

NGĀTI WHĀTUA O KAIPARA

AND

THE CROWN

**DEED OF SETTLEMENT SCHEDULE:
LEGISLATIVE MATTERS**

LEGISLATIVE MATTERS

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1 INTRODUCTION

- 1.1 This schedule sets out the matters that the parties agree are to be included in the settlement legislation.

2 TITLE, COMMENCEMENT, AND PURPOSE

2.1 The settlement legislation is to provide that -

2.1.1 its title is Ngāti Whātua o Kaipara Claims Settlement Act []; and

2.1.2 it comes into force on the day after the date on which it receives the Royal assent; and

2.1.3 its purpose is to give effect to certain provisions of this deed; and

2.1.4 it binds the Crown.

3 SETTLEMENT

- 3.1 The settlement legislation is to provide that –
- 3.1.1 the historical claims are settled; and
 - 3.1.2 the settlement is final; and
 - 3.1.3 on and from the settlement date, the Crown is released and discharged from all obligations and liabilities in respect of the historical claims; and
 - 3.1.4 paragraphs 3.1.1 to 3.1.3 are not to limit the acknowledgements expressed in, or the provisions of, this deed.

4 SETTLEMENT IMPLEMENTATION

Judicial bodies' jurisdiction to be excluded

- 4.1 The settlement legislation is to provide that, on and from the settlement date, despite any enactment or rule of law, no court, tribunal, or other judicial body, is to have jurisdiction in respect of –
- 4.1.1 the historical claims; or
 - 4.1.2 this deed; or
 - 4.1.3 the settlement legislation; or
 - 4.1.4 the redress provided under this deed or the settlement legislation.
- 4.2 The settlement legislation is to provide that the jurisdiction excluded by paragraph 4.1 –
- 4.2.1 is to include the jurisdiction to inquire into, or further inquire into, or to make a finding or recommendation in respect of the matters referred to in that paragraph; and
 - 4.2.2 is not to exclude the jurisdiction of a court, tribunal, or other judicial body in respect of the interpretation or implementation of this deed or the settlement legislation.

Treaty of Waitangi Act 1975 to be amended

- 4.3 The settlement legislation is to amend schedule 3 of the Treaty of Waitangi Act 1975 by including a reference to the title of the settlement legislation.

Certain legislation to cease to apply

- 4.4 The settlement legislation is to provide that -
- 4.4.1 nothing in the legislation listed in this paragraph is to apply –
 - (a) to a redress property; or
 - (b) to a purchased non-forest commercial property, if it is not a commercial redress property but settlement of its purchase is effected under this deed; or
 - (c) to the purchased Riverhead Forest, if it is not a commercial redress property but settlement of its purchase is effected under this deed; or

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- (d) to the Paremoremo Housing Block, if it is purchased, and settlement of its purchase is effected, under this deed; or
- (e) to RFR land; or
- (f) for the benefit of Ngāti Whātua o Kaipara or a representative entity; and

4.4.2 the legislation is –

- (a) sections 8A to 8HJ of the Treaty of Waitangi Act 1975; and
- (b) sections 27A to 27C of the State-Owned Enterprises Act 1986; and
- (c) sections 211 to 213 of the Education Act 1989; and
- (d) part 3 of the Crown Forest Assets Act 1989; and
- (e) part 3 of the New Zealand Railways Corporation Restructuring Act 1990.

Settlement properties with resumptive memorials to be required to be identified

4.5 The chief executive of LINZ is to be required by the settlement legislation to issue –

4.5.1 to the Registrar-General of Land a certificate that identifies (by reference to the relevant legal description, certificate of title, or computer register) each allotment that is –

- (a) all or part of any of the following:
 - (i) a redress property:
 - (ii) a purchased non-forest commercial property, if it is not a commercial redress property but settlement of its purchase is effected under this deed:
 - (iii) the purchased Riverhead Forest, if it is not a commercial redress property but settlement of its purchase is effected under this deed:
 - (iv) the Paremoremo Housing Block, if it is purchased, and settlement of its purchase is effected, under this deed:
 - (v) RFR land; and
- (b) contained in a certificate of title or computer register that has a memorial entered under any legislation referred to in paragraph 4.4.2; and

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4: SETTLEMENT IMPLEMENTATION

- 4.5.2 each certificate under this paragraph, as soon as reasonably practicable after—
- (a) in the case of a redress property or RFR land, the settlement date; and
 - (b) in the case of a purchased non-forest commercial property, or the purchased Riverhead Forest if it is not a commercial redress property, the actual property settlement date; and
 - (c) in the case of the Paremoro Housing Block, the actual property settlement date for the property.
- 4.6 Each certificate under paragraph 4.5 is to state the section of the settlement legislation it is issued under.

Resumptive memorials to be required to be removed from settlement properties

- 4.7 The Registrar-General of Land is to be required by the settlement legislation, as soon as reasonably practicable after receiving a certificate under paragraph 4.5, to -
- 4.7.1 register the certificate against each certificate of title or computer register identified in the certificate; and
 - 4.7.2 cancel, in respect of each allotment identified in the certificate, each memorial that is entered (under an enactment referred in paragraph 4.4.2) on a certificate of title or computer register identified in the certificate.

5 VESTING OF CULTURAL REDRESS PROPERTIES

Interpretation

5.1 The settlement legislation is to provide that –

5.1.1 **cultural redress property** means -

(a) each of the following sites, being the land described by that name in schedule 2:

(i) Atuanui Scenic Reserve:

(ii) Mairetahi Landing:

(iii) Mauiniu Island:

(iv) Moturemu Island:

(v) Tīpare:

(vi) Ten Acre Block Recreation Reserve:

(vii) Makarau:

(viii) Makarau Bridge Reserve:

(ix) Parakai; and

(b) Parakai Recreation Reserve, being the land described by that name in schedule 2; and

5.1.2 **reserve site** means each of the following sites:

(a) Atuanui Scenic Reserve:

(b) Ten Acre Block Recreation Reserve:

(c) Makarau:

(d) Makarau Bridge Reserve:

(e) Parakai.

5.2 The settlement legislation is, on the terms in this part, and in parts 6 to 8, to –

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5: VESTING OF CULTURAL REDRESS PROPERTIES

- 5.2.1 vest the fee simple estate in each of the sites in paragraph 5.1.1(a) in the trustees of the Tari Pupuritaonga Trust; and
- 5.2.2 vest the fee simple estate of Parakai Recreation Reserve, in trust for the purposes for which the reserve is from time to time classified under the Reserves Act 1977, in –
 - (a) the trustees of the Development Trust; and
 - (b) the Auckland Council.

Atuanui Scenic Reserve

- 5.3 The settlement legislation is to provide that –
 - 5.3.1 the reservation of Atuanui Scenic Reserve as a scenic reserve subject to section 19 of the Reserves Act 1977 is revoked; and
 - 5.3.2 the fee simple estate in Atuanui Scenic Reserve vests in the trustees of the Tari Pupuritaonga Trust; and
 - 5.3.3 Atuanui Scenic Reserve is declared a reserve and classified as a scenic reserve for the purposes specified in section 19(1)(a) of the Reserves Act 1977; and
 - 5.3.4 the reserve created under paragraph 5.3.3 is named Atuanui Scenic Reserve; and
 - 5.3.5 despite paragraph 5.3.2, the viewing platform on Atuanui Scenic Reserve (the **viewing platform**) –
 - (a) does not vest in the trustees of the Tari Pupuritaonga Trust; and
 - (b) remains the property of the Crown.

Mairetahi Landing

- 5.4 The settlement legislation is to provide that –
 - 5.4.1 the reservation of Mairetahi Landing as a local purpose (landing) reserve subject to section 23 of the Reserves Act 1977 is revoked; and
 - 5.4.2 the fee simple estate in Mairetahi Landing vests in the trustees of the Tari Pupuritaonga Trust; and
 - 5.4.3 paragraphs 5.4.1 and 5.4.2 are subject to the trustees providing the Crown with a covenant in relation to Mairetahi Landing, that is capable of registration, in the form in subpart A of part 4 of the documents schedule; and

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5: VESTING OF CULTURAL REDRESS PROPERTIES

- 5.4.4 the covenant referred to in paragraph 5.4.3 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.

Mauiniu Island

- 5.5 The settlement legislation is to provide that –
- 5.5.1 the reservation of Mauiniu Island as a local purpose (sand retainer) reserve subject to section 23 of the Reserves Act 1977 is revoked; and
- 5.5.2 the fee simple estate in Mauiniu Island vests in the trustees of the Tari Pupuritaonga Trust; and
- 5.5.3 paragraphs 5.5.1 and 5.5.2 are subject to the trustees providing the Crown with a covenant in relation to Mauiniu Island, that is capable of registration, in the form in subpart B of part 4 of the documents schedule; and
- 5.5.4 the covenant referred to in paragraph 5.5.3 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.

Moturemu Island

- 5.6 The settlement legislation is to provide that –
- 5.6.1 the reservation of Moturemu Island (being Moturemu Island Scenic Reserve) as a scenic reserve subject to section 19 of the Reserves Act 1977 is revoked; and
- 5.6.2 the fee simple estate in Moturemu Island vests in the trustees of the Tari Pupuritaonga Trust; and
- 5.6.3 paragraphs 5.6.1 and 5.6.2 are subject to the trustees providing the Crown with a covenant in relation to Moturemu Island, that is capable of registration, in the form in subpart C of part 4 of the documents schedule; and
- 5.6.4 the covenant referred to in paragraph 5.6.3 is to be treated as a conservation covenant for the purposes of section 77 of the Reserves Act 1977.

Tipare

- 5.7 The settlement legislation is to provide that –
- 5.7.1 Tipare (being part of Ti Tree Island Conservation Area) ceases to be a conservation area under the Conservation Act 1987; and
- 5.7.2 the fee simple estate in Tipare vests in the trustees of the Tari Pupuritaonga Trust; and

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- 5.7.3 paragraphs 5.7.1 and 5.7.2 are subject to the trustees providing the Crown with a covenant in relation to Tipare, that is capable of registration, in the form in subpart D of part 4 of the documents schedule; and
- 5.7.4 the covenant referred to in paragraph 5.7.3 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.

Ten Acre Block Recreation Reserve

- 5.8 The settlement legislation is to provide that –
- 5.8.1 the reservation of the Ten Acre Block Recreation Reserve as a recreation reserve subject to section 17 of the Reserves Act 1977 is revoked; and
- 5.8.2 the fee simple estate in the Ten Acre Block Recreation Reserve vests in the trustees of the Tari Pupuritaonga Trust; and
- 5.8.3 the Ten Acre Block Recreation Reserve is declared a reserve and classified as a recreation reserve subject to section 17 of the Reserves Act 1977; and
- 5.8.4 the reserve created by paragraph 5.8.3 is named Ten Acre Block Recreation Reserve.

Makarau

- 5.9 The settlement legislation is to provide that –
- 5.9.1 Makarau ceases to be a conservation area under the Conservation Act 1987; and
- 5.9.2 the fee simple estate in Makarau vests in the trustees of the Tari Pupuritaonga Trust; and
- 5.9.3 Makarau is declared a reserve and classified as a local purpose (estuarine habitat) reserve subject to section 23 of the Reserves Act 1977; and
- 5.9.4 the reserve created by paragraph 5.9.3 is named Makarau Local Purpose (Estuarine Habitat) Reserve.

Makarau Bridge Reserve

- 5.10 The settlement legislation is to provide that –
- 5.10.1 the reservation of Makarau Bridge Reserve as a recreation reserve subject to section 17 of the Reserves Act 1977 is revoked; and
- 5.10.2 the fee simple estate in Makarau Bridge Reserve vests in the trustees of the Tari Pupuritaonga Trust; and

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5: VESTING OF CULTURAL REDRESS PROPERTIES

- 5.10.3 Makarau Bridge Reserve is declared a reserve and classified as a local purpose (estuarine habitat) reserve subject to section 23 of the Reserves Act 1977; and
- 5.10.4 the reserve created by paragraph 5.10.3 is named Makarau Bridge Local Purpose (Estuarine Habitat) Reserve; and
- 5.10.5 paragraphs 5.10.1 to 5.10.4 are subject to the trustees of the Tari Pupuritaonga Trust providing the Auckland Council with a right of way easement in gross in relation to Makarau Bridge Reserve, that is capable of registration, in the form set out in part 7 of the documents schedule.

