of the joint management bodies for, Pūwhenua and Otānewainuku will occur on a date to be specified by the Governor-General by Order in Council, on recommendation by the Minister of Conservation.

6.25 The settlement legislation will, on the terms provided by parts 7.7 to 7.9 of the legislative matters schedule, provide that the Minister must not make the recommendation referred to in clause 6.24 to the Governor-General until the following Acts of Parliament have come into force –

6.25.1 the settlement legislation; and

6.25.2 the legislation required to be proposed for introduction to the House of Representatives under each of the following deeds –

(a) the Waitaha settlement deed;

(b) the Tapuika settlement deed;

(c) the Ngāti Rangiwewehi settlement deed;

(d) the Ngāti Ranginui settlement deed;

(e) the Ngāi Te Rangi and Ngā Pōtiki deed of settlement.

6.26 The settlement legislation will, on the terms provided by paragraph 8.22.4 of the legislative matters schedule, provide that the Liens Block, Pae ki Hauraki and Te Tihi o Hauturu will be afforded the same level of protection under the Crown Minerals Act 1991 as if those sites continued to be covered by clause 11 of Schedule 4 to that Act.

6.27 Pursuant to clause 9.4, the Crown and the trustees of the Te Tāwharau o Ngāti Pūkenga Trust will agree in writing to any necessary changes to the draft settlement bill proposed for introduction to the House of Representatives so as to give effect to the vesting of Pūwhenua and Otānewainuku in the manner specified in clauses 6.20 to 6.24.

6.28 Each cultural redress property is to be –

6.28.1 as described in appendix 2 to the legislative matters schedule; and

6.28.2 vested on the terms –

(a) of the settlement legislation provided for by parts 7 to 9 of the legislative matters schedule; and

(b) as set out in part 2 of the property redress schedule; and

6.28.3 subject to any encumbrances, or other documentation, in relation to that property –

(a) to be provided by the governance entity; or

(b) required by the settlement legislation; and

(c) in particular, referred to by part 8 and appendix 2 to the legislative matters schedule

otherwise disclosed under part 1 of the property redress schedule.

6.29 The settlement legislation will provide provisions that allow the lease that affects those areas of Ōtūkōpiri shown as A on deed plan OTS-060-004 as described in appendix 2, to be treated as a private lease.

CULTURAL REDRESS PAYMENTS

6.30 The Crown will pay to the governance entity on the settlement date $500,000 for Ngāti Pūkenga cultural revitalisation.

6.31 The Crown will pay to the governance entity on the settlement date $180,000 for marae revitalisation in Manaia.

PRIMARY INDUSTRIES PROTOCOL

6.32 The primary industries protocol must, by or on the settlement date, be signed and issued to the governance entity by the responsible Minister.

6.33 The primary industries protocol sets out how the Crown will interact with the governance entity with regard to the matters specified in it.

6.34 The primary industries protocol will be –

6.34.1 in the form part 3A of the documents schedule; and

6.34.2 issued under, and subject to, the same terms as are provided by paragraphs 6.2 to 6.10 of the legislative matters schedule in relation to the taonga tūturu protocol (with any necessary changes).

6.35 The settlement legislation must provide that –

6.35.1 the chief executive of the Ministry for Primary Industries must note a summary of the terms of the primary industries protocol in any fisheries plan that affects the primary industries protocol area; and

6.35.2 the noting of the summary is –

(a) for the purpose of public notice only; and

(b) not an amendment to a fisheries plan for the purposes of section 11A of the Fisheries Act 1996; and

6.35.3 the primary industries protocol does not grant, create, or provide evidence of an estate or interest in, or rights relating to, assets or other property rights (including in relation to fish, aquatic life, or seaweed) that are held, managed, or administered under any of the following enactments –

(a) the Fisheries Act 1996:

(b) the Maori Commercial Aquaculture Claims Settlement Act 2004:

(c) the Maori Fisheries Act 2004:

(d) the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992; and

6.35.4 in this clause –

(a) **fisheries plan** means a plan approved or amended under section 11A of the Fisheries Act 1996; and

(b) **primary industries protocol area** means the area shown on the map attached to the primary industries protocol, together with adjacent waters.

6.36 A failure by the Crown to comply with the primary industries protocol is not a breach of this deed or the deed of settlement.

CONSERVATION RELATIONSHIP AGREEMENT

6.37 The parties must use reasonable endeavours to agree, and enter into, a conservation relationship agreement by the settlement date.

