

Maungaharuru-Tangitū Hapū Claims Settlement Bill

Government Bill

Explanatory note

General policy statement

This Bill gives effect to the deed of settlement signed on 25 May 2013 in which the Crown and the Maungaharuru-Tangitū Hapū agree to the final settlement of the historical Treaty of Waitangi claims of the Maungaharuru-Tangitū Hapū. Legislation is necessary to give effect to certain aspects of the settlement. Other aspects of the settlement are provided for only in the deed of settlement.

Part 1 of this Bill—

- sets out the purpose of the Bill and deals with other matters of general application; and
- defines the Maungaharuru-Tangitū Hapū, historical claims, and other essential elements; and
- records the acknowledgements made by the Crown to the Maungaharuru-Tangitū Hapū in the deed of settlement and the Crown's apology to the Maungaharuru-Tangitū Hapū; and
- gives effect to the agreement between the Crown and the Maungaharuru-Tangitū Hapū to a final settlement of the historical Treaty of Waitangi claims of the Maungaharuru-Tangitū Hapū.

Part 2 sets out the cultural redress provided to the Maungaharuru-Tangitū Hapū, including—

- the establishment of a fund for the purpose of soil conservation and its effects on the environment extending over 4 water catchments to reflect the special nature of the Tangoio area, and the desire of the Maungaharuru-Tangitū Hapū to exercise kaitiakitanga over it; and
- provision for the Minister of Conservation, the Director-General of Conservation, and the trustees of the Maungaharuru-Tangitū Trust (the **trustees**) to enter into Te Kawenata (a partnership agreement); and
- the issue of a crown minerals protocol and taonga tūturu protocol to the trustees; and
- the provision of a statutory acknowledgment and deeds of recognition; and
- the application of a Tātai Tūāpapa (an overlay classification) over 9 sites; and
- the appointment to an advisory committee in relation to the area in Hawke’s Bay known as the Wairoa Hard; and
- the assigning and altering of official geographic names; and
- cultural redress requiring the vesting of land; and
- the vesting and gifting back of 4 properties to the Crown.

Part 3 sets out provisions—

- that enable the Crown to transfer to the Maungaharuru-Tangitū Hapū a number of commercial redress properties; and
- that provide a right of access over protected sites; and
- that give a right of first refusal for 172 years over RFR land.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 provides that the Bill comes into force on the day after it receives Royal assent.

Part 1

Preliminary matters, acknowledgements and apology, and settlement of historical claims

Preliminary matters

Part 1 (clauses 3 to 19) provides for preliminary matters and the settlement of the historical claims of the Maungaharuru-Tangitū Hapū.

Clause 3 states the purpose of the Bill.

Clause 4 provides that the provisions of the Bill take effect on the settlement date (as defined in *clause 11*), unless a provision states otherwise.

Clause 5 provides that the Bill, when enacted, binds the Crown.

Clause 6 provides an outline of the Bill.

Acknowledgements and apology of the Crown

Clause 7 provides for the inclusion of the acknowledgements and apology offered by the Crown, as set out in the deed of settlement.

Clauses 8 and 9 record the acknowledgements and apology given by the Crown.

Interpretation

Clause 10 provides that the provisions of the Bill are to be interpreted in a manner that best furthers the agreements in the deed of settlement.

Clause 11 defines certain terms used in the Bill.

Clause 12 defines the Maungaharuru-Tangitū Hapū.

Clause 13 defines historical claims.

Historical claims settled and jurisdiction of courts, etc, removed

Clause 14 settles the historical claims and provides that the settlement is final. It removes the jurisdiction of courts, tribunals, and other judicial bodies in respect of the historical claims, the deed of settlement, the Bill, and the settlement redress (but not in respect of

the interpretation or implementation of the deed of settlement or the Bill).

Amendment to Treaty of Waitangi Act 1975

Clause 15 amends the Treaty of Waitangi Act 1975 to remove the jurisdiction of the Waitangi Tribunal, as provided for in *clause 14*.

Resumptive memorials no longer to apply

Clause 16 provides that certain enactments do not apply to specified land.

Clause 17 provides for the removal of existing memorials from the computer registers relating to the specified land.

Miscellaneous matters

Clause 18 provides for an exception to the rule against perpetuities and any relevant provisions of the Perpetuities Act 1964 for the trustees and in respect of documents entered into by the Crown to give effect to the deed of settlement.

Clause 19 provides that the chief executive of the Ministry of Justice must make copies of the deed of settlement available for inspection free of charge, and for purchase at a reasonable price, at the head office of the Ministry of Justice in Wellington on any working day. The deed must also be made available free of charge on an Internet site maintained by, or on behalf of, the Ministry of Justice.

