

NGĀTI TAMAHOHO
and
NGĀTI TAMAHOHO SETTLEMENT TRUST
and
THE CROWN

DEED OF SETTLEMENT SCHEDULE:
PROPERTY REDRESS

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1 DISCLOSURE INFORMATION AND WARRANTY

DISCLOSURE INFORMATION

1.1. The Crown -

- 1.1.1 has provided information to Ngāti Tamaoho about the redress properties and the early redress properties, between 26 April 2016 and 15 July 2016; and
- 1.1.2 must provide information about the joint deferred selection property described in part 5, in accordance with paragraph 7.8.1(a) of the Ngāi Tai ki Tāmaki property redress schedule, if an effective Papakura property purchase notice is given in accordance with part 7 of the Ngāi Tai ki Tāmaki property redress schedule.

WARRANTY

1.2. The Crown warrants to Ngāti Tamaoho that the Crown has given Ngāti Tamaoho in its disclosure information about an acquired property all material information that, to the best of the land holding agency's knowledge, is at the date of providing that information, in the agency's records about the property (including its encumbrances),-

- 1.2.1 having inspected the agency's records; but
- 1.2.2 not having made enquiries beyond the agency's records; and
- 1.2.3 in particular, not having undertaken a physical inspection of the property.

WARRANTY LIMITS

1.3. Other than under paragraph 1.2, the Crown does not give any representation or warranty, whether express or implied, and does not accept any responsibility, with respect to -

- 1.3.1 an acquired property, including in relation to -
 - (a) its state, condition, fitness for use, occupation, or management; or
 - (b) its compliance with -
 - (i) legislation, including bylaws; or
 - (ii) any enforcement or other notice, requisition, or proceedings; or
- 1.3.2 the disclosure information about an acquired property, including in relation to its completeness or accuracy.

1.4. The Crown has no liability in relation to the state or condition of an acquired property, except for any liability arising as a result of a breach of paragraph 1.2.

INSPECTION

- 1.5. In paragraph 1.6, **relevant date** means, in relation to an acquired property that is a redress property, the date of this deed.
- 1.6. Although the Crown is not giving any representation or warranty in relation to an acquired property, other than under paragraph 1.2, Ngāti Tamaoho acknowledges that it could, before the relevant date, -
 - 1.6.1 inspect the property and determine its state and condition; and
 - 1.6.2 consider the disclosure information in relation to it.

2 VESTING OF CULTURAL REDRESS PROPERTIES

SAME MANAGEMENT REGIME AND CONDITION

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

ACCESS

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

COMPLETION OF REQUIRED DOCUMENTATION

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

SURVEY AND REGISTRATION

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

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3 COMMERCIAL REDRESS PROPERTIES

Address	Description (all North Auckland Land District)	Encumbrances	Transfer value	Land holding agency
Te Hihi School site (land only)*	1.9421 hectares, more or less, being Lot 2 DP 36938 and Section 1 SO 478906. Part <i>Gazette</i> Notice 049014.1.		\$522,000	Ministry of Education
Hunua School site (land only)*	1.6683 hectares, more or less, being Lots 1, 2, 3, and 5 DP 152708. All computer freehold register NA91A/899.	Subject to Section 241(2) Resource Management Act 1991. Subject to Section 8 Coal Mines Amendment Act 1950 (affects part).	\$574,000	Ministry of Education
	0.1211 hectares, more or less, being Section 1 SO 455870. All computer interest register 610635.	Subject to a right to convey electricity over part marked C on SO 455870 specified in Easement Certificate D125084.6. Together with a right to drain water created by <i>Gazette</i> notice 9305672.1		
			Total transfer values	
			\$1,096,000	

* indicates the property is a leaseback property

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4 EARLY TRANSFER PROPERTIES

Address	Description (all North Auckland Land District)	Encumbrances
112 Bairds Road, Ōtara PF 1965	0.2461 hectares, more or less, being Lot 8 DP 51794. All computer freehold register NA102D/981.	
725 Great South Road, Wiri PF 1932	1.0923 hectares, more or less, being Section 23 SO 435724. All computer freehold register 581486.	Subject to an encumbrance to New Zealand Transport Agency registered as 10389808.4