6.38 A conservation relationship agreement will be entered into by the governance entity and the Minister of Conservation and the Director-General of Conservation.

6.39 A party is not in breach of this deed if the conservation relationship agreement has not been entered into by the settlement date if the party has negotiated in good faith in an attempt to enter into it.

6.40 A failure by the Crown to comply with the conservation relationship agreement is not a breach of the deed of settlement.

STATEMENTS OF ASSOCIATION WITH MOEHAU AND TE AROHA

6.41 The Crown acknowledges that the following maunga are of significant spiritual, cultural, historical and traditional importance to Ngāti Pūkenga and the other Iwi of Hauraki –

6.41.1 Moehau maunga:

6.41.2 Te Aroha maunga.

6.42 The parties acknowledge that the acknowledgement in clause 6.41 is not intended to give rise to any rights or obligations.

SECTION 11 OF CROWN MINERALS ACT 1991 DOES NOT APPLY TO CERTAIN CULTURAL REDRESS PROPERTIES

6.43 The settlement legislation will provide that –

6.43.1 Crown owned mineral has the same meaning as in section 2(1) of the Crown Minerals Act 1991; and

6.43.2 despite section 11 of the Crown Minerals Act 1991, any Crown owned mineral in each of the following cultural redress properties vests with, and forms part of, the property –

(a) Liens Block (being the property described in the column by that name in appendix 2 to the legislative matters schedule):

(b) Pae ki Hauraki (being the property described in the column by that name in appendix 2 to the legislative matters schedule): and

(c) Te Tihi o Hauturu (being the property described in the column by that name in appendix 2 to the legislative matters schedule.

ACKNOWLEDGEMENT IN RELATION TO MINERALS IN MĀORI CUSTOMARY LAND

6.44 The Crown acknowledges, to avoid doubt, that it has no property in any minerals existing in their natural condition in Maori customary land (as defined in Te Ture Whenua Maori Act 1993), other than those minerals referred to in section 10 of the Crown Minerals Act 1991 or under any other enactment.

CULTURAL REDRESS GENERALLY NON-EXCLUSIVE

6.45 Subject to the exclusive cultural redress provided in clause 6.15 and the shared redress in clauses 6.16 to 6.44, 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 FINANCIAL AND COMMERCIAL REDRESS

FINANCIAL REDRESS

7.1 The Crown must pay the governance entity on the settlement date the financial and commercial redress amount of $7,000,000 less –

7.1.1 $1,000,000 being the on-account payment referred to in clause 7.2; and

7.1.2 $240,000 being the on-account payment referred to in clause 7.3; and

7.1.3 $1,880,000 being the total transfer value of the early release commercial properties; and

7.1.4 $800,000 being the on-account payment referred to in clause 7.4.1; and

7.1.5 $100,000 being the on-account payment referred to in clause 7.4.2, if this payment is made in accordance with clause 2.4 of the on-account deed.

ON ACCOUNT PAYMENTS

7.2 On 2 May 2013, the Crown paid $1,000,000 to the governance entity on account of the financial and commercial redress amount.

7.3 On 3 December 2013, the Crown paid $240,000 to the governance entity on account of the financial and commercial redress amount.

7.4 In accordance with the on-account deed, the Crown –

7.4.1 paid $800,000 to the governance entity on 2 September 2014; and

7.4.2 will pay $100,000 to the governance entity, if the Crown receives a written request from the governance entity in accordance with clause 2.3 of the on-account deed,

on account of the financial and commercial redress amount.

COMMERCIAL REDRESS PROPERTIES

7.5 Subject to clause 7.6, the commercial redress properties are to be –

7.5.1 transferred by the Crown to the governance entity on the settlement date –

(a) as part of the redress to settle the historical claims, and without any other consideration to be paid or provided by the governance entity or any other person; and

(b) on the terms of transfer in part 4 of the property redress schedule; and

7.5.2 as described, and are to have the transfer values, in part 3 of the property redress schedule.

7.6 The governance entity may, by giving written notice to the Crown at any time before 31 March 2014, elect that one or more commercial redress properties specified in the

notice, are no longer commercial redress properties and instead are early release commercial properties.

7.7 The governance entity may not give a notice under clause 7.6 in respect of the commercial redress property described as 447-449 Welcome Bay Road, Tauranga in part 3 of the property redress schedule.

7.8 Each early release commercial property is no longer a commercial redress property for the purposes of this deed and the settlement legislation.