Parakai

- 5.11 The settlement legislation is to provide that –
 - 5.11.1 Parakai (being part of the Parakai Conservation Area) ceases to be a conservation area under the Conservation Act 1987; and
 - 5.11.2 the fee simple estate in Parakai vests in the trustees of the Tari Pupuritaonga Trust; and
 - 5.11.3 Parakai is declared a reserve and classified as a local purpose (estuarine habitat) reserve subject to section 23 of the Reserves Act 1977; and
 - 5.11.4 the reserve created by paragraph 5.11.3 is named Parakai Local Purpose (Estuarine Habitat) Reserve.

Parakai Recreation Reserve

- 5.12 The settlement legislation is to provide for the vesting of Parakai Recreation Reserve on the terms provided by part 8.

Application of certain legislation to be dealt with

- 5.13 The settlement legislation is to provide –
 - 5.13.1 sections 24 and 25 of the Reserves Act 1977 are not to apply to the revocation under the settlement legislation of the reserve status of a cultural redress property; and
 - 5.13.2 section 11 and Part 10 of the Resource Management Act 1991 are not to apply to –
 - (a) the vesting of the fee simple estate in a cultural redress property under the settlement legislation; or
 - (b) any matter incidental to, or required for the purpose of, the vesting; and

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5: VESTING OF CULTURAL REDRESS PROPERTIES

- 5.13.3 the vesting of the fee simple estate in a cultural redress property under the settlement legislation is not to –
- (a) limit section 10 or 11 of the Crown Minerals Act 1991; or
 - (b) affect other rights to subsurface minerals; and
- 5.13.4 the permission of a council under section 348 of the Local Government Act 1974 is not to be required for laying out, forming, granting, or reserving a private road, private way, or right of way required to fulfil the terms of this deed in relation to a cultural redress property.
- 5.14 To avoid doubt, the references in paragraphs 15.13.2(a) and 15.13.3 to the vesting of the fee simple estate in a cultural redress property include the vesting of an undivided half share of the fee simple estate in Parakai Recreation Reserve in each of –
- 5.14.1 the trustees of the Development Trust; and
 - 5.14.2 the Auckland Council.

Authority to alter the Gazetteer in respect of certain cultural redress properties

- 5.15 The settlement legislation is to provide that -
- 5.15.1 in this paragraph –
 - (a) **Act** means the New Zealand Geographic Board (Ngā Pou Taunaha o Aotearoa) Act 2008; and
 - (b) **Board** means the New Zealand Geographic Board Ngā Pou Taunaha o Aotearoa continued by section 7 of the Act; and
 - (c) **Gazetteer** has the meaning given to it by section 4 of the Act; and
 - 5.15.2 if a cultural redress property immediately before its vesting –
 - (a) comprises the whole of a reserve or conservation area, and an official geographic name was assigned under the Act to the property –
 - (i) the official geographic name is discontinued; and
 - (ii) the Board must ensure that, as soon as reasonably practicable, the official geographic name is removed from the Gazetteer; or
 - (b) comprises only part of a reserve or conservation area to which an official geographic name was assigned under the Act –
 - (i) paragraph 5.15.2(a)(i) applies only to the part of the property that is vested; and

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5: VESTING OF CULTURAL REDRESS PROPERTIES

- (ii) the Board must, as soon as reasonably practicable, amend the Gazetteer so that the official geographic name applies only to the part of the reserve or conservation area that is not vested; and

5.15.3 if a cultural redress property is reserved and classified as a reserve under the settlement legislation, that reserve does not become a Crown protected area.

6 TERMS OF VESTING OF CULTURAL REDRESS PROPERTIES OTHER THAN PARAKAI RECREATION RESERVE

General

- 6.1 The settlement legislation is to provide for the vesting of the cultural redress properties, other than Parakai Recreation Reserve, on the terms provided by this part.

Vesting to be subject to listed encumbrances

- 6.2 Each cultural redress property, other than Parakai Recreation Reserve, is to vest subject to, or together with, any encumbrances for the property listed in schedule 2.

Ownership of trustees to be registered on computer freehold register

- 6.3 Paragraphs 6.4 to 6.6 are to apply to the fee simple estate in a cultural redress property, other than Parakai Recreation Reserve, vested under the settlement legislation.

- 6.4 The Registrar-General of Land, on written application by an authorised person, is to be required to comply with paragraphs 6.5 and 6.6.

- 6.5 To the extent that a cultural redress property (other than Moturemu Island, Mauiniu Island, and Parakai Recreation Reserve) is all of the land contained in a computer freehold register, the Registrar-General is to –

6.5.1 register the trustees of the Tari Pupuritaonga Trust as the proprietor of the fee simple estate in the land; and

6.5.2 make any entries in the register, and do all other things, that are necessary to give effect to the settlement legislation and this deed.

- 6.6 To the extent that a cultural redress property (other than Parakai Recreation Reserve) is not all of the land contained in a computer freehold register, or is Moturemu Island or Mauiniu Island, or there is no computer freehold register for all or part of the property, the Registrar-General is to –

6.6.1 create one or more computer freehold registers for the fee simple estate in the property in the names of the trustees of the Tari Pupuritaonga Trust; and

6.6.2 enter on the register any encumbrances that are –

(a) registered, notified, or notifiable; and

(b) described in the application from the authorised person.

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6: TERMS OF VESTING

Timing of creation of computer freehold register to be specified

- 6.7 The settlement legislation is to provide –
- 6.7.1 paragraph 6.6 is to apply subject to the completion of any survey necessary to create the computer freehold register; and
 - 6.7.2 the computer freehold register must be created as soon as reasonably practicable after the settlement date, but no later than –
 - (a) 24 months after the settlement date; or
 - (b) any later date that may be agreed in writing by the trustees of the Tari Pupuritaonga Trust and the Crown.

Application of Part 4A of the Conservation Act 1987 (including creation of marginal strips) to be dealt with

- 6.8 The settlement legislation is to provide that –
- 6.8.1 the vesting of a cultural redress property in the trustees of the Tari Pupuritaonga Trust is to be a disposition for the purposes of Part 4A of the Conservation Act 1987; but
 - 6.8.2 sections 24(2A), 24A, and 24AA of that Act do not apply to the disposition; and
 - 6.8.3 despite paragraphs 6.8.1 and 6.8.2, -
 - (a) the rest of section 24 of the Conservation Act 1987 does not apply to the vesting of a reserve site under the settlement legislation; and
 - (b) a marginal strip reserved by section 24 of the Conservation Act 1987 from the vesting of the following sites is reduced to a width of three metres:
 - (i) Mauiniu Island;
 - (ii) Moturemu Island;
 - (iii) Tīpare; and
 - 6.8.4 if the reservation under the settlement legislation of a reserve site is revoked in relation to all or part of the site, then its vesting is to be no longer exempt from the rest of section 24 of the Conservation Act 1987 in relation to all or part of that site.

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6: TERMS OF VESTING

Application of Part 4A of Conservation Act and settlement legislation to be notified on computer freehold register

- 6.9 The Registrar-General of Land is to be required to notify on the computer freehold register for –
- 6.9.1 a reserve site that –
- (a) the land is subject to Part 4A of the Conservation Act 1987; but
 - (b) section 24 of that Act does not apply; and
 - (c) the land is subject to paragraphs 6.8.4 and 7.3; and
- 6.9.2 the following sites that the land is subject to Part 4A of the Conservation Act 1987, but the marginal strip is reduced to a width of three metres:
- (a) Mauiniu Island:
 - (b) Moturemu Island:
 - (c) Tipare; and
- 6.9.3 any other cultural redress property, other than Parakai Recreation Reserve, that the land is subject to Part 4A of the Conservation Act 1987.
- 6.10 The settlement legislation is to provide that a notification made under paragraph 6.9 that land is subject to Part 4A of the Conservation Act 1987 is to be treated as having been made in compliance with section 24D(1) of that Act.

Removal of notifications from computer freehold register to be provided for

- 6.11 The settlement legislation is to provide that –
- 6.11.1 if the reservation of a reserve site is revoked, in relation to –
- (a) all of the site, the Director-General of Conservation is to apply in writing to the Registrar-General of Land to remove from the computer freehold register for the site the notifications that –
 - (i) section 24 of the Conservation Act 1987 does not apply to the site; and
 - (ii) the site is subject to paragraphs 6.8.4 and 7.3; or
 - (b) part of the site, the Registrar-General of Land is to ensure that the notifications referred to in paragraph (a) remain on the computer freehold register only for the part of the site that remains a reserve; and

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6: TERMS OF VESTING

6.11.2 the Registrar-General of Land is to comply with an application received in accordance with paragraph 6.11.1(a).

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7 RESERVE SITES

General

- 7.1 The settlement legislation is to include provisions in relation to the vesting of reserve sites on the terms provided in this part.

Application of Reserves Act 1977 to be dealt with

- 7.2 The settlement legislation is to provide that –
- 7.2.1 the trustees of the Tari Pupuritaonga Trust are to be the administering body of a reserve site for the purposes of the Reserves Act 1977; and
 - 7.2.2 despite sections 48A(6), 114(5), and 115(6) of the Reserves Act 1977, sections 48A, 114, and 115 of that Act apply to a reserve site; and
 - 7.2.3 sections 78(1)(a), 79 to 81, and 88 of the Reserves Act 1977 do not apply to a reserve site; and
 - 7.2.4 if the reservation under the settlement legislation of a reserve site is revoked under section 24 of the Reserves Act 1977 in relation to all or part of the site, -
 - (a) section 25(2) of that Act applies to the revocation; but
 - (b) the other provisions of section 25 do not apply.

Subsequent transfer of reserve sites to be provided for

- 7.3 The settlement legislation is to provide that –
- Subsequent transfer of reserve sites to be in accordance with this paragraph***
- 7.3.1 this paragraph is to apply to all, or any part, of a reserve site that remains a reserve at any time after the vesting in the trustees of the Tari Pupuritaonga Trust under the settlement legislation (the **reserve land**); and
 - 7.3.2 the fee simple estate in the reserve land may be transferred to another person only in accordance with this paragraph; and
 - 7.3.3 paragraph 7.3.2 is to apply despite any other enactment or rule of law; and
 - 7.3.4 the Minister of Conservation is to give written consent to the transfer of the fee simple estate in reserve land to another person (the **new owner**) if, upon written application, the registered proprietor of the reserve land satisfies the Minister that the new owner is able to –

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7: RESERVE SITES

- (a) comply with the Reserves Act 1977; and
- (b) perform the obligations of an administering body under that Act; and

Registration of transfer to be provided for

7.3.5 the Registrar-General of Land, upon receiving the following documents, is to register the new owner as the proprietor of the estate in fee simple in the reserve land:

- (a) the transfer instrument to transfer the fee simple estate in the reserve land to the new owner, including a notification that the new owner is to hold the reserve land for the same reserve purpose as it was held by the administering body immediately before the transfer:
- (b) the Minister of Conservation's written consent to the transfer:
- (c) any other document required for the registration of the transfer instrument; and

New owners are to be the administering body

7.3.6 the new owner, from the time of its registration under paragraph 7.3.5, -

- (a) is to be the administering body of the reserve land for the purposes of the Reserves Act 1977; and
- (b) holds the reserve land for the same reserve purpose as it was held by the administering body immediately before the transfer; and

Provisions not to apply if transfer is to new trustees of a trust

7.3.7 paragraphs 7.3.4 to 7.3.6 are not to apply to the transfer of the fee simple estate in reserve land if –

- (a) the transferors are or were the trustees of a trust; and
- (b) the transferees are the trustees of the same trust after –
 - (i) a new trustee has been appointed; or
 - (ii) a transferor has ceased to be a trustee; or
- (c) the transferee is a custodian trustee incorporated by the trustees of the Tari Pupuritaonga Trust under clause 20.1 of Ngā Maunga Whakahii o Kaipara Tari Pupuritaonga trust deed; and
- (d) the transfer instrument is accompanied by a certificate given by the transferees, or their solicitor, verifying that –

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7: RESERVE SITES

- (i) paragraphs (a) and (b) apply; or
- (ii) paragraphs (a) and (c) apply.