**5 JOINT DEFERRED SELECTION PROPERTY - PAPAURA
PROPERTY**

Property	Description (All North Auckland Land District)	Determining market value	Land holding agency
Papakura property	0.3187 hectares, more or less, being Section 1 SO 31679. All computer freehold register NA95C/951. 3.9039 hectares, more or less, being Lot 2 DP 198558 and Lots 1 and 2 DP 201101. All computer freehold register NA127B/904.	To be separately valued	New Zealand Defence Force

(Refer to clauses 6.3 and 8.9 to 8.11 of the deed, and parts 7 to 10 of the Ngāi Tai ki Tāmaki property redress schedule).

6 TERMS OF TRANSFER FOR COMMERCIAL REDRESS PROPERTIES

APPLICATION OF THIS PART

- 6.1 This part applies to the transfer by the Crown to the governance entity of each commercial redress property (a **transfer property**).

TRANSFER

- 6.2 The Crown must transfer the fee simple estate in a transfer property to the governance entity -

6.2.1 subject to, and where applicable with the benefit of, -

- (a) the disclosed encumbrances affecting or benefiting the property (as they may be varied by a non-material variation, or a material variation entered into under paragraph 6.18.4(a)); and
- (b) any additional encumbrances affecting or benefiting the property entered into by the Crown under paragraph 6.18.4(b); and
- (c) if the transfer property is a commercial redress property, any encumbrances in relation to that property that the governance entity is required to provide to the Crown on or by the settlement date under clause 8.5.

6.2.2 if the property is a leaseback property, subject to the Crown leaseback in relation to the property.

- 6.3 The Crown must pay any survey and registration costs required to transfer the fee simple estate in a transfer property to the governance entity.

POSSESSION

- 6.4 On the TSP settlement date for the property, possession of a transfer property must -

6.4.1 be given by the Crown; and

6.4.2 taken by the governance entity; and

6.4.3 be vacant possession subject only to -

- (a) any encumbrances referred to in paragraph 6.2.1 that prevent vacant possession being given and taken; and
- (b) if the property is a leaseback property, the Crown leaseback.

SETTLEMENT

- 6.5 Subject to paragraphs 6.6 and 6.38.2, the Crown must provide the governance entity with the following in relation to a transfer property on the TSP settlement date for that property:
- 6.5.1 evidence of -
- (a) a registrable transfer instrument; and
 - (b) any other registrable instrument required by this deed in relation to the property;
- 6.5.2 all contracts and other documents (but not public notices such as proclamations and *Gazette* notices) that create unregistered rights or obligations affecting the registered proprietor's interest in the property after the TSP settlement date.
- 6.6 If the fee simple estate in the transfer property may be transferred to the governance entity electronically under the relevant legislation, -
- 6.6.1 paragraph 6.5.1 does not apply; and
- 6.6.2 the Crown must ensure its solicitor, -
- (a) a reasonable time before the TSP settlement date for the property, -
 - (i) creates a Landonline workspace for the transfer to the governance entity of the fee simple estate in the property and for any other registrable instruments required by the deed in relation to the property (the **electronic transfer instruments**); and
 - (ii) prepares, certifies, signs, and pre-validates in the Landonline workspace the electronic transfer instruments; and
 - (b) on the TSP settlement date, releases the electronic transfer instruments so that the governance entity's solicitor may submit them for registration under the relevant legislation; and
- 6.6.3 the governance entity must ensure its solicitor, a reasonable time before the TSP settlement date, certifies and signs the electronic transfer instruments for the property prepared in the Landonline workspace under paragraph 6.6.2(a)(ii); and
- 6.6.4 paragraphs 6.6.2 and 6.6.3 are subject to paragraph 6.38.2.
- 6.7 The **relevant legislation** for the purposes of paragraph 6.6 is -
- 6.7.1 the Land Transfer Act 1952; and
- 6.7.2 the Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002.