7.9 Within ten working days after receipt of a notice under 7.6, or such other time as agreed by the parties, the Crown and the governance entity must use all reasonable endeavours to enter into one or more agreements for sale and purchase of any one or more of the early release commercial properties –

7.9.1 at a purchase price, in respect of each property, equal to the transfer value for the property which will be satisfied by an on-account deduction from the financial and commercial redress amount; and

7.9.2 otherwise on terms to be agreed.

7.10 Each early release commercial property that does not become the subject of an agreement for the sale and purchase by the date that is 4 months after receipt of notice under clause 7.6 in respect of the property reverts to being a commercial redress property for the purposes of this deed and the settlement legislation.

7.11 The transfer of each commercial redress property will be subject to, and where applicable with the benefit of, the encumbrances provided in the property redress schedule in relation to that property.

7.12 The commercial redress property for no consideration, being the property referred to in clause 7.7 –

7.12.1 is to be described in part 3 of the property redress schedule; and

7.12.2 is to be transferred by the Crown to the governance entity –

(a) as redress, for no consideration; and

(b) subject to paragraph 4.1 of the property redress schedule, on the terms of transfer in part 4 of the property redress schedule.

SETTLEMENT LEGISLATION

7.13 The settlement legislation will, on the terms provided by part 10 of the legislative matters schedule, enable the transfer of the commercial redress properties to the extent required.

TAURANGA GIRLS' COLLEGE SITE AND GATE PĀ SCHOOL SITE

7.14 Under the Ngāi Te Rangi and Ngā Pōtiki deed of settlement, the properties described as Tauranga Girls' College site and Gate Pā School site are to be purchased by the Ngāi Te Rangi governance entity and leased back to the Crown, immediately after their transfer to the Ngāi Te Rangi governance entity on the terms and conditions provided by the lease for each property in part 3A of the documents schedule of that deed of

settlement (being a registrable ground lease for the property, ownership of the improvements remaining unaffected by the purchase).

7.15 Following the settlement of the properties described as Tauranga Girls' College site and Gate Pā School site under the Ngāi Te Rangi and Ngā Pōtiki deed of settlement, the Ngāi Te Rangi governance entity intends to transfer those properties subject to the leaseback referred to in clause 7.14 to the governance entity and the Ngāti He Hapu Trust, pursuant to terms of trust or other terms the Ngāi Te Rangi governance entity agrees with the governance entity and the Ngāti He Hapu Trust.

TE WHAREKURA O MANAIA SCHOOL

7.16 The parties agree that any right to purchase the Te Wharekura o Manaia School as a deferred selection property (land only and subject to a registrable ground lease to the Crown) will be –

7.16.1 a contingent and collective right exercisable only if that site is provided as redress in a Ngāti Maru deed of settlement and/or a Ngaati Whanaunga deed of settlement; and

7.16.2 exercisable by the governance entity on the same terms and conditions, and subject to the same rights and obligations, as are exercisable, and would apply, under that deed of settlement or those deeds of settlement, and as if the governance entity had signed that deed or those deeds.

7.17 The parties agree that, in relation to any transfer of the Te Wharekura o Manaia School to the governance entity, including to the governance entity and another or other persons, under any right referred to in clause 7.16 –

7.17.1 the tax indemnity (as defined in the deed of settlement) does not apply to that transfer; and

7.17.2 that transfer is –

(a) subject to normal tax treatment; and

(b) a taxable supply for GST purposes.

RIGHT OF FIRST REFUSAL OVER QUOTA

7.18 The Crown agrees to grant to the governance entity a right of first refusal to purchase certain quota as set out in the RFR deed over quota.

Delivery by the Crown of a RFR deed over quota

7.19 The Crown must, by or on the settlement date, provide the governance entity with two copies of a deed (the "***RFR deed over quota***") on the terms and conditions set out in part 4 of the documents schedule and signed by the Crown.

Signing and return of RFR deed over quota by the governance entity

7.20 The governance entity must sign both copies of the RFR deed over quota and return one signed copy to the Crown by no later than 10 business days after the settlement date.

Terms of RFR deed over quota

7.21 The RFR deed over quota will –

7.21.1 relate to the RFR area; and

7.21.2 be in force for a period of 50 years from the settlement date; and

7.21.3 have effect from the settlement date as if it had been validly signed by the Crown and the governance entity on that date.