Part 2

Cultural redress

Part 2 (clauses 20 to 107) deals with certain cultural redress to be provided to the Maungaharuru-Tangitū Hapū under the deed of settlement.

Subpart 1—Tangoio

Subpart 1 (clauses 20 to 25) requires the Hawke's Bay Regional Council to establish a fund relating to parts of 4 water catchments surrounding Tangoio Soil Conservation Reserve (being a soil conservation reserve under section 16 of the Soil Conservation and Rivers Control Act 1941) in the area of interest and to reach agreement with

the trustees on the application of any money in the fund. *Schedule 1* contains the land description for Tangoio Soil Conservation Reserve.

Subpart 2—Te Kawenata

Subpart 2 (clauses 26 to 30) provides authority for the Minister of Conservation to enter into Te Kawenata (a partnership agreement) with the trustees and sets out the requirements and limitations applying to Te Kawenata.

Subpart 3—Protocols

Subpart 3 (clauses 31 to 36) provides that the Minister of Energy and Resources and the Minister for Arts, Culture and Heritage must issue protocols to the trustees. The clauses provide that the protocols are subject to the Crown's obligations and limit the rights arising under them.

Subpart 4—Statutory acknowledgement and deeds of recognition

Subpart 4 (clauses 37 to 50) and *Schedule 2* set out the Crown's acknowledgement of the statements of association of the Maungaharuru-Tangitū Hapū with 30 statutory areas. The clauses state the purposes of the statutory acknowledgement and state how it affects specified decision making by local authorities, the Environment Court, and the New Zealand Historic Places Trust. The clauses also specify the limits of the acknowledgement. *Clause 46* also requires the Minister of Conservation and the Director-General of Conservation to issue deeds of recognition for 17 sites.

Subpart 5—Tātai Tūāpapa

Subpart 5 (clauses 51 to 65) and *Schedule 3* provide for 9 sites to be subject to Tātai Tūāpapa (an overlay classification), which protects the Maungaharuru-Tangitū Hapū values in relation to the sites and provides for the operation of Tātai Tūāpapa and associated protection measures.

Subpart 6—Fisheries redress

Subpart 6 (clause 66) provides that the Minister for Primary Industries must, on or before the settlement date, appoint the trustees as an advisory committee under section 21 of the Ministry of Agriculture and Fisheries (Restructuring) Act 1995 for the purpose of advising the Minister on any changes to finfish prohibitions or restrictions affecting the waters in the area in Hawke's Bay known as the Wairoa Hard.

Subpart 7—Geographic names

Subpart 7 (clauses 67 to 70) provides for the assignment and alteration of certain official geographic names.

Subpart 8—Vesting of cultural redress properties

Subpart 8 (clauses 71 to 106) vests the fee simple estate of 6 cultural redress properties in the trustees. One property vests in fee simple, subject to an easement, and 5 properties vest in fee simple to be administered as reserves (4 of which are subject to an easement). *Schedule 4* contains the land descriptions for the cultural redress properties.

Subpart 9—Vesting and gifting back of properties

Subpart 9 (clause 107) vests the fee simple estate of 4 properties in the trustees and provides for the gifting-back of the properties to the Crown 7 days later for the benefit of the people of New Zealand. *Schedule 5* contains the land descriptions for the gifting-back properties.

Part 3 Commercial redress

Part 3 (clauses 108 to 149) provides for certain commercial redress to be provided to the Maungaharuru-Tangitū Hapū under the deed of settlement.

Clause 108 defines certain terms used in *Part 3*.

Subpart 1—Transfer of commercial redress properties

Subpart 1 (clauses 109 to 114) contains provisions relating to the transfer of commercial redress properties to the trustees and provides for the creation of computer freehold registers for the properties and related matters.

Subpart 2—Licensed land

Subpart 2 (clauses 115 to 117) provides for the transfer of the licensed land from the Crown to the trustees. The provisions set out the respective rights and obligations of the Crown and the trustees in relation to the licensed land.

Subpart 3—Access to protected sites

Subpart 3 (clauses 118 to 120) provides a right of access to certain protected sites on the licensed land to Māori for whom the sites are of special cultural, spiritual, or historical significance.

Subpart 4—Right of first refusal over RFR land

Subpart 4 (clauses 121 to 149) provides a right of first refusal for RFR land (as defined in *clause 122*). The owner of RFR land must not dispose of the land to a person other than the trustees without first offering it to the trustees on the same or better terms, unless a specified exception applies. The right of first refusal lasts for 172 years. *Schedule 6* contains provisions relating to giving or receiving notices in respect of RFR land.