Reserve site is not to be mortgaged or charged

- 7.4 The registered proprietors from time to time of a reserve site that is vested under the settlement legislation are not to mortgage, or give a security interest in, all or any part of the site that remains a reserve.

Bylaws etc in relation to reserve sites to be saved

- 7.5 A bylaw, prohibition, or restriction on use or access in relation to a reserve site made or granted under the Reserves Act 1977, or the Conservation Act 1987, by an administering body or the Minister of Conservation is to remain in force until it expires or is revoked under the applicable legislation.

8 PARAKAI RECREATION RESERVE

General

- 8.1 The settlement legislation is to provide for the vesting of the Parakai Recreation Reserve on the terms provided by this part.

Vesting in the Auckland Council cancelled

- 8.2 The vesting of the Parakai Recreation Reserve in the Auckland Council under section 26 of the Reserves Act 1977 is to be cancelled.

Duration of Parakai Recreation Reserve provisions

- 8.3 Paragraphs 8.4 to 8.10 apply in relation to the Parakai Recreation Reserve unless and until paragraph 8.16 applies.

Vesting in trustees of Development Trust and Auckland Council

- 8.4 The fee simple estate in the Parakai Recreation Reserve is to be vested in trust (for the purposes provided in paragraph 8.6.1(a)) -

8.4.1 in the trustees of the Development Trust and the Auckland Council, as tenants in common as to an undivided half share each; and

8.4.2 subject to, or together with, any encumbrances in relation to the reserve listed in schedule 2.

Reserves Act 1977 applies

- 8.5 The Parakai Recreation Reserve is to remain –

8.5.1 a recreation reserve on the settlement date, although its classification may be changed subsequently in accordance with the Reserves Act 1977; and

8.5.2 subject to the provisions of the Reserves Act 1977, but it must not be -

(a) exchanged for other land under section 15 of that Act; or

(b) united with another reserve, or part of another reserve, under section 52 of that Act.

- 8.6 Subject to the provisions of any other enactment, the trustees of the Development Trust and the Auckland Council are -

8.6.1 to hold the fee simple estate in the Parakai Recreation Reserve –

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8: PARAKAI RECREATION RESERVE

- (a) in trust for the purposes for which the Parakai Recreation Reserve is from time to time classified under the Reserves Act 1977; and
- (b) subject to the provisions of the settlement legislation; and

8.6.2 not to transfer, mortgage, or grant a security interest in relation to the Parakai Recreation Reserve.

Board to be administering body

8.7 A board (the Parakai Recreation Reserve Board) is to -

8.7.1 be appointed under schedule 4 by the settlement date; and

8.7.2 be subject to the provisions of that schedule; and

8.7.3 despite the vesting of the fee simple of the Parakai Recreation Reserve in the trustees of the Development Trust and the Auckland Council, have -

- (a) the same functions, obligations, and powers in relation to the reserve, as if it had been vested in the board under section 26 of the Reserves Act 1977 on the settlement date; and
- (b) in particular, from the settlement date, the lessor's interest in any lease of all or part of Parakai Recreation Reserve.

8.8 In particular, section 41 of the Reserves Act 1977 applies in relation to the preparation of a management plan for the Parakai Recreation Reserve by the Parakai Recreation Reserve Board, except that the board is to be treated as a local authority for the purposes of that section.

Minister of Conservation's powers, functions, and obligations

8.9 The Minister of Conservation -

8.9.1 is to have the same powers, functions, and obligations in relation to the Parakai Recreation Reserve, and the Parakai Recreation Reserve Board, as if the reserve were vested in the board under section 26 of the Reserves Act 1977; and

8.9.2 in particular, may under section 27 of the Reserves Act 1977 cancel the vesting of the Parakai Recreation Reserve in the Parakai Recreation Reserve Board, as if the reserve were vested in the board under section 26 of the Reserves Act 1977.

Transfer to new trustees permitted

8.10 Despite paragraph 8.6.2, the undivided one half share of the trustees of the Development Trust in the fee simple estate in the Parakai Recreation Reserve may be transferred -

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- 8.10.1 to transferees who are trustees of the Development Trust after –
- (a) a new trustee has been appointed; or
 - (b) a transferor has ceased to be a trustee; or
- 8.10.2 to a custodian trustee (a **Development Trust custodian trustee**) incorporated by the trustees of the Development Trust under clause 22.1 of Ngā Maunga Whakahii o Kaipara Development trust deed; and
- 8.10.3 if the transfer instrument is accompanied by a certificate given by the transferee, or their solicitor, verifying that the transferees are –
- (a) the trustees of the Development Trust; or
 - (b) a Development Trust custodian trustee.

Marginal strips not reserved

- 8.11 Section 24 of the Conservation Act 1987 does not apply to the vesting of Parakai Recreation Reserve under the settlement legislation.

Third party rights unaffected

- 8.12 The vesting of the Parakai Recreation Reserve in the trustees of the Development Trust and the Auckland Council, and the deemed vesting of the reserve in the Parakai Recreation Reserve Board under paragraph 8.7.3, is not to affect any rights and obligations in respect of the reserve of any person other than –

8.12.1 the Crown; and

8.12.2 the trustees of the Development Trust; and

8.12.3 the Auckland Council.

- 8.13 The rights and obligations under paragraph 8.12 include rights or obligations in relation to the ownership, management, or control of fixtures, structures, or improvements attached to, on, or under the Parakai Recreation Reserve.

Bylaws to be saved

- 8.14 A bylaw, prohibition, or restriction on use or access in relation to the Parakai Recreation Reserve made or granted under the Reserves Act 1977 is to remain in force until it expires or is revoked under that Act.

Effect of revocation of reservation or cancellation of deemed vesting

- 8.15 The settlement legislation is to provide that –

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- 8.15.1 paragraph 8.16 applies if -
- (a) the reservation of the Parakai Recreation Reserve, or part of it, is revoked under section 24 of the Reserves Act 1977; or
 - (b) the Minister of Conservation cancels under section 27 of the Reserves Act 1977 the deemed vesting of the Parakai Recreation Reserve in the Parakai Recreation Reserve Board; and

- 8.15.2 if paragraph 8.16 applies, it applies to the following land (the **affected land**):
- (a) if the reservation of part of Parakai Recreation Reserve is revoked, that part of Parakai Recreation Reserve; or
 - (b) in any other event, the whole of Parakai Recreation Reserve.

8.16 If this paragraph applies -

- 8.16.1 paragraphs 8.4 to 8.10 cease to apply to the affected land; and
- 8.16.2 the fee simple estate in the affected land ceases to be vested in the trustees of the Development Trust, or the Development Trust custodian trustee, and the Auckland Council under paragraph 8.6; and
- 8.16.3 the deemed vesting of the affected land in the Parakai Recreation Reserve Board under paragraph 8.7.3 ceases; and
- 8.16.4 because the reservation of the affected land is revoked under section 24 of the Reserves Act 1977, -
- (a) section 25 of that Act applies; and
 - (b) the affected land becomes Crown land available for disposal under the Land Act 1948; or
- 8.16.5 because the Minister of Conservation cancels under section 27 of the Reserves Act 1977 the deemed vesting of the affected land, the land re-vests in the Crown under section 27(1) or (4) of the Reserves Act 1977.

Ownership of trustees to be registered on computer freehold register

- 8.17 On written application by a person authorised by the Director-General, the Registrar-General of Land is, in relation to the Parakai Recreation Reserve, to -
- 8.17.1 create one computer freehold register for undivided half shares of the fee simple estate in the reserve in the name of -
- (a) the trustees of the Development Trust; and

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(b) the Auckland Council; and

8.17.2 enter on the register any encumbrances that are –

(a) registered, notified, or notifiable; and

(b) described in the application form from the authorised person; and

8.17.3 include a notification on the entry that the reserve is subject to this part.

Application for removal of notifications

8.18 If the reservation of Parakai Recreation Reserve is revoked in relation to all of the reserve, or if the Minister of Conservation cancels under section 27 of the Reserves Act 1977 the deemed vesting of the reserve in the Parakai Recreation Reserve Board, the Director-General of Conservation is to apply in writing to the Registrar-General of Land to –

8.18.1 remove from the computer freehold register for the reserve the notification that the reserve is subject to this part; and

8.18.2 take any other action in relation to the computer freehold register required by the Director-General and authorised by the Reserves Act 1977 or the Land Act 1948.

8.19 If the reservation of Parakai Recreation Reserve is revoked in relation to part of the reserve, the Director-General of Conservation is to apply in writing to the Registrar-General of Land to -

8.19.1 ensure that the notification that the reserve is subject to this part remains on the computer freehold register only for part of the reserve that is to remain a reserve; and

8.19.2 take any other action in relation to the computer freehold register required by the Director-General and authorised by the Reserves Act 1977 or the Land Act 1948.

Registrar-General of Land must comply with applications

8.20 The Registrar-General of Land must comply with any application made by the Director-General of Conservation in accordance with paragraphs 8.18 or 8.19.

9 TE KAWENATA TAI AO O NGĀTI WHĀTUA O KAIPARA

Noting

9.1 A summary of the terms of Te Kawenata Taiao o Ngāti Whātua o Kaipara must be noted in the conservation documents affecting Te Kawenata Taiao Area (as defined in Te Kawenata Taiao o Ngāti Whātua o Kaipara) but the noting is -

9.1.1 for the purpose of public notice; and

9.1.2 does not amend the conservation documents for the purposes of the Conservation Act 1987 or the National Parks Act 1980.

Limits

9.2 Te Kawenata Taiao o Ngāti Whātua o Kaipara is not to –

9.2.1 restrict the Crown from exercising its powers and performing its functions and duties in good faith, and in accordance with law and government policy, including –

(a) introducing legislation; or

(b) changing government policy; or

(c) issuing a similar relationship document to Te Kawenata Taiao o Ngāti Whātua o Kaipara to, or interacting or consulting with, anyone the Crown considers appropriate including any iwi, hapū, marae, whānau, or representatives of tangata whenua; or

9.2.2 restrict the responsibilities of the Minister or the Department of Conservation or the legal rights of Ngāti Whātua o Kaipara; or

9.2.3 grant, create, or provide evidence of an estate or interest in, or rights relating to –

(a) land held, managed, or administered under the conservation legislation; or

(b) flora or fauna managed or administered under the conservation legislation.

10 STATUTORY ACKNOWLEDGEMENT

General

- 10.1 The settlement legislation is to provide for a statutory acknowledgement on the terms provided in this part.

Crown to acknowledge statements of association

- 10.2 The Crown is to acknowledge in the settlement legislation the statements of association in the form set out in part 2 of the documents schedule to this deed.

Purposes of statutory acknowledgement to be specified

- 10.3 The settlement legislation is to provide that the only purposes of the statutory acknowledgment are to –
- 10.3.1 require relevant consent authorities, the Environment Court, and the New Zealand Historic Places Trust to have regard to the statutory acknowledgement, as provided for in paragraphs 10.4 to 10.9; and
 - 10.3.2 require a relevant consent authority to forward to the trustees of the Development Trust summaries of resource consent applications received by, and copies of notices of resource consent applications served on, the authority, as provided for in paragraphs 10.14 to 10.16; and
 - 10.3.3 enable the trustees of the Development Trust, and any member of Ngāti Whātua o Kaipara, to cite the statutory acknowledgement as evidence of the association of Ngāti Whātua o Kaipara with the relevant statutory areas, as provided for in paragraph 10.17.

Relevant consent authorities to be required to have regard to statutory acknowledgement

- 10.4 A relevant consent authority is to be required to have regard to the statutory acknowledgement relating to a statutory area in deciding, under section 95E of the Resource Management Act 1991, if the trustees of the Development Trust are persons who may be affected by the granting of a resource consent.
- 10.5 Paragraph 10.4 is –
- 10.5.1 to apply to a relevant consent authority that has received an application for a resource consent for an activity within, adjacent to, or directly affecting, a statutory area; and
 - 10.5.2 to apply on and from the effective date; and
 - 10.5.3 not to limit the obligations of a relevant consent authority under the Resource Management Act 1991.