Crown has no obligation to introduce or sell quota

7.22 The Crown and the governance entity agree and acknowledge that:

7.22.1 nothing in this deed, or the RFR deed over quota, requires the Crown to:

(a) purchase any provisional catch history, or other catch rights, under section 37 of the Fisheries Act 1996;

(b) introduce any applicable species (being the species referred to in Schedule 1 of the RFR deed over quota) into the quota management system (as defined in the RFR deed over quota); or

(c) offer for sale any applicable quota (as defined in the RFR deed over quota) held by the Crown; and

7.22.2 the inclusion of any applicable species (being the species referred to in Schedule 1 of the RFR deed over quota) in the quota management system may not result in any, or any significant, holdings by the Crown of applicable quota.

RFR FROM THE CROWN

7.23 The governance entity is to have a right of first refusal in relation to a disposal by the Crown of RFR land, being land listed in the attachments as RFR land that, on the settlement date –

7.23.1 is vested in the Crown; or

7.23.2 the fee simple for which is held by the Crown.

7.24 The right of first refusal is –

7.24.1 to be on the terms provided by part 11A of the legislative matters schedule; and

7.24.2 in particular, to apply –

(a) for a term of 174 years from the settlement date; but

(b) only if the RFR land is not being disposed of in the circumstances described in paragraph 11A.11 of the legislative matters schedule.

8 COLLECTIVE REDRESS

COLLECTIVE DEED

8.1 The Crown and Ngāti Pūkenga acknowledge that –

8.1.1 the Crown and TMIC have initialled the Collective Deed which specifies the collective components of redress that each individual iwi comprising TMIC will receive from the Crown, in addition to their individual redress set out in their respective deeds of settlement;

8.1.2 all redress for Ngāti Pūkenga to settle all historical claims comprises the redress –

(a) set out in this deed; and

(b) set out in the Collective Deed, insofar as Ngāti Pūkenga's interests in TMIC are concerned; and

(c) in respect of the historical claims described in clause 5.3B, set out in the Collective Deed, TMIC legislation, and/or other legislation.

OTHER POTENTIAL COLLECTIVE REDRESS

8.2 The Crown and Ngāti Pūkenga acknowledge that –

8.2.1 the Crown is currently negotiating collective redress, that includes collective cultural, commercial and financial redress, in the Hauraki region with relevant iwi, including Ngāti Pūkenga, consistent with the Agreement in Principle Equivalent between the Crown and Ngāti Pūkenga dated 22 July 2011 and consistent with the Crown's "Revised financial offer to the iwi of the Hauraki Collective" dated 26 October 2012;

8.2.2 Ngāti Pūkenga wish to engage with the Crown in respect of potential collective redress with other relevant iwi in the Maketū and Pakikaikutu kāinga regions.

8.3 Ngāti Pūkenga acknowledge and affirm the effect of clauses 5.3 and 8.1.2 of this deed and in so doing also acknowledge that:

8.3.1 notwithstanding that collective redress has been offered in the negotiations in clause 8.2.1, whether or not that collective redress is in fact finally provided is dependent on a range of factors including agreement of all relevant iwi; and

8.3.2 there is no guarantee that any further collective redress will be offered or provided to Ngāti Pūkenga as a consequence of any collective negotiations in clause 8.2.2.

TAURANGA MOANA FRAMEWORK

8.4 The parties acknowledge that this deed and the Collective Deed provide for certain redress in relation to the Tauranga Moana. However, as set out in clause 5.3A, despite clause 5.3 of this deed, the parties acknowledge that the settlement legislation and the TMIC legislation do not yet provide for this redress, and as set out in clause 5.3A the

claims or aspects of claims described in clause 5.3B will not be settled through this dee or the settlement legislation.

8.5 The parties agree that, as contemplated by clause 5.3A, the Tauranga Moana Framework will be provided for in separate legislation as soon as the following matters have been resolved to the satisfaction of TMIC and the Crown, and in accordance with the principles of Te Tiriti o Waitangi/the Treaty of Waitangi –

8.5.1 whether a process is required and, if so the nature of that process, for resolving the disagreements referred to in Part 1, paragraph 10.3 of the Appendix to Part 3 of the TMIC legislative matters schedule; and

8.5.2 how such legislation will provide for the participation of two or more iwi with recognised interests in Tauranga Moana through one seat on the Tauranga Moana Governance Group (as provided in Part 1, paragraph 1.1.5 of the Appendix to Part 3 of the TMIC legislative matters schedule); and

8.5.3 the scope of the area marked as 'A' on the Tauranga Moana plan in the attachments.