PROPERTY REDRESS

- 6.8 The Crown must, on the actual TSP settlement date for a transfer property, provide the governance entity with any key or electronic opener to a gate or door on, and any security code to an alarm for, the property that are held by the Crown unless -
- 6.8.1 the property is a leaseback property; and
 - 6.8.2 to provide it would be inconsistent with the Crown leaseback.
- 6.9 The transfer value of, or the amount payable by the governance entity for, a transfer property is not affected by -
- 6.9.1 a non-material variation, or a material variation entered into under paragraph 6.18.4(a), of a disclosed encumbrance affecting or benefiting the property; or
 - 6.9.2 an additional encumbrance affecting or benefiting the property entered into by the Crown under paragraph 6.18.4(b).

APPORTIONMENT OF OUTGOINGS AND INCOMINGS

- 6.10 If, as at the actual TSP settlement date for a transfer property -
- 6.10.1 the outgoings for the property pre-paid by the Crown for any period after that date exceed the incomings received by the Crown for any period after that date, the governance entity must pay the amount of the excess to the Crown; or
 - 6.10.2 the incomings for the property received by the Crown for any period after that date exceed the outgoings for the property pre-paid by the Crown for any period after that date, the Crown must pay the amount of the excess to the governance entity.
- 6.11 The outgoings for a transfer property for the purposes of paragraph 6.10 do not include insurance premiums and the governance entity is not required to take over from the Crown any contract of insurance in relation to the transfer property.
- 6.12 An amount payable under paragraph 6.10 in relation to a transfer property must be paid on the actual TSP settlement date for the transfer property.
- 6.13 The Crown must, before the actual TSP settlement date for a transfer property, provide the governance entity with a written statement calculating the amount payable by the governance entity or the Crown under paragraph 6.10.

FIXTURES, FITTINGS, AND CHATTELS

- 6.14 The transfer of a transfer property includes all fixtures and fittings that were owned by the Crown, and located on the property, on the first date of the transfer period for that property.
- 6.15 Paragraph 6.14 does not apply to the Lessee's improvements located on a leaseback property.
- 6.16 Fixtures and fittings must be transferred under paragraph 6.14 free of mortgaged or charged.
- 6.17 The transfer of a transfer property does not include chattels.

OBLIGATIONS AND RIGHTS DURING THE TRANSFER PERIOD

- 6.18 During the transfer period for a transfer property, the Crown must -
- 6.18.1 ensure the property is maintained in substantially the same condition, fair wear and tear excepted, as it was in at the first day of the period; and
 - 6.18.2 pay the charges for electricity, gas, water, and other utilities that the Crown owes as owner of the property, except where those charges are payable by a tenant or occupier to the supplier; and
 - 6.18.3 ensure the Crown's obligations under the Building Act 2004 are complied with in respect of any works carried out on the property during the period -
 - (a) by the Crown; or
 - (b) with the Crown's written authority; and
 - 6.18.4 obtain the prior written consent of the governance entity before -
 - (a) materially varying a disclosed encumbrance affecting or benefiting the property; or
 - (b) entering into an encumbrance affecting or benefiting the property; or
 - (c) procuring a consent, providing a waiver, or giving an approval, that materially affects the property, under the Resource Management Act 1991 or any other legislation; and
 - 6.18.5 use reasonable endeavours to obtain permission for the governance entity to enter and inspect the property under paragraph 6.19.2 if the governance entity is prevented from doing so by the terms of an encumbrance referred to in paragraph 6.2, but

in the case of a leaseback property these obligations are modified to the extent necessary to ensure they do not add to, or vary, the obligations of the Crown under the Crown leaseback as if it applied during the transfer period.

- 6.19 During the transfer period in relation to a transfer property, the governance entity -
- 6.19.1 must not unreasonably withhold or delay any consent sought under paragraph 6.18.4; and
 - 6.19.2 may enter and inspect the property on one occasion:
 - (a) after giving reasonable notice; and
 - (b) subject to the terms of the encumbrances referred to in paragraph 6.2; and
 - 6.19.3 subject to complying with all reasonable conditions imposed by the Crown.

OBLIGATIONS AFTER SETTLEMENT

- 6.20 The Crown must -
- 6.20.1 give the relevant territorial authority notice of the transfer of a transfer property immediately after the actual TSP settlement date for the property, or as soon as reasonably practicable thereafter where the transfer property is subject to survey; and
 - 6.20.2 if it receives a written notice in relation to a transfer property from the Crown, a territorial authority, or a tenant after the actual TSP settlement date for the property, -
 - (a) comply with it; or
 - (b) provide it promptly to the governance entity or its solicitor; or
 - 6.20.3 pay any penalty incurred by the governance entity to the person providing the written notice as a result of the Crown not complying with paragraph 6.20.2.