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Environment Court to be required to have regard to statutory acknowledgement

10.6 The Environment Court is to be required to have regard to the statutory acknowledgement relating to a statutory area in deciding, under section 274 of the Resource Management Act 1991, whether the trustees of the Development Trust are persons with an interest in proceedings greater than the general public in respect of an application for a resource consent for activities within, adjacent to, or directly affecting the statutory area.

10.7 Paragraph 10.6 is to –

10.7.1 apply on and from the effective date; and

10.7.2 not limit the obligations of the Environment Court under the Resource Management Act 1991.

New Zealand Historic Places Trust and Environment Court to be required to have regard to statutory acknowledgement

10.8 The settlement legislation is to provide that –

10.8.1 this paragraph applies if an application is made under section 11 or 12 of the Historic Places Act 1993 for an authority to destroy, damage, or modify an archaeological site within a statutory area; and

10.8.2 the New Zealand Historic Places Trust is to have regard to the statutory acknowledgement relating to a statutory area in exercising its powers under section 14 of the Historic Places Act 1993 in relation to the application; and

10.8.3 the Environment Court is to have regard to the statutory acknowledgement relating to a statutory area in determining, under section 20 of the Historic Places Act 1993, an appeal from a decision of the New Zealand Historic Places Trust in relation to the application, including determining whether the trustees of the Development Trust are directly affected by the decision; and

10.8.4 **archaeological site** has the meaning given to it in section 2 of the Historic Places Act 1993.

10.9 Paragraph 10.8 is to apply on and from the effective date.

Statutory acknowledgement to be required to be recorded on statutory plans

10.10 Each relevant consent authority is to be required to attach information recording the statutory acknowledgement to all statutory plans that wholly or partly cover a statutory area.

10.11 Paragraph 10.10 is to apply on and from the effective date.

10.12 The information to be required to be attached must include –

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10.12.1 the relevant provisions of the settlement legislation in full; and

10.12.2 the descriptions of the statutory areas; and

10.12.3 the statements of association.

Effect of the recording to be provided for

10.13 Unless the information attached to a statutory plan under paragraphs 10.10 and 10.12 is adopted by the relevant consent authority as part of the statutory plan, the information is –

10.13.1 to be for the purposes of public information only; and

10.13.2 not to be-

(a) part of the plan; or

(b) subject to the provisions of Schedule 1 of the Resource Management Act 1991.

Consent authorities to be required to forward summaries and notices of resource consent applications

10.14 The settlement legislation is to provide –

10.14.1 each relevant consent authority is to be required to forward to the trustees of the Development Trust –

(a) a summary of resource consent applications received by that authority for activities within, adjacent to, or directly affecting a statutory area; and

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

10.14.2 paragraph 10.14.1 is to apply for a period of 20 years from the effective date; and

10.14.3 the information to be forwarded in a summary is to be –

(a) the same as would be given to an affected person under section 95B of the Resource Management Act 1991; or

(b) as agreed between the trustees of the Development Trust and the relevant consent authority; and

10.14.4 the summary must be forwarded to the trustees of the Development Trust –

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- (a) as soon as reasonably practicable after an application is received; and
- (b) before the consent authority decides under section 95(a) of the Resource Management Act 1991 whether to notify the application; and

10.14.5 a copy of the notice to be forwarded under paragraph 10.14.1(b) must be forwarded to the trustees of the Development Trust no later than 10 business days after the day on which the relevant consent authority receives the notice.

Trustees to be given ability to waive rights

10.15 The trustees of the Development Trust are to be given the power, by notice in writing to a relevant consent authority, to -

10.15.1 waive their rights under paragraph 10.14; and

10.15.2 state the scope of the waiver and the period it applies for.

Forwarding of summaries and notices not to limit other obligations

10.16 Paragraphs 10.14 and 10.15 are not to limit the obligations of a relevant consent authority to -

10.16.1 decide, under section 95 of the Resource Management Act 1991, whether to notify an application for a resource consent; or

10.16.2 decide, under section 95E of that Act, whether the trustees of the Development Trust are affected persons in relation to an application for a resource consent.

Use of statutory acknowledgement by Ngāti Whātua o Kaipara to be provided for

10.17 The trustees of the Development Trust, and any member of Ngāti Whātua o Kaipara, may, as evidence of the association of Ngāti Whātua o Kaipara with a statutory area, cite the statutory acknowledgement in submissions to, and in proceedings before, a relevant consent authority, the Environmental Protection Authority or a board of inquiry under Part 6AA of the Resource Management Act 1991, the Environment Court, or the New Zealand Historic Places Trust concerning activities within, adjacent to, or directly affecting the statutory area.

Limitations in relation to statutory acknowledgement to be provided for

10.18 The content of a statement of association is not to be, by virtue of the statutory acknowledgement, binding as fact on any of the following:

10.18.1 relevant consent authorities:

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- 10.18.2 the Environment Protection Authority or a board of inquiry under Part 6AA of the Resource Management Act 1991:
- 10.18.3 the Environment Court:
- 10.18.4 the New Zealand Historic Places Trust:
- 10.18.5 parties to proceedings before those bodies:
- 10.18.6 any other person who is entitled to participate in those proceedings.
- 10.19 Despite paragraph 10.18, the bodies and persons specified in that paragraph are to be permitted to take the statutory acknowledgement into account.
- 10.20 The settlement legislation is to provide, to avoid doubt, -
- 10.20.1 neither the trustees of the Development Trust, nor members of Ngāti Whātua o Kaipara, are precluded from stating that Ngāti Whātua o Kaipara has an association with a statutory area that is not described in the statutory acknowledgement; and
- 10.20.2 the content and existence of the statutory acknowledgement do not limit any statement made.

Limitations in relation to statutory acknowledgement to be provided for

- 10.21 The settlement legislation is to provide that, except as expressly required by the settlement legislation, -
- 10.21.1 no person, in considering a matter or making a decision or recommendation under legislation or a bylaw, may give greater or lesser weight to the association of Ngāti Whātua o Kaipara with a statutory area (as described in a statement of association) than the person would give if there were no statutory acknowledgement; and
- 10.21.2 the statutory acknowledgement is not to -
- (a) affect, or be taken into account by, a person exercising a power or performing a function or duty under legislation or a bylaw; or
 - (b) affect the lawful rights and interests of a person who is not a party to this deed; or
 - (c) have the effect of granting, creating, or providing evidence of an estate or interest in, or rights relating to, a statutory area.

Resource Management Act 1991 to be amended

- 10.22 The settlement legislation is to amend Schedule 11 of the Resource Management Act by inserting the name of the settlement legislation in alphabetical order.

11 CULTURE AND HERITAGE PROTOCOL

General

- 11.1 The settlement legislation is to provide for the culture and heritage protocol on the terms provided by this part.

Issue, amendment, and cancellation of protocol to be authorised

- 11.2 The responsible Minister is to be authorised to –
- 11.2.1 issue the culture and heritage protocol to the trustees of the Development Trust in the form set out in part 3 of the documents schedule; and
 - 11.2.2 amend or cancel that protocol.
- 11.3 The settlement legislation is to provide -
- 11.3.1 the culture and heritage protocol may be amended or cancelled at the initiative of either –
 - (a) the trustees of the Development Trust; or
 - (b) the responsible Minister; and
 - 11.3.2 the responsible Minister may amend or cancel the culture and heritage protocol only after consulting with, and having particular regard to the views of, the trustees of the Development Trust.

Protocol's effect on rights and obligations to be provided for

- 11.4 The culture and heritage protocol is not to restrict -
- 11.4.1 the Crown's ability to exercise its powers, and perform its functions and duties, in accordance with the law and government policy; and
 - 11.4.2 in particular, the Crown's ability to –
 - (a) introduce legislation and change government policy; and
 - (b) interact or consult with a person the Crown considers appropriate, including any iwi, hapū, marae, whānau, or other representative of tangata whenua; or
 - 11.4.3 the responsibilities of a responsible Minister or the responsible Ministry; or
 - 11.4.4 the legal rights of Ngāti Whātua o Kaipara or a representative entity.

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Enforcement of protocol to be provided for

- 11.5 The Crown is to be required to comply with the culture and heritage protocol while it is in force.
- 11.6 If the Crown fails, without good cause, to comply with the culture and heritage protocol, the trustees of the Development Trust are to have the power to enforce the protocol.
- 11.7 The right of the trustees of the Development Trust to enforce the culture and heritage protocol is to be subject to the Crown Proceedings Act 1950.
- 11.8 Damages, or monetary compensation, are not to be available as a remedy for the Crown's failure to comply with the culture and heritage protocol.
- 11.9 Paragraph 11.8 is not to affect a court's ability to award the costs of the trustees of the Development Trust of enforcing the culture and heritage protocol.
- 11.10 Paragraphs 11.5 to 11.9 are not to apply to guidelines for implementing the culture and heritage protocol.

Limitations on protocol to be provided for

- 11.11 The culture and heritage protocol is not to have the effect of granting, creating, or providing evidence of, an estate or interest in, or rights relating to taonga tūturu.

12 GEOGRAPHIC NAMES

Assignment and alteration of geographic names to be authorised

- 12.1 The settlement legislation is to provide that –
- 12.1.1 each geographic name specified (at the settlement date) in the first column of clause 5.15.1 of this deed is assigned to the location described in the third column of that clause; and
 - 12.1.2 each existing geographic name specified (at the settlement date) in the first column of clause 5.15.2 of this deed is to be altered to the geographic name specified in the second column of that clause; and
 - 12.1.3 each assignment of, and alteration to, a geographic name is to be treated as having been made by the New Zealand Geographic Board Ngā Pou Taunaha o Aotearoa in accordance with the New Zealand Geographic Board (Ngā Pou Taunaha o Aotearoa) Act 2008.

Publication of assignment and alteration of geographic names to be required

- 12.2 The New Zealand Geographic Board Ngā Pou Taunaha o Aotearoa is to be required, as soon as is reasonably practicable after the settlement date, to comply with sections 21(2) and (3) of the New Zealand Geographic Board (Ngā Pou Taunaha o Aotearoa) Act 2008 (which relate to the publication of determinations of the Board) as if the assignment or alteration under paragraphs 12.1.1 and 12.1.2 were a determination of the Board that section 21 of the Act applies to.

Effect of publication to be specified

- 12.3 The settlement legislation is to provide that a copy of the *Gazette* notice published under paragraph 12.2 is conclusive evidence that, on the date of that notice, -
- 12.3.1 assigned geographic names were assigned in accordance with paragraph 12.1.1; and
 - 12.3.2 existing geographic names were altered in accordance with paragraph 12.1.2.

Alteration of assigned and altered geographic names

- 12.4 The settlement legislation is to provide that –
- 12.4.1 despite the provisions of the New Zealand Geographic Board (Ngā Pou Taunaha o Aotearoa) Act 2008, the New Zealand Geographic Board Ngā Pou Taunaha o Aotearoa may, with the consent of the trustees of the Development Trust, alter –
 - (a) any assigned geographic name or any altered geographic name; or

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(b) any of its related information; and

12.4.2 paragraphs 12.2 and 12.3 apply, with any necessary modification, to an alteration made under this paragraph.

When new geographic names take effect

12.5 The settlement legislation is to provide that geographic names assigned or altered under paragraphs 12.1 or 12.4.1 take effect on the date of the *Gazette* notice published under paragraph 12.2.

13 TRANSFER PROPERTIES

Crown's transfer of properties to be authorised

- 13.1 The Crown (acting by and through the chief executive of the landholding agency) is to be authorised to do one or both of the following:
- 13.1.1 transfer the fee simple estate in a transfer property, including -
- (a) to the trustees of the Development Trust, as a tenant in common with another person; and
 - (b) in the case of the Paremoremo Housing Block, to a Paremoremo nominee:
- 13.1.2 sign a transfer instrument or other document, or do anything else, to effect the transfer.
- 13.2 The authority under paragraph 13.1 is to be given to give effect to this deed.