8.6 The Crown agrees to negotiate in good faith, as soon as reasonably practicable, to resolve the matters referred to in clauses 8.5.1 to 8.5.3.

8.7 Clauses 8.5 and 8.6 do not exclude the jurisdiction of the Court, tribunal or other judicial body in respect of the process in clauses 8.5 or 8.6.

8.8 The Crown recognises it is Ngāti Pūkenga and the governance entity's desire to have the recognised interest areas for iwi with recognised interests confirmed by the Crown following the process outlined in clauses 2.14 to 2.16 of the Collective Deed, before the separate legislation providing for the Tauranga Moana Framework is introduced.

8.9 Ngāti Pūkenga, the governance entity, and the Crown agree that the Tauranga Moana Framework is a critical element of the settlement. Ngāti Pūkenga and the governance entity consider, but without in any way derogating from clause 5.3, that the settlement is not complete until the separate legislation providing for the Tauranga Moana Framework comes into force.

ATHENREE FOREST LAND AND MAUAO

8.10 The parties acknowledge that the Collective Deed and Pare Hauraki Collective Redress Deed provide for certain collective redress, including in relation to Athenree Forest land and Mauao. Other than the Crown apology redress, the parties acknowledge and agree that this deed does not provide for any redress in relation to -

8.10.1 Athenree Forest land;

8.10.2 Mauao; or

8.10.3 other collective redress provided for in the Collective Deed or the Pare Hauraki Collective Redress Deed.

8.11 The Crown owes Ngāti Pūkenga a duty of good faith and will negotiate redress in relation to Athenree Forest land and Mauao with Ngāti Pūkenga in a manner consistent with the principles of Te Tiriti o Waitangi/the Treaty of Waitangi.

8.12 Ngāti Pūkenga and the governance entity acknowledge that the Crown is not in breach of this deed if the redress referred to in clause 8.10 has not been provided by any particular date if, on that date, the Crown is still willing to negotiate in good faith in an attempt to provide the redress.

8.13 The settlement legislation will settle all Ngāti Pūkenga historical claims in relation to the Athenree Forest land and Mauao.

8.14 The parties agree that the redress referred to in clause 8.10 is a critical element of the settlement. Ngāti Pūkenga and the governance entity consider, but without in any way derogating from clause 5.3, that the settlement is not complete until the separate legislation providing for such redress comes into force.

8.15 Ngāti Pūkenga are not precluded from making a claim to any court, tribunal or other judicial body in respect of the process referred to in clauses 8.10 to 8.14

8A HARBOURS

HAURAKI GULF / TĪKAPA MOANA

8A.1 Hauraki Gulf / Tīkapa Moana (and the harbours within it) is of great cultural, historical, and spiritual importance to Ngāti Pūkenga and other iwi of Hauraki.

8A.2 Ngāti Pūkenga wish to record their aspirations for harbours redress that provides for co governance of the resource as envisaged under Te Tiriti o Waitangi/the Treaty of Waitangi that will –

8A.2.1 restore and enhance the ability of Tīkapa Moana (and the harbours within it) to provide nourishment and spiritual sustenance; and

8A.2.2 recognise the significance of Tīkapa Moana as a maritime pathway to settlements throughout the Hauraki rohe; and

8A.2.3 uphold the exercise by Ngāti Pūkenga of kaitiakitanga and rangatiratanga.

DEFERRAL OF HARBOURS NEGOTIATIONS

8A.3 Even though the historical claims are settled by this deed and the settlement legislation, this deed does not provide for all redress in relation to Tīkapa Moana (and the harbours within it). The Crown will negotiate with Ngāti Pūkenga to develop redress for Tikapa Moana. Negotiations over Tīkapa Moana will also involve other iwi with interests.

8A.4 The Crown owes Ngāti Pūkenga a duty of good faith and will negotiate redress in relation to Tīkapa Moana with Ngāti Pūkenga in a manner consistent with the principles of Te Tiriti o Waitangi/the Treaty of Waitangi.

8A.5 Ngāti Pūkenga acknowledge that the Crown is not in breach of this deed if the redress referred to in clauses 8A.4 has not been provided by any particular date if, on that date, the Crown is still willing to negotiate in good faith in an attempt to provide the redress.