RISK AND INSURANCE

- 6.21 A transfer property is at the sole risk of -
- 6.21.1 the Crown, until the actual TSP settlement date for the property; and
 - 6.21.2 the governance entity, from and including the actual TSP settlement date for the property.

DAMAGE AND DESTRUCTION

- 6.22 Paragraphs 6.23 to 6.31 apply if, before the actual TSP settlement date for a transfer property, -
- 6.22.1 the property is destroyed or damaged; and
 - 6.22.2 the destruction or damage has not been made good.
- 6.23 Paragraph 6.24 applies if the transfer property is -
- 6.23.1 a commercial redress property; and
 - 6.23.2 as a result of the destruction or damage, the property is not tenable.
- 6.24 Where this paragraph applies, -
- 6.24.1 the governance entity may cancel its transfer by written notice to the Crown; or
 - 6.24.2 the Crown may cancel its transfer by written notice to the governance entity if the property is a leaseback property.
- 6.25 Notice under paragraph 6.24 must be given before the actual TSP settlement date.

PROPERTY REDRESS

- 6.26 Paragraph 6.27 applies if the property is a commercial redress property, that -
- 6.26.1 despite the destruction or damage, is tenatable; or
 - 6.26.2 as a result of the damage or destruction, is not tenatable, but its transfer is not cancelled under paragraph 6.24 before the actual TSP settlement date.
- 6.27 Where this paragraph applies -
- 6.27.1 the governance entity must complete the transfer of the property in accordance with this deed; and
 - 6.27.2 the Crown must pay the governance entity -
 - (a) the amount by which the value of the property has diminished, as at the actual TSP settlement date for the property, as a result of the destruction or damage;
 - (b) plus GST if any.
- 6.28 The value of the property for the purposes of paragraph 6.27.2 is to be its transfer value as provided in part 3.
- 6.29 An amount paid by the Crown under paragraph 6.28 is redress.
- 6.30 Each party may give the other notice -
- 6.30.1 requiring a dispute as to the application of paragraphs 6.24 to 6.29 be determined by an arbitrator appointed by the Arbitrators' and Mediators' Institute of New Zealand; and
 - 6.30.2 referring the dispute to the arbitrator so appointed for determination under the Arbitration Act 1996.
- 6.31 If a dispute as to the application of paragraphs 6.24 to 6.29 is not determined by the TSP settlement date, the date the parties must comply with their obligations on transfer of the property is to be -
- 6.31.1 the fifth business day following the determination of the dispute; or
 - 6.31.2 if an arbitrator appointed under paragraph 6.30 so determines, another date including the original TSP settlement date.

BOUNDARIES AND TITLE

- 6.32 The Crown is not required to point out the boundaries of a transfer property.
- 6.33 If a transfer property is subject only to the encumbrances referred to in paragraph 6.2 and, if the property is a leaseback property, the Crown leaseback, the governance entity -
- 6.33.1 is to be treated as having accepted the Crown's title to the property as at the actual TSP settlement date; and
 - 6.33.2 may not make any objections to, or requisitions on, it.

- 6.34 An error or omission in the description of a transfer property or its title does not annul its transfer.

FENCING

- 6.35 The Crown is not liable to pay for, or contribute towards, the erection or maintenance of a fence between a transfer property and any contiguous land of the Crown, unless the Crown requires the fence, in which case the provisions of the Fencing Act 1978 will apply.
- 6.36 Paragraph 6.35 does not continue for the benefit of a purchaser from the Crown of land contiguous to a transfer property.
- 6.37 The Crown may require a fencing covenant to the effect of paragraphs 6.35 and 6.36 to be registered against the title to a transfer property.