Minister of Conservation to be authorised to grant easements

- 13.3 The Minister of Conservation is to be authorised to grant any right of way easement over a conservation area or reserve required by the settlement documentation to be granted by the Minister.
- 13.4 An easement granted under paragraph 13.3 is to be –
- 13.4.1 enforceable in accordance with its terms, despite Part 3B of the Conservation Act 1987; and
- 13.4.2 treated as having been granted in accordance with Part 3B of that Act; and
- 13.4.3 registrable under section 17ZA(2) of that Act, as if it were a deed to which that provision applied.

Registrar-General of Land to be required to create a computer freehold register

- 13.5 Paragraphs 13.6 to 13.8 are to apply to -
- 13.5.1 a transfer property to be transferred to the trustees of the Development Trust, including as a tenant in common with another person, to the extent that –
- (a) it is not all of the land contained in a computer freehold register; or
 - (b) there is no computer freehold register for all or part of the property; or

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13.5.2 any licensed land that is subject to a single Crown forestry licence.

13.6 The Registrar-General of Land is to be required, in accordance with a written application by an authorised person, and after completion of any necessary survey, to create a computer freehold register in the name of the Crown, or in the case of the Paremoremo Housing Block, if required by the application, create two computer freehold registers for an undivided specified share each, –

13.6.1 subject to, and together with, any encumbrances that –

- (a) are registered, notified, or notifiable; and
- (b) are described in the written application; and

13.6.2 without any statement of purpose.

Covenant for later creation of freehold register to be permitted

13.7 An authorised person is to be permitted to grant a covenant to arrange for the later creation of a computer freehold register for a transfer property to be transferred under the deed of settlement.

13.8 The settlement legislation is to provide that, despite the Land Transfer Act 1952, -

13.8.1 the authorised person may request the Registrar-General of Land to register a covenant granted in accordance with paragraph 13.7 under the Land Transfer Act 1952 by creating a computer interest register; and

13.8.2 the Registrar-General must register the covenant.

Application of other legislation

13.9 The settlement legislation is to provide –

13.9.1 sections 11 and part 10 of the Resource Management Act 1991 do not apply to –

- (a) the transfer of a transfer property to the trustees of the Development Trust, including as a tenant in common with another person; or
- (b) any matter incidental to, or required for the purpose of, the transfer; and

13.9.2 the transfer of a transfer property to the trustees of the Development Trust –

- (a) does not –
 - (i) limit section 10 or 11 of the Crown Minerals Act 1991; or

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- (ii) affect other rights to subsurface minerals; and
 - (b) is a disposition for the purposes of Part 4A of the Conservation Act 1987, but sections 24(2A), 24A, and 24AA of that Act do not apply to the disposition; and
 - 13.9.3 in exercising the powers conferred by paragraph 13.1, the Crown is not required to comply with any other enactment that would otherwise regulate or apply to the transfer of a transfer property; and
 - 13.9.4 the permission of a council under section 348 of the Local Government Act 1974 is not required for laying out, forming, granting, or reserving a private road, private way, or right of way required to fulfil the provisions of this deed in relation to the transfer of a transfer property.
- 13.10 Paragraph 13.9.3 does not limit paragraph 13.9.2.

14 LICENSED LAND

Licensed land to cease to be Crown forest land

- 14.1 The settlement legislation is to provide that –
- 14.1.1 licensed land ceases to be Crown forest land upon the registration of the transfer of the fee simple estate in the land to the trustees of the Development Trust; and
 - 14.1.2 although licensed land does not cease to be Crown forest land until the transfer of the fee simple estate in the land to the trustees of the Development Trust is registered, neither the Crown nor any court or tribunal may, between the transfer of ownership date for the land and the date of registration, do or omit to do anything if that act or omission would be –
 - (a) consistent with the Crown Forest Assets Act 1989; but
 - (b) inconsistent with this deed.

Trustees to be confirmed beneficiary and licensor in relation to licensed land

- 14.2 The settlement legislation is to provide, in relation to licensed land, that the trustees of the Development Trust are, from the transfer of ownership date for the land, –
- 14.2.1 a confirmed beneficiary under clause 11.1 of the Crown forestry rental trust deed and, therefore, -
 - (a) the trustees of the Development Trust are entitled to the rental proceeds payable since the commencement of the Crown forestry licence; and
 - (b) all the provisions of the Crown forestry rental trust deed apply on the basis that the trustees of the Development Trust are a confirmed beneficiary; and
 - 14.2.2 the licensor under the Crown forestry licence as if the licensed land had been returned to Māori ownership –
 - (a) on the transfer of ownership date for the land; and
 - (b) under section 36 of the Crown Forest Assets Act 1989.

Crown to be required to give notice under Crown Forest Assets Act 1989

- 14.3 The Crown is to be required to give notice under section 17(4)(b) of the Crown Forest Assets Act 1989 in respect of the Crown forestry licence in relation to licensed land.

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- 14.4 The settlement legislation is to provide that –
- 14.4.1 paragraph 14.3 is to apply even though the Waitangi Tribunal has not made a recommendation under section 8HB(1)(a) of the Treaty of Waitangi Act 1975 for the return of the licensed land; and
- 14.4.2 notice given by the Crown under paragraph 14.3 is to have effect as if –
- (a) the Waitangi Tribunal had made a recommendation under section 8HB(1)(a) of the Treaty of Waitangi Act 1975 for the return of the licensed land; and
- (b) the recommendation had become final on the transfer of ownership date for the land.
- 14.5 The settlement legislation is to provide that section 36(1)(b) of the Crown Forest Assets Act 1989 is not to apply to licensed land.

Effect of transfer of licensed land to be specified

- 14.6 Paragraphs 14.2 to 14.5 are to apply in relation to licensed land whether or not, on the transfer of ownership date for the land, -
- 14.6.1 the transfer of the fee simple estate in the land has been registered; or
- 14.6.2 any licence splitting process required by clause 17.4 of the Crown forestry licence has been completed.

Require licence-splitting process to be completed

- 14.7 The settlement legislation is to provide, in relation to licensed land, –
- 14.7.1 to the extent the Crown has not completed any licence splitting process required by clause 17.4 of the Crown forestry licence before the transfer of ownership date for the land, it must continue that process until it is completed; and
- 14.7.2 for the period from the transfer of ownership date for the land until the completion of the licence splitting process, the licence fee payable under the Crown forestry licence in respect of the property is the amount to be calculated in accordance with paragraphs 10.24 and 10.25 of the property redress schedule; and
- 14.7.3 with effect from the transfer of ownership date for the land, reference to the prospective proprietors in clause 17.4 of the Crown forestry licence must be read as if they were references to the trustees of the Development Trust.

Access to protected site to be provided

- 14.8 The settlement legislation is to provide that –

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Protected site to be defined

- 14.8.1 **protected site** is to mean an area of land situated within licensed land that –
- (a) is wāhi tapu or a wāhi tapu area within the meaning of section 2 of the Historic Places Act 1993; and
 - (b) is or becomes a registered place within the meaning of section 2 of that Act; and
- 14.8.2 **right of access** means the right of access to a protected site granted under this paragraph; and

Right of access to protected site to be provided

- 14.8.3 the owner of the land on which a protected site is situated and any person having an interest in, or right of occupancy to, that land must allow access across the land to each protected site to Māori to whom the protected site is of spiritual, cultural, or historical significance; and
- 14.8.4 the right of access may be exercised by vehicles or by foot over any reasonably convenient routes specified by the owner; and
- 14.8.5 the right of access applies from the transfer of ownership date for the land; and

Conditions of right of access to be specified

- 14.8.6 the right of access is subject to the following conditions:
- (a) a person intending to exercise it must give the owner reasonable written notice of his or her intention:
 - (b) it may be exercised only during daylight hours and at reasonable times:
 - (c) a person exercising it must observe any reasonable conditions imposed by the owner relating to the time, location, or manner of access as are reasonably required for –
 - (i) the safety of people; or
 - (ii) the protection of land, improvements, flora and fauna, plant and equipment, or livestock; or
 - (iii) operational reasons; and

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Right of access to be subject to Crown forestry licence

- 14.8.7 the right of access is to be subject to, and not to override, the terms of any Crown forestry licence, except if the licensee has agreed to the right of access; and
- 14.8.8 an amendment to a Crown forestry licence will be of no effect to the extent it purports to –
- (a) delay the date from which a person who has the right of access may exercise that right; or
 - (b) otherwise adversely affect the right of access.

Registrar-General of Land to be required to note the right of access

- 14.9 The settlement legislation is to provide that –
- 14.9.1 the Registrar-General of Land must, in accordance with a written application by an authorised person, record on the computer freehold register for the licensed land that the land is, or may at any future time be, subject to the right of access provided by paragraph 14.8; and
- 14.9.2 an application must be made as soon as reasonably practicable after the transfer of ownership date for the land; but
- 14.9.3 if a computer freehold register for the licensed land has not been created by the transfer of ownership date for the land, an application must be made as soon as reasonably practicable after the register has been created.
- 14.10 **Authorised person**, in relation to licensed land, means a person authorised by the Chief Executive of LINZ.

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Definitions to be provided

- 15.1 The settlement legislation is to provide that, in the provisions relating to the RFR, –
- 15.1.1 **approving Marutūāhu settlement legislation** means Marutūāhu settlement legislation that –
- (a) approves as redress to Marutūāhu the rights in relation to non-exclusive RFR land provided by this part to the Marutūāhu governance entity; and
 - (b) provides that those rights may be exercised by the Marutūāhu governance entity on and from the settlement date under the Marutūāhu settlement legislation; and
- 15.1.2 **approving TKaM settlement legislation** means TKaM settlement legislation that –
- (a) approves as redress to Te Kawerau ā Maki the rights in relation to Paremoremo Prison and provided by this part to the TKaM governance entity; and
 - (b) provides that those rights may be exercised by the TKaM governance entity on and from the settlement date under the TKaM settlement legislation; and
- 15.1.3 **dispose of**, in relation to RFR land, –
- (a) means to –
 - (i) transfer or vest the fee simple estate in the land; or
 - (ii) grant a lease of the land for a term that is, or will be (if any rights of renewal or extension under the lease are exercised), for 50 years or longer; but
 - (b) to avoid doubt, does not include to –
 - (i) mortgage, or give a security interest in, the land; or
 - (ii) grant an easement over the land; or
 - (iii) consent to an assignment of a lease, or to a sub-lease, of the land; or
 - (iv) remove an improvement, fixture, or fitting from the land; and

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- 15.1.4 **exclusive RFR area** means the area shown on SO 438209; and
- 15.1.5 **exclusive RFR land** -
- (a) means land in the exclusive RFR area if, on the settlement date, -
 - (i) the land is vested in the Crown; or
 - (ii) the fee simple estate in the land is held by the Crown; and
 - (b) includes land in the area marked "A" on SO 438209 that, on the settlement date, is a reserve vested in an administering body that derived title from the Crown, if the land vests back in the Crown under sections 25 or 27 of the Reserves Act 1977; and
 - (c) includes land obtained in exchange for a disposal of exclusive RFR land under –
 - (i) paragraph 15.18.5(c); or
 - (ii) paragraph 15.18.6; but
 - (d) does not include land in the area marked "B" on SO 438209 that, on the settlement date, is a State highway, unless that land is identified by the settlement legislation (by reference to its legal description) as exclusive RFR land; and
- 15.1.6 **expiry date**, in relation to an RFR offer, means its expiry date under paragraphs 15.7.1 and 15.8; and
- 15.1.7 **governance entity** means each of the following:
- (a) the trustees of the Development Trust;
 - (b) the TKaM governance entity;
 - (c) the Marutūāhu governance entity; and
- 15.1.8 **Marutūāhu deed of settlement** means a deed between the Crown and Marutūāhu settling the historical claims of Marutūāhu; and
- 15.1.9 **Marutūāhu governance entity** means the entity that the Marutūāhu settlement legislation specifies is to have the rights of the Marutūāhu governance entity under this part; and
- 15.1.10 **Marutūāhu settlement legislation** means legislation settling the historical claims of Marutūāhu; and
- 15.1.11 **notice** means a notice under this part; and

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15.1.12 Paremoremo Prison –

- (a) means land described in part 5 of the attachments if, on the RFR go-live date for Paremoremo Prison, -
 - (i) the land is vested in the Crown; or
 - (ii) the fee simple estate in the land is held by the Crown; and
- (b) includes land obtained in exchange for a disposal of all or part of Paremoremo Prison under –
 - (i) paragraph 15.18.5(c); or
 - (ii) paragraph 15.18.6; and

15.1.13 non-exclusive RFR land means -

- (a) land described in part 6 of the attachments, if, on the RFR go-live date for non-exclusive RFR land, -
 - (i) the land is vested in the Crown; or
 - (ii) the fee simple estate in the land is held by the Crown; and
- (b) includes land obtained in exchange for a disposal of non-exclusive RFR land under –
 - (i) paragraph 15.18.5(c); or
 - (ii) paragraph 15.18.6; but
- (c) does not include any non-exclusive RFR land that, by the settlement date, the Minister for Treaty of Waitangi Negotiations notifies the trustees of the Development Trust and, if approving Marutūāhu settlement legislation has been enacted, the Marutūāhu governance entity, is to not be, or is to cease being, non-exclusive RFR land.

15.1.14 public work has the meaning given to it by section 2 of the Public Works Act 1981; and

15.1.15 RFR go-live date, in relation to –

- (a) exclusive RFR land, means the settlement date; and
- (b) Paremoremo Prison, means the date the provisions of this part come into effect in relation to that land under paragraph 15.4.2; and
- (c) non-exclusive RFR land, means the date the provisions of this part

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come into effect in relation to that land under paragraph 15.4.3; and

15.1.16 **RFR land** has the meaning given to it by paragraphs 15.2 and 15.3; and

15.1.17 **RFR land nominee** has the meaning given to it by paragraph 15.16.1; and

15.1.18 **RFR landowner**, in relation to RFR land, -

(a) means the Crown, if –

(i) the land is vested in the Crown; or

(ii) the fee simple estate in the land is held by the Crown; and

(b) means a Crown body, if the fee simple estate in the land is held by the Crown body; and

(c) means a local authority to whom RFR land has been disposed of under paragraph 15.17.2; and

(d) to avoid doubt, does not include an administering body in which RFR land is vested -

(i) on the settlement date; or

(ii) after the settlement date under paragraph 15.17.3; and

15.1.19 **RFR offer** means an offer by an RFR landowner to dispose of RFR land, that meets the requirements of paragraphs 15.6.1 to 15.6.6; and

15.1.20 **RFR period** means, in relation to –

(a) the exclusive RFR land, the period of 169 years from the RFR go-live date for that land; and

(b) Paremoremo Prison, the period of 170 years from the RFR go-live date for that land; and

(c) the non-exclusive RFR land, the period of 169 years from the RFR go-live date for that land; and

15.1.21 **State highway** has the meaning it is given by section 5(1) of the Land Transport Management Act 2003.

RFR land to be defined

15.2 **RFR land** is to mean –

15.2.1 exclusive RFR land; and

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15.2.2 Paremoremo Prison; and

15.2.3 non-exclusive RFR land.

15.3 However, land is to cease to be RFR land if and when -

15.3.1 the fee simple estate in the land –

(a) is transferred from the RFR landowner to -

(i) a governance entity, or an RFR land nominee, in accordance with a contract formed under paragraph 15.15 pursuant to an RFR offer; or

(ii) any person, including the Crown or a Crown body, in accordance with paragraph 15.6; or

(b) is transferred from the RFR landowner to, or vested in, a person, other than the Crown or a Crown body, under paragraph 15.18; or

(c) is transferred to, or vested in, a person under –

(i) an enactment, rule of law, encumbrance, legal or equitable obligation, mortgage or security interest referred to in paragraph 15.19; or

(ii) an order of the Māori Land Court referred to in paragraph 15.21.1; or

15.3.2 the RFR period for that RFR land ends.

Coming into effect of RFR provisions to be provided for

15.4 The provisions of this part, in relation to –

15.4.1 the exclusive RFR land, are to come into effect on the settlement date; and

15.4.2 Paremoremo Prison are to come into effect, if the settlement date under approving TKaM settlement legislation -

(a) has occurred by or on the settlement date, on the settlement date; or

(b) has not occurred by or on the settlement date, on the earlier of the following dates:

(i) 36 months after the settlement date:

(ii) the settlement date under approving TKaM settlement legislation; and

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15.4.3 the non-exclusive RFR land are to come into effect, if the settlement date under approving Marutūāhu settlement legislation -

- (a) has occurred by or on the settlement date, on the settlement date; or
- (b) has not occurred by or on the settlement date, on the earlier of the following dates:
 - (i) 36 months after the settlement date:
 - (ii) the settlement date under approving Marutūāhu settlement legislation.

Restrictions on disposal of RFR land to be provided

15.5 An RFR landowner must not dispose of RFR land unless that land is disposed of under -

- 15.5.1 an RFR offer; or
- 15.5.2 paragraph 15.6; or
- 15.5.3 paragraphs 15.17 or 15.18; or
- 15.5.4 paragraph 15.19; or
- 15.5.5 paragraph 15.21.1.

Disposal after RFR offer to be enabled

15.6 An RFR landowner may dispose of RFR land to any person within two years after the expiry date of an offer to dispose of the land made by an RFR landowner that -

- 15.6.1 in the case of exclusive RFR land, was made by notice to the trustees of the Development Trust; or
- 15.6.2 in the case of Paremoremo Prison, if the settlement date under approving TKaM settlement legislation –
 - (a) had not occurred at the date of the offer, was made by notice to the trustees of the Development Trust; or
 - (b) had occurred at the date of the offer, was made by notice to the following (to be accepted by only one of them):
 - (i) the trustees of the Development Trust:
 - (ii) the TKaM governance entity; and

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15.6.3 in the case of non-exclusive RFR land, if the settlement date under approving Marutūāhu settlement legislation -

- (a) had not occurred at the date of the offer, was made by notice to the trustees of the Development Trust; or
- (b) had occurred at the date of the offer, was made by notice to the following (to be accepted by only one of them):
 - (i) the trustees of the Development Trust:
 - (ii) the Marutūāhu governance entity; and

15.6.4 was made –

- (a) on the same terms as, or on terms more favourable to the governance entity, or governance entities, to whom the offer was made than, the terms of disposal; and
- (b) in accordance with paragraph 15.7; and

15.6.5 was not withdrawn under paragraph 15.9; and

15.6.6 was not accepted under paragraphs 15.10 to 15.14.

Requirements for RFR offer to be specified

15.7 An RFR offer must specify -

- 15.7.1 the terms of the offer, including its expiry date (which must be in accordance with paragraph 15.8); and
- 15.7.2 a legal description of the RFR land offered, including any encumbrances affecting it; and
- 15.7.3 the reference for any computer register that contains the land; and
- 15.7.4 a street address for the land (if applicable); and
- 15.7.5 a street address, postal address, and fax number for the governance entity, or the governance entities, to whom the offer is made to give notices to the RFR landowner in relation to it.

Expiry date of RFR offer to be required

15.8 The expiry date of an RFR offer –

- 15.8.1 must be on or after the 40th business day after the day on which the notice of the offer has been received by the governance entity, or both the governance

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entities, to whom it is made; but

15.8.2 may be on or after the 20th business day after the day on which the governance entity, or both the governance entities, to whom it is made receive notice of the offer if –

- (i) the governance entity, or both the governance entities, as the case may be, received an earlier RFR offer in relation to the land; and
- (ii) the expiry date of the earlier RFR offer was not earlier than six months before the expiry date of the later offer; and
- (iii) the earlier RFR offer was not withdrawn; and

15.8.3 if paragraph 15.12.2(b) applies, is the date specified in the notice under that paragraph.

Withdrawal of RFR offer to be permitted

15.9 An RFR landowner may withdraw an RFR offer, at any time before it is accepted, by notice to the governance entity, or both governance entities, to which it is made.

Who may accept RFR offer to be provided for

15.10 An RFR offer under paragraphs 15.6.1, 15.6.2(a), or 15.6.3(a) to dispose of exclusive RFR land, Paremoremo Prison, or non-exclusive RFR land, to the trustees of the Development Trust may be accepted by the trustees by notice to the RFR landowner who made the offer.

15.11 An RFR offer under –

15.11.1 paragraph 15.6.2(b) to dispose of Paremoremo Prison to the trustees of the Development Trust or the TKaM governance entity may be accepted, by notice to the RFR landowner who made the offer, by only one of the following:

- (a) the trustees of the Development Trust;
- (b) the TKaM governance entity; and

15.11.2 paragraph 15.6.3(b) to dispose of non-exclusive RFR land to the trustees of the Development Trust or the Marutūāhu governance entity may be accepted, by notice to the RFR landowner who made the offer, by only one of the following:

- (a) the trustees of the Development Trust;
- (b) the Marutūāhu governance entity.

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15.12 However, if the RFR landowner receives notice of acceptance of an RFR offer under paragraphs 15.6.2(b) or 15.6.3(b) by its expiry date from both governance entities to whom the offer is made, the RFR landowner must, within 10 business days of receiving those notices, give both those governance entities a notice –

15.12.1 advising that the RFR landowner has received notices of acceptance from both those governance entities; and

15.12.2 stating that –

(a) the offer may be accepted by only one, and not both, governance entities to whom it was made; and

(b) in order for the offer to be accepted, one notice of acceptance from one of those governance entities must be received by the RFR landowner before the end of the 20th business day after the date both governance entities receive the notice under this paragraph.

Other requirements for acceptance to be provided for

15.13 An RFR offer may be accepted only if –

15.13.1 it has not been withdrawn; and

15.13.2 its expiry date has not passed.

15.14 All RFR land offered by an RFR offer must be accepted unless the offer permits less to be accepted.

Formation of contract to be provided for

15.15 The settlement legislation is to provide that -

15.15.1 if the trustees of the Development Trust accept under paragraphs 15.10 to 15.14 an RFR offer by an RFR landowner to dispose of exclusive RFR land, Paremoremo Prison, or non-exclusive RFR land, –

(a) a contract for the disposal of the land to the trustees of the Development Trust is formed between the RFR landowner and the trustees 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 trustees; and

15.15.2 if the TKaM governance entity accepts in accordance with paragraphs 15.10 to 15.14 an RFR offer by an RFR landowner to dispose of Paremoremo Prison, -

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

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and

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

15.15.3 if the Marutūāhu governance entity accepts in accordance with paragraphs 15.10 to 15.14 an RFR offer by an RFR landowner to dispose of non-exclusive RFR land, -

- (a) a contract for the disposal of the land is formed between the RFR landowner and the Marutūāhu governance entity, on the terms in the offer; and
- (b) the terms of the contract may be varied by written agreement between the Marutūāhu governance entity and the RFR landowner.

Transfer to nominee to be provided for

15.16 The settlement legislation is to provide that, -

15.16.1 if a contract for the transfer of the fee simple estate in RFR land is formed under paragraph 15.15, the governance entity with whom the RFR landowner has a contract may give the RFR landowner notice nominating a person, to whom the fee simple estate in the RFR land may be transferred (an **RFR land nominee**); and

15.16.2 notice under paragraph 15.16.1 must -

- (a) give the full name of the RFR land nominee and all other relevant details that the RFR landowner needs to transfer the fee simple estate in the land to the RFR land nominee; and
- (b) be given on or before the day that is 10 business days before the fee simple estate in the RFR land is to be transferred under the contract; and

15.16.3 an RFR land nominee must not be a person to whom legislation provides it is not lawful to transfer the fee simple estate in the RFR land; and

15.16.4 if a governance entity nominates an RFR land nominee, the governance entity remains liable for all the obligations of the governance entity under the contract for the transfer of the fee simple estate in RFR land.

Certain disposals by RFR landowner permitted but land remains RFR land

15.17 The settlement legislation is to permit an RFR landowner to dispose of RFR land –

To the Crown or Crown bodies

15.17.1 to the Crown or a Crown body, including, to avoid doubt, under section

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143(5) or section 206 of the Education Act 1989; or

If a public work

15.17.2 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

As a reserve

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

Certain disposals by RFR landowner permitted and land ceases to be RFR land

15.18 The settlement legislation is to permit an RFR landowner to dispose of RFR land -

Under legislative and rule of law obligations

15.18.1 in accordance with an obligation under any legislation or rule of law; or

Under legal or equitable obligations

15.18.2 in accordance with a legal or equitable obligation that –

- (a) was unconditional before the RFR go-live date for that land; or
- (b) was conditional before the RFR go-live date for that land but became unconditional on or after that date; or
- (c) arose after the exercise (whether before, on, or after the RFR go-live date for that land) of an option existing before that date; or

15.18.3 in accordance with the requirements, existing before the RFR go-live date, of a gift, endowment, or trust relating to the land; or

Under certain legislation

15.18.4 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

Land held for public works

15.18.5 in accordance with -

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

For reserves or conservation purposes

15.18.6 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

15.18.7 as a gift for charitable purposes; or

To tenants

15.18.8 that was held on the RFR go-live date for that land 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 RFR land; or
- (b) a building, or part of a building, on the RFR land; or

15.18.9 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 RFR go-live date for that land; or
- (b) on or after the RFR go-live date for that land as a renewal of a lease granted before the settlement date; or

15.18.10 under section 93(4) of the Land Act 1948; and

Crown-owned land held for State housing purposes at Hobsonville

15.18.11 if that land is Crown-owned land held for State housing purposes at

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Hobsonville (as shown on deed plan OTS-674-17) to any person if the Minister of Housing has given notice to the trustees of the Development Trust that, in the Minister's opinion, the disposal is to achieve, or assist in achieving, the Crown's social objectives in relation to housing or services related to housing.

RFR landowner's obligations to be subject to specified matters

15.19 An RFR's landowner's obligations under the settlement legislation in relation to RFR land are to be subject to –

15.19.1 any other enactment or rule of law but, for a Crown body, the obligations apply despite the Crown body's purpose, functions, or objectives; and

15.19.2 any encumbrance, or legal or equitable obligation, that –

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

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

15.19.3 the terms of a mortgage over, or security interest in, RFR land.

15.20 The settlement legislation is to provide that –

15.20.1 reasonable steps, for the purposes of paragraph 15.19.2(b), are not to include steps to promote the passing of legislation; and

15.20.2 this part does not limit anything referred to in paragraph 15.19.

Certain matters to be clarified

15.21 The settlement legislation is to provide, to avoid doubt, that –

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

15.21.2 if RFR land is disposed of to a local authority under paragraph 15.17.2, the local authority becomes –

(a) the RFR landowner of the land; and

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

15.21.3 to avoid doubt, if RFR land that is a reserve is vested in an administering body under paragraph 15.17.3, the administering body does not become –

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- (a) the RFR landowner of the land; or
- (b) subject to the obligations of an RFR landowner under this part;

15.21.4 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.

Notice of disposals of RFR land to be required

15.22 The settlement legislation is to require that –

15.22.1 an RFR landowner must give -

- (a) the trustees of the Development Trust notice of the disposal of exclusive RFR land by the landowner to a person other than the trustees; or
- (b) the trustees of the Development Trust, and if approving TKaM settlement legislation has been enacted the TKaM governance entity, notice of the disposal of Paremoremo Prison by the landowner to a person other than those trustees or that governance entity; and
- (c) the trustees of the Development Trust, and if approving Marutūāhu settlement legislation has been enacted the Marutūāhu governance entity, notice of the disposal of non-exclusive RFR land by the landowner to a person other than those trustees or that governance entity; and

15.22.2 the notice must –

- (a) include a legal description of the land, including any encumbrances affecting it; and
- (b) identify any computer register that contains the land; and
- (c) include a street address for the land (if applicable); and
- (d) identify the person to whom the land is being disposed of; and
- (e) explain how the disposal complies with paragraph 15.5; and
- (f) if the disposal is made under paragraph 15.6, include a copy of any written contract for the disposal; and

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- (g) be given at least 20 business days before the day of disposal.

Notice of potential disposals of Paremoremo Prison or non-exclusive RFR land to be required

15.23 The settlement legislation is to provide that -

15.23.1 this paragraph applies if an RFR landowner is considering whether to dispose of Paremoremo Prison, or non-exclusive RFR land, in a way that may require the landowner to make an RFR offer to one or more governance entities; and

15.23.2 the RFR landowner must give notice to the governance entity or the governance entities to whom, if the landowner decides to dispose of the land, the landowner is required by this part to make an RFR offer; and

15.23.3 the notice must -

- (a) specify the legal description of the land and identify any computer register that contains the land; and
- (b) specify the street address for the land, if applicable; or
- (c) if the land does not have a street address, include a narrative or diagrammatic description of the land with enough information so that a person who is not familiar with the land is able to locate and inspect it; and

15.23.4 the giving of the notice does not, of itself, mean that an obligation has arisen under -

- (a) section 207(4) of the Education Act 1989; or
- (b) section 23(1) or 24(4) of the New Zealand Railways Corporation Restructuring Act 1990; or
- (c) section 40 of the Public Works Act 1981 or that section as applied by another enactment.

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

15.24 The settlement legislation is to provide that -

15.24.1 if a computer register is first created for RFR land after the RFR go-live date for the land, the RFR landowner must give the chief executive of LINZ notice that the register has been created; and

15.24.2 if land for which there is a computer register becomes RFR land after the RFR go-live date for the land, the RFR landowner must give the chief executive of LINZ notice that the land has become RFR land; and

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15.24.3 the notice must –

- (a) include –
 - (i) the reference for the computer register for the RFR land; and
 - (ii) a legal description of the land; and
- (b) be given as soon as is reasonably practicable after –
 - (i) a computer register is first created for the RFR land; or
 - (ii) the land becomes RFR land.

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

15.25 The settlement legislation is to provide that -

15.25.1 the RFR landowner is to give the chief executive of LINZ notice if RFR land contained in a computer register, after the RFR go-live date for that land, ceases being RFR land under paragraph 15.3; and

15.25.2 the RFR landowner is to give the chief executive of LINZ notice if any of the non-exclusive RFR land contained in a computer register, after the RFR go-live date for that land, ceases to be RFR land under paragraph 15.1.13(c); and

15.25.3 a notice under paragraphs 15.25.1 or 15.25.2 must –

- (a) give notice that the land is to cease being RFR land; and
- (b) specify the legal description of the land and identify the computer register that contains the land; and

15.25.4 a notice under paragraph 15.25.1 must, in addition to the matters required by paragraph 15.25.3, -

- (a) specify the details of the transfer or vesting of the land that will result in it ceasing to be RFR land; and
- (b) be given as early as practicable before the transfer or vesting; and

15.25.5 a notice under paragraph 15.25.2 must –

- (a) be given as early as practicable after the land ceases to be RFR land under paragraph 15.1.13(c); and
- (b) include a copy of the notification given by the Minister for Treaty of Waitangi Negotiations under paragraph 15.1.13(c); and

Provision for recording of memorials on RFR land to be made

15.26 The settlement legislation is to provide that –

Certificates identifying RFR land to be issued

15.26.1 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 RFR go-live date for the land; and
 - (ii) the RFR land for which a computer register is first created after the RFR go-live date for the land; and
 - (iii) land for which there is a computer register that becomes RFR land after the RFR go-live date for the land; and
- (b) provide a copy of each certificate, as soon as reasonably practicable after issuing it, to -
 - (i) the trustees of the Development Trust, if it relates to exclusive RFR land; and
 - (ii) the trustees of the Development Trust, and if approving TKaM settlement legislation has been enacted the TKaM governance entity, if it relates to Paremoremo Prison; and
 - (iii) the trustees of the Development Trust, and if approving Marutūāhu settlement legislation has been enacted the Marutūāhu governance entity, if it relates to non-exclusive RFR land; and

15.26.2 a certificate issued under paragraph 15.26.1 must –

- (a) state that it is issued under this paragraph; and
- (b) be issued as soon as reasonably practicable after –
 - (i) the RFR go-live date for the land, in the case of RFR land for which there is a computer register on the RFR go-live date for the land; or
 - (ii) receiving notice under paragraph 15.24 that a computer register has been created for the RFR land or that the land has become RFR land; and

Memorials to be recorded

15.26.3 the Registrar-General of Land must, as soon as reasonably practicable after receiving a certificate issued under paragraph 15.26.1, record on the computer register for the RFR land identified in the certificate that the land is -

- (a) RFR land as defined in paragraphs 15.2 and 15.3; and
- (b) subject to this part (which restricts disposal, including leasing, of the land).

Provision for removal of memorials to be made

15.27 The settlement legislation is to provide that –

Certificates to be issued identifying land ceasing to be RFR land

15.27.1 the chief executive of LINZ must, -

- (a) before registration of the transfer or vesting of land described in a notice received under paragraph 15.25.1, 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 the 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 under paragraph (a), provide a copy of it to –
 - (i) the trustees of the Development Trust, if it relates to exclusive RFR land; and
 - (ii) the trustees of the Development Trust, and if approving TKaM settlement legislation has been enacted the TKaM governance entity, if it relates to Paremoremo Prison; and
 - (iii) the trustees of the Development Trust, and if approving Marutūāhu settlement legislation has been enacted the Marutūāhu governance entity, if it relates to non-exclusive RFR land; and
- (c) as soon as reasonably practicable after receiving a notice under paragraph 15.25.2, issue to the Registrar-General of Land a certificate that –

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- (i) specifies the legal description of the land and identifies the computer register that contains the land; and
- (ii) includes a copy of the notification given by the Minister for Treaty of Waitangi Negotiations under paragraph 15.1.13(c); and
- (iii) states that it is issued under this paragraph; and

Memorials to be removed

15.27.2 if the Registrar-General of Land receives a certificate issued under -

- (a) paragraph 15.27.1(a), he or she must remove a memorial recorded under paragraph 15.26.3 from any computer register identified in the certificate immediately before registering the transfer or vesting described in the certificate;
- (b) paragraph 15.27.1(c) he or she must remove a memorial recorded under paragraph 15.26.3 from any computer register identified in the certificate as soon as reasonably practicable after receiving the certificate; and

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

15.27.3 the chief executive of LINZ must –

- (a) as soon as reasonably practicable after the RFR period in relation to RFR land ends, issue to the Registrar-General of Land a certificate that –
 - (i) identifies each computer register that contains RFR land that has a memorial recorded under paragraph 15.26.3 on it; and
 - (ii) states that it is issued under this paragraph; and
- (b) provide a copy of each certificate, as soon as reasonably practicable after issuing it, to –
 - (i) the trustees of the Development Trust, if it relates to exclusive land; and
 - (ii) the trustees of the Development Trust, and if approving TKaM settlement legislation has been enacted the TKaM governance entity, if it relates to Paremoremo Prison; and
 - (iii) the trustees of the Development Trust, and if approving Marutūāhu settlement legislation has been enacted the Marutūāhu governance entity, if it relates to non-exclusive RFR land; and

Memorials to be removed

15.27.4 the Registrar-General of Land must, as soon as reasonably practicable after receiving a certificate issued under paragraphs 15.27.3, remove a memorial recorded under paragraph 15.26.3 from any computer register identified in the certificate.

Notice provisions to be specified

15.28 The settlement legislation is to provide that a notice to or by an RFR landowner, or a governance entity, under this part –

Notice requirements

15.28.1 must be in writing; and

15.28.2 signed by –

- (a) the person giving it; or
- (b) in the case of the trustees of the Development Trust, at least three of the trustees; and
- (c) in the case of the TKaM governance entity, the persons specified by the TKaM settlement legislation; and
- (d) in the case of the Marutūāhu governance entity, the persons specified by the Marutūāhu settlement legislation; and

15.28.3 addressed to the recipient at the street address, postal address, or fax number –

- (a) specified for the trustees of the Development Trust in accordance with this deed, in the case of a notice to the trustees; or
- (b) specified for the TKaM governance entity in accordance with the TKaM deed of settlement, in the case of a notice to that governance entity; and
- (c) specified for the Marutūāhu governance entity in accordance with the Marutūāhu deed of settlement, in the case of a notice to that governance entity; and
- (d) specified by the RFR landowner in an offer made under paragraph 15.7, in the case of a notice to the RFR landowner; or
- (e) at the national office of LINZ, in the case of a notice given to the chief executive of LINZ; and

15.28.4 given by –

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15: RFR

- (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; and

Time when notice received

15.28.5 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;

15.28.6 is to be treated, however, as having been received on the next business day if, under paragraph 15.28.5, 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.

General provisions to be included

15.29 The settlement legislation is to provide that –

Waiver and variation of rights to be permitted

- 15.29.1 a governance entity may, by notice to an RFR landowner, waive any of the rights the governance entity has in relation to the landowner under this part; and
- 15.29.2 the trustees of the Development Trust, and the TKaM governance entity, may agree in writing that one of them may exercise any right that this part provides is to be exercised by both of them or by the other; and
- 15.29.3 the trustees of the Development Trust, and the Marutūāhu governance entity, may agree in writing that one of them may exercise any right that this part provides is to be exercised by both of them or by the other; and
- 15.29.4 an RFR landowner, and a 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
- 15.29.5 a waiver or agreement under this paragraph is on the terms, and applies for the period, specified in it; and

Crown's ability to dispose of Crown bodies not affected

15.29.6 this part does not limit the ability of the Crown, or a Crown body, to sell or dispose of a Crown body.

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16 24 COMMERCIAL ROAD, HELENSVILLE

- 16.1 The settlement legislation is to provide that –
- 16.1.1 24 Commercial Road, Helensville means the land described in relation to that site in schedule 3; and
 - 16.1.2 the fee simple estate in 24 Commercial Road, Helensville vests in the trustees of the Development Trust; and
 - 16.1.3 paragraphs 4.4 to 4.7, 5.13, and 6.3 to 6.11, apply as if 24 Commercial Road, Helensville was a cultural redress property.

17 MISCELLANEOUS MATTERS

Interpretation

- 17.1 The settlement legislation is to provide that it is Parliament's intention that it is interpreted in a manner that best furthers the agreements expressed in the deed of settlement.

Guide to the settlement legislation

- 17.2 The settlement legislation is to -
- 17.2.1 include a guide to its overall scheme and effect; but
 - 17.2.2 provide the guide does not affect the interpretation or application of -
 - (a) the other provisions of the settlement legislation; or
 - (b) this deed.

Application of perpetuities rule removed

- 17.3 The settlement legislation is to provide that the rule against perpetuities, and the Perpetuities Act 1964, -
- 17.3.1 are not to prescribe or restrict the period during which -
 - (a) a Ngā Maunga Whakahii o Kaipara trust may exist in law; and
 - (b) the trustees of a Ngā Maunga Whakahii o Kaipara trust, in their capacity as trustees, may hold or deal with property (including income derived from property); or
 - 17.3.2 are not to apply to a settlement document if the application of that rule, or the provisions of that Act, would otherwise make the document, or a right conferred by the document, invalid or ineffective; and
 - 17.3.3 may, however, be applied in accordance with the general law to a Ngā Maunga Whakahii o Kaipara trust, if it becomes a charitable trust.

Timing of actions or matters

- 17.4 Actions or matters occurring under the settlement legislation are to occur and take effect on and from the settlement date, except if the settlement legislation requires an action or matter to take effect on another date.

LEGISLATIVE MATTERS
17: MISCELLANEOUS MATTERS

Access to this deed

- 17.5 The Secretary for Justice is to be required to make copies of this deed available –
- 17.5.1 for inspection free of charge, and for purchase at a reasonable price, at the head office of the Ministry of Justice in Wellington between the hours of 9:00 am and 5:00 pm on any business day; and
 - 17.5.2 free of charge on an Internet site maintained by or on behalf of the Ministry of Justice.

SCHEDULES

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1 STATUTORY AREAS

- 1.1 Motutara Settlement Scenic Reserve and Goldie Bush Scenic Reserve (as shown on deed plan OTS-674-12)
- 1.2 Rototoa Conservation Area and Lake Rototoa Scenic Reserve (as shown on deed plan OTS-674-15)
- 1.3 Papakanui Conservation Area and Papakanui Spit Wildlife Refuge (as shown on deed plan OTS-674-11)
- 1.4 Coastal Statutory Acknowledgement Area (as shown on deed plan OTS-674-10)

2 CULTURAL REDRESS PROPERTIES

Name of site	Description (all North Auckland Land District)	Encumbrances
Atuanui Scenic Reserve	625.6540 hectares, more or less, being Section 1 SO 440005. All Gazette Notice C465246.1 and parts GN D376064.1 and Gazette Notice D376064.2.	Scenic reserve subject to section 19(1)(a) of the Reserves Act 1977.
Mairetaki Landing	4.3250 hectares, more or less, being Section 1 SO 439996. Part <i>Gazette</i> 1936 page 1530.	Subject to the conservation covenant referred to in paragraph 5.4.3.
Mauiniu Island	2.1868 hectares, more or less, being Section 1 SO 440002. All computer freehold register NA98D/745.	<p>Subject to the conservation covenant referred to in paragraph 5.5.3.</p> <p>Together with a right to enter into and upon and use the lakes on the land created by Transfer 306110.</p> <p>The within land to be added to a water area (Crosland Farm Settlement) for the purposes of section 50 of the Land Act 1948 created by GN A187922.</p> <p>Resolution pursuant to section 321(3)(b) of the Local Government Act 1974 created by C709584.3.</p>
Moturemu Island	5.0500 hectares, more or less, being Section 1 SO 440003. All computer freehold register NA23/186.	Subject to the conservation covenant referred to in paragraph 5.6.3.

LEGISLATIVE MATTERS
2: CULTURAL REDRESS PROPERTIES

Name of site	Description (all North Auckland Land District)	Encumbrances
Tīpare	2.3300 hectares, more or less, being Section 1 SO 440004. Part Gazette Notice C465397.2.	Subject to the conservation covenant referred to in paragraph 5.7.3.
Ten Acre Block Recreation Reserve	0.0195 hectares, more or less, being Section 37 Block XIV Kaipara Survey District. All Gazette Notice 16275.	Recreation reserve subject to section 17 of the Reserves Act 1977.
Makarau	5.0862 hectares, more or less, being Section 1 SO 444818 and Section 36 Block II Kaipara Survey District.	Local purpose (estuarine habitat) reserve subject to section 23 of the Reserves Act 1977.
Makarau Bridge Reserve	4.1644 hectares, more or less, being Section 1 SO 446489. Part Gazette 1973 page 895.	Local purpose (estuarine habitat) reserve subject to section 23 of the Reserves Act 1977. Subject to the right of way easement referred to in paragraph 5.10.5.
Parakai	26.2754 hectares, more or less, being Sections 1 to 189 SO 441418.	Local purpose (estuarine habitat) reserve subject to section 23 of the Reserves Act 1977.
Parakai Recreation Reserve	18.4140 hectares, more or less, being Sections 1 and 2 SO 439999. All computer freehold register NA75C/241 and Part Gazette 1918 page 1240.	Recreation reserve subject to section 17 of the Reserves Act 1977. Subject to an unregistered lease to Parakai Springs Complex Ltd commencing 1 January 1996. Subject to a lease to Aquatic Parks (NZ) Limited created by CO55727.1.

3 24 COMMERCIAL ROAD, HELENSVILLE

Description	Encumbrances
0.1878 hectares, more or less, being Lot 1 DP 441007. All GN C688263.1.	Nil

4 PROVISIONS APPLYING TO THE PARAKAI RECREATION RESERVE BOARD

Application of Reserves Act 1977

- 4.1 Sections 31 to 34 of the Reserves Act 1977 apply to the Parakai Recreation Reserve Board as if it were a Board appointed under section 30(1) of that Act, except as provided in this schedule.
- 4.2 However, -
- 4.2.1 section 31(a) of the Reserves Act 1977 does not apply to the term of office of a member of the board; and
 - 4.2.2 the Minister may not remove, under section 31(c) of the Reserves Act 1977, a member of the board; and
 - 4.2.3 sections 32(1), (2), (5), and (10) of the Reserves Act 1977 do not apply to meetings of the board.

Membership of board

- 4.3 The board must consist of -
- 4.3.1 6 members; or
 - 4.3.2 if agreed from time to time in writing by the trustees of the Development Trust and the Auckland Council, 8 members.
- 4.4 The trustees must appoint half the members by notice to the Auckland Council.
- 4.5 The Auckland Council must appoint half the members by notice to the trustees.
- 4.6 The first members of the board must be appointed by the trustees, and the Auckland Council, by the settlement date.

Term of office of members

- 4.7 A member –
- 4.7.1 holds office for the term, not exceeding three years, as may be specified in the notice appointing him or her; or
 - 4.7.2 may at any time be removed from office at the sole discretion of the person or persons appointing the member, by notice in writing to –
 - (a) the member; and

LEGISLATIVE MATTERS

4: PROVISIONS APPLYING TO THE PARAKAI RECREATION RESERVE BOARD

(b) the other person, or persons, who appoint members of the board; and

4.7.3 may be re-appointed.

Chairperson

4.8 The members appointed by the trustees must appoint a member as a chairperson, by notice to the Auckland Council.

Term of office of chairperson

4.9 The term of office of a chairperson is to be specified in the notice appointing him or her, but the term of office as chairperson –

4.9.1 must not exceed his or her term of office as a member; and

4.9.2 terminates if he or she ceases to be a member.

Notice of appointments

4.10 The board must give notice of the appointment of members, and of the appointment of a chairperson, by notice in a daily newspaper circulating in Auckland.

Board procedure

4.11 The board may regulate its own procedure except as provided in this schedule, including for –

4.11.1 the appointment of, procedures for, and powers of sub-committees of the board; and

4.11.2 the resolution of disputes.

4.12 Every matter before the board must be determined by a majority of votes of the members present and voting on that matter.

4.13 Members of a sub-committee of the board may include individuals appointed by the board who are not members of the board.

Board meetings

4.14 The first meeting of the board must be held not later than 2 months after the settlement date.

4.15 Unless the members from time to time agree otherwise –

4.15.1 the board must meet at least twice a year; and

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4: PROVISIONS APPLYING TO THE PARAKAI RECREATION RESERVE BOARD

4.15.2 each member has one vote; and

4.15.3 if there is an equality of votes cast by members of the board (including the chairperson), the chairperson has a casting vote.

Decisions valid despite vacancy

4.16 An act or decision of the board is not invalid because less than six or, if paragraph 4.3.2 applies, 8 members have been appointed.

Funding

4.17 In addition to money received by the board by way of rent, royalty or otherwise in respect of Parakai Recreation Reserve (as provided in section 78(1) of the Reserves Act 1977), the trustees, or the Auckland Council, may agree to provide additional funding to be applied in relation to the reserve of an amount, and on terms, agreed with the board.

4.18 To avoid doubt, the Auckland Council is not required to make any payment to the members appointed by the trustees whether by way of remuneration, reimbursement of travelling or other expenses, or otherwise.

Public Audit Act 2001 applies

4.19 The board is a public entity as defined in section 5 of the Public Audit Act 2001.

WAIATA TAUTOKO – Piki Mai

*Piki mai ki runga, te marae o ngā tūpuna, o Ngāti Whātua Tūturu.
Ko Pāhekeheke te motu, i tupu ai ngā tūpuna, i ngaro o te ao kōhatu.
Ko Tauhia te tangata, Otakanini te Pā, ko Tarawera te maunga.
Tēnei rohe te ngākau e, o Ngāti Whātua nui tonu.
Ko Te Awaroa te awa, Kaipara te moana, Oparuparu te wāhi tapu.
Ko Nga-tai-i-turia ki te Marowhara te whare, hui mai tātou katoa.
Tēnei rohe te ngākau e, o Ngāti Whātua nui tonu.
Piki mai ki runga, te marae o ngā tūpuna.
Hui mai tāiki e. Hui mai tāiki e.*