8A.6 Ngāti Pūkenga are not precluded from making a claim to any court, tribunal or other judicial body in respect of the process referred to in clauses 8A.3 to 8A.5.

9 SETTLEMENT LEGISLATION, CONDITIONS AND TERMINATION

SETTLEMENT LEGISLATION

9.1 The Crown must propose the draft settlement bill for introduction to the House of Representatives within 12 months of the signing of the Collective Deed.

9.2 In doing so the Crown may elect the extent to which such draft settlement bill deals with, in addition to this deed, the Collective Deed and any other deed of settlement with the other iwi which comprise TMIC.

9.3 The settlement legislation proposed for introduction must include all matters required by –

9.3.1 this deed; and

9.3.2 in particular, the legislative matters schedule; and

9.3.3 be in a form that is satisfactory to the governance entity and to the Crown.

9.4 However, the settlement legislation proposed for introduction to the House of Representatives, may include changes to the requirements of this deed agreed in writing by the governance entity and the Crown.

9.5 Ngāti Pūkenga and the governance entity must support the passage through Parliament of the settlement legislation.

AMENDMENT TO SETTLEMENT LEGISLATION

9.5A The parties agree that the settlement legislation will be amended –

9.5A.1 to insert provisions relating to minerals, including but not limited to minerals vested in the governance entity (**vested minerals**) that are in cultural redress properties, the treatment of existing privileges and permits under the Crown Minerals Act 1991 over vested minerals, the application of that Act, and, in respect of vested minerals royalty-based payments. Any amendment will reflect the agreements reached with Pare Hauraki and given effect to in the settlement legislation provided for by the Pare Hauraki Collective Redress Deed; and

9.5A.2 to exclude the jurisdiction of courts, tribunals and other judicial bodies in relation to the following, to the extent that they relate to Ngāti Pūkenga –

(a) a Pare Hauraki Collective Redress Deed:

(b) legislation provided for in a Pare Hauraki Collective Redress Deed; and

(c) the redress provided under a Pare Hauraki Collective Redress Deed and the legislation provided for in that deed.

9.5B Any amendment made in accordance with clause 9.5A must –

9.5B.1 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

9.5B.2 be in a form that is satisfactory to Ngāti Pūkenga and the Crown.

9.5C Ngāti Pūkenga and the governance entity must support the passage of an amendment made in accordance with clause 9.5A through Parliament.

SETTLEMENT CONDITIONAL

9.6 This deed, and the settlement, are conditional on –

9.6.1 the Collective Deed being signed; and

9.6.2 the settlement legislation coming into force.

9.7 However, the following provisions of this deed are binding on its signing:

9.7.1 clauses 9.1 and 9.5, and clauses 7.2 to 7.10; and

9.7.2 paragraph 1.3, and parts 4 to 7, of the general matters schedule.

EFFECT OF THIS DEED

9.8 This deed –

9.8.1 is "without prejudice" until it becomes unconditional; and

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

9.9 Clause 9.8 does not exclude the jurisdiction of a court, tribunal, or other judicial body in respect of the interpretation or enforcement of this deed.

TERMINATION

9.10 The Crown or the governance entity may terminate this deed, by notice to the other, if –

9.10.1 the settlement legislation has not come into force within 48 months after the date of this deed or such further date as the parties may agree; and

9.10.2 the terminating party has given the other party at least 60 business days' notice of an intention to terminate.

9.11 If this deed is terminated in accordance with its provisions -

9.11.1 this deed (and the settlement) are at an end; and

9.11.2 subject to this clause, this deed does not give rise to any rights or obligations; and

9: SETTLEMENT LEGISLATION, CONDITIONS AND TERMINATION

9.11.3 this deed remains "without prejudice", but

9.11.4 the parties intend that the on-account payments and the transferred early release commercial properties are taken into account in any future settlement of the historical claims.

10 GENERAL, DEFINITIONS AND INTERPRETATION

GENERAL

10.1 The general matters schedule includes provisions in relation to –

10.1.1 the implementation of the settlement; and

10.1.2 the Crown's –

(a) payment of interest in relation to the settlement; and

(b) tax indemnities in relation to redress; and

10.1.3 giving notice under this deed or a settlement document; and

10.1.4 amending this deed.