DELAYED TRANSFER OF TITLE

- 6.38 The Crown covenants for the benefit of the governance entity that it will -
- 6.38.1 arrange for the creation of a computer freehold register for the land of a transfer property for land that -
- (a) is not contained in a computer freehold register; or
 - (b) is contained in a computer freehold register or registers but together with other land; and
- 6.38.2 transfer (in accordance with paragraph 6.5 or 6.6, whichever is applicable) the fee simple estate in a transfer property to which paragraph 6.38.1 applies as soon as reasonably practicable after complying with that paragraph in relation to the property but not later than five years after the actual TSP settlement date.
- 6.39 If paragraph 6.38.2 applies to a transfer property, and paragraph 6.6 is applicable, the governance entity must comply with its obligations under paragraph 6.6.3 by a date specified by written notice by the Crown.
- 6.40 The covenant given by the Crown under paragraph 6.38 has effect and is enforceable, despite:
- 6.40.1 being positive in effect; and
 - 6.40.2 there being no dominant tenement.
- 6.41 If paragraph 6.38 applies then, for the period from the actual TSP settlement date until the date that the Crown transfers the fee simple estate in the transfer property to the governance entity -
- 6.41.1 the governance entity will be the beneficial owner of the property; and
 - 6.41.2 all obligations and rights will be performed and arise as if the fee simple estate had been transferred to the governance entity on the actual TSP settlement date.

FURTHER ASSURANCES

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

NON-MERGER

- 6.43 On transfer of a transfer property to the governance entity -
- 6.43.1 the provisions of this part will not merge; and
 - 6.43.2 to the extent any provision of this part has not been fulfilled, it will remain in force.

7 NOTICE IN RELATION TO REDRESS PROPERTIES

- 7.1 If this schedule requires the governance entity to give notice to the Crown in relation to or in connection with a redress property, the governance entity must give the notice in accordance with part 4 of the general matters schedule, except the notice must be addressed to the land holding agency for the property at its address or facsimile number provided -
- 7.1.1 in paragraph 7.2; or
- 7.1.2 if the land holding agency has given notice to the governance entity of a new address or facsimile number, in the most recent notice of a change of address or facsimile number.
- 7.2 Until any other address or facsimile number of a land holding agency is given by notice to the governance entity, the address of each land holding agency is as follows for the purposes of giving notice to that agency in accordance with this part.

Land holding agency	Address and facsimile number	
New Zealand Defence Force	Freyberg House 20 Aitken Street Wellington 6011 Fax: +64 4 496 0869	
Ministry of Education	Mātauranga House 33 Bowen Street PO Box 1666 Wellington 6140 Fax: + 64 4 463 8001	
Land Information New Zealand and LINZ Treaty Settlements Landbank	Physical address: Level 7, Radio New Zealand House 155 The Terrace Wellington	Postal address: PO Box 5501 Lambton Quay Wellington 6140 Fax: +64 4 494 9801
Department of Conservation	Physical address: Conservation House Whare Kaupapa Atawhai 18-32 Manners Street Wellington 6011	Postal address: PO Box 10 420 The Terrace Wellington 6143 Fax: +64 4 381 3057

8 DEFINITIONS

- 8.1 In this schedule, unless the context otherwise requires, **party** means each of the governance entity and the Crown.
- 8.2 In this deed, unless the context otherwise requires, -
- acquired property** means each redress property; and
- actual TSP settlement date**, in relation to a transfer property, means the date on which settlement of the property takes place; and
- Crown leaseback** means, in relation to a leaseback property, the lease to be entered into by the governance entity and the Crown under clause 8.6; and:
- disclosed encumbrance**, in relation to a transfer property, means an encumbrance affecting or benefiting the property that is disclosed in the disclosure information about the property; and
- disclosure information**, in relation to an acquired property, means the information given by the Crown about the property referred to in paragraph 1.1; and
- leaseback property** means each property referred to in clause 8.6; and
- Lessee's improvements**, in relation to a leaseback property, has the meaning given to it in the Crown leaseback for the property; and
- registered bank** has the meaning given to it by section 2(1) of the Reserve Bank of New Zealand Act 1989; and
- terms of transfer** means the terms of transfer set out in part 6; and
- transfer property** has the meaning given to it by paragraph 6.1; and
- transfer period** means, in relation to a commercial redress property, the period from the date of this deed to its actual TSP settlement date; and
- TSP settlement date** means, in relation to a commercial redress property, the settlement date (as defined in paragraph 6.1 of the general matters schedule); and