Hon Christopher Finlayson

Maungaharuru-Tangitū Hapū Claims Settlement Bill

Government Bill

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Maungaharuru-Tangitū Hapū Claims Settlement Act **2013**.
- 2 Commencement** 5
This Act comes into force on the day after the date on which it receives the Royal assent.
- Part 1**
**Preliminary matters, acknowledgements
and apology, and settlement of historical
claims** 10
Preliminary matters
- 3 Purpose**
The purpose of this Act is—
- (a) to record the acknowledgements and apology given by the Crown to the Maungaharuru-Tangitū Hapū in the deed of settlement; and 15
 - (b) to give effect to certain provisions of the deed of settlement that settles the historical claims of the Maungaharuru-Tangitū Hapū. 20
- 4 Provisions to take effect on settlement date**
- (1) The provisions of this Act take effect on the settlement date unless stated otherwise.
 - (2) Before the date on which a provision takes effect, a person may prepare or sign a document or do anything else that is required for— 25
 - (a) the provision to have full effect on that date; or
 - (b) a power to be exercised under the provision on that date; or
 - (c) a duty to be performed under the provision on that date. 30
- 5 Act binds the Crown**
This Act binds the Crown.

6 Outline

- (1) This section is a guide to the overall scheme and effect of this Act, but does not affect the interpretation or application of the other provisions of this Act or of the deed of settlement.
- (2) This Part— 5
 - (a) sets out the purpose of this Act; and
 - (b) provides that the provisions of this Act take effect on the settlement date unless a provision states otherwise; and
 - (c) specifies that the Act binds the Crown; and 10
 - (d) records the text of the acknowledgements and apology given by the Crown to the Maungaharuru-Tangitū Hapū, as recorded in the deed of settlement; and
 - (e) defines terms used in this Act, including key terms such as the Maungaharuru-Tangitū Hapū and historical claims; and 15
 - (f) provides that the settlement of the historical claims is final; and
 - (g) provides for—
 - (i) the effect of the settlement of the historical claims on the jurisdiction of a court, tribunal, or other judicial body in respect of the historical claims; and 20
 - (ii) a consequential amendment to the Treaty of Waitangi Act 1975; and 25
 - (iii) the effect of the settlement on certain memorials; and
 - (iv) the exclusion of the law against perpetuities; and
 - (v) access to the deed of settlement.
- (3) **Part 2** provides for cultural redress, including— 30
 - (a) cultural redress that does not involve the vesting of land, namely,—
 - (i) a requirement for the Hawke’s Bay Regional Council to establish a fund relating to parts of 4 water catchments surrounding Tangoio Soil Conservation Reserve in the area of interest and to reach agreement with the trustees on the application of any money in the fund; and 35

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- (ii) a requirement that the Minister of Conservation, the Director-General, and the trustees enter into Te Kawenata; and
 - (iii) protocols for Crown minerals and taonga tūturu on the terms set out in the documents schedule; 5
and
 - (iv) a statutory acknowledgement by the Crown of the statements made by the Maungaharuru-Tangitū Hapū of their cultural, historical, spiritual, and traditional association with certain statutory areas and the effect of that acknowledgement; 10
and
 - (v) deeds of recognition in respect of certain statutory areas; and
 - (vi) a Tātai Tūāpapa (an overlay classification) in respect of certain areas and the Crown's acknowledgement of the Maungaharuru-Tangitū Hapū statement of values in relation to those areas; and 15
 - (vii) the requirement that the trustees be appointed as an advisory committee in relation to any proposed changes to prohibitions and restrictions relating to finfish in the waters in the area in Hawke's Bay known as the Wairoa Hard; and 20
 - (viii) the assignment and alteration of place names; and
 - (b) cultural redress requiring vesting in the trustees of the fee simple estate in certain cultural redress properties; 25
and
 - (c) the vesting in the trustees of 4 properties with a gifting back of the properties by the trustees to the Crown for the people of New Zealand. 30
- (4) **Part 3** provides for commercial redress, including—
- (a) the transfer of commercial redress properties (including licensed land) to give effect to the deed of settlement:
 - (b) rights of access to protected sites on the licensed land:
 - (c) a right of first refusal over RFR land that may be exercised by the trustees. 35
- (5) There are 6 schedules, as follows:
- (a) **Schedule 1** describes the Tangoio Soil Conservation Reserve:

(b)	Schedule 2 describes the statutory areas to which the statutory acknowledgement relates and, in some cases, for which deeds of recognition are issued:	
(c)	Schedule 3 describes the Tātai Tūāpapa areas to which the Tātai Tūāpapa applies:	5
(d)	Schedule 4 describes the cultural redress properties:	
(e)	Schedule 