HISTORICAL CLAIMS

10.2 In this deed, historical claims –

10.2.1 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 Ngāti Pūkenga, or a representative entity, had at, or at any time before, the settlement date, or may have at any time after the settlement date, and that -

(a) is, or is founded on, a right arising –

(i) from the Treaty of Waitangi or its principles; or

(ii) under legislation; or

(iii) at common law, including aboriginal title or customary law; or

(iv) from fiduciary duty; or

(v) otherwise; and

(b) arises from, or relates to, acts or omissions before 21 September 1992 –

(i) by, or on behalf of, the Crown; or

(ii) by or under legislation; and

10.2.2 includes every claim to the Waitangi Tribunal to which clause 10.2.1 applies that relates exclusively to Ngāti Pūkenga or a representative entity, including the following claims –

(a) Wai 148;

(b) Wai 162;

(c) Wai 210;

(d) Wai 285;

(e) Wai 637;

(f) Wai 751;

(g) Wai 815;

(h) Wai 1441; and

(i) Wai 1703; and

10.2.3 includes every other claim to the Waitangi Tribunal to which clause 10.2.1 applies, so far as it relates to Ngāti Pūkenga or a representative entity, including the following claims –

(a) Wai 3;

(b) Wai 47;

(c) Wai 100; and

(d) Wai 728.

10.3 However, **historical claims** does not include the following claims –

10.3.1 a claim that a member of Ngāti Pūkenga, or a whānau, hapū, or group referred to in clause 10.5.2, 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 clause 10.5.1;

10.3.2 a claim that a representative entity may have to the extent the claim is, or is founded, on a claim referred to in clause 10.3.1.

10.4 To avoid doubt, clause 10.2.1 is not limited by clauses 10.2.2 or 10.2.3.

NGĀTI PŪKENGA

10.5 In this deed, **Ngāti Pūkenga** or the **settling group** means –

10.5.1 the collective group composed of –

(a) individuals descended from one or more Ngāti Pūkenga tūpuna; and

(b) individuals who are members of the groups referred to in paragraph 10.5.3(a), (b) and (c); and

10.5.2 every individual referred to in paragraph 10.5.1; and

10.5.3 includes the following groups –:

(a) Ngāti Pūkenga, Te Tawera, and Ngāti Hā; and

(b) Ngāti Kiorekino, Ngāti Hinemotu, Ngāti Pūkenga, Ngāti Rakau, Ngāti Te Matau, Ngai Towhare, and Ngāti Whakina; and

(c) any whānau, hapū, or group to the extent that it is composed of individuals referred to in paragraph 10.5.1.

10.6 In this deed, Ngāti Pūkenga tūpuna or ancestors means an individual who –

10.6.1 exercised customary rights as Ngāti Pūkenga by virtue of being descended from –

(a) Pūkenga, Kumaramaoa, and Rongopopoia; or

(b) a recognised ancestor of any of the groups referred to in subsection 10.5.3(a), (b) and (c); and

10.6.2 exercised the customary rights as Ngāti Pūkenga predominantly in relation to the kāinga areas of interest at any time after 6 February 1840.

10.7 For the purposes of clause 10.6, **customary rights** means rights according to tikanga Māori (Māori customary values and practices), including –

10.7.1 rights to occupy land; and

10.7.2 rights in relation to the use of land or other natural or physical resources.

10.8 For the avoidance of doubt, for the purposes of the deed, whāngai are considered Ngāti Pūkenga.

10.9 For the purposes of clause 10.5.1 –

10.9.1 a person is **descended** from another person if the first person is descended from the other by –

(a) birth; or

(b) legal adoption; or

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

ADDITIONAL DEFINITIONS

10.10 The definitions in part 6 of the general matters schedule apply to this deed.

INTERPRETATION

10.11 Part 7 of the general matters schedule applies to the interpretation of this deed.

SIGNED for and on behalf of **Ngāti Pūkenga** by **the trustees of Te Tāwharau o Ngāti Pūkenga Trust** in the presence of -

Rahera Ohia

Harry Haerengarangi Mikaere

Hori Parata

Rehua Smallman

Regina Berghan

WITNESS

Name:

Occupation:

Address:

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

The Minister for Treaty of Waitangi Negotiations in the presence of -

Hon Christopher Finlayson

WITNESS

Name:

Occupation:

Address:

The Minister of Finance (only in relation to the tax indemnities) in the presence of -

Hon Simon William English

WITNESS

Name:

Occupation:

Address:

SIGNED by **the trustees of Te Au Māru o Ngāti Pūkenga Charitable Trust** in the presence of -

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_____

WITNESS

_____

Name:

Occupation:

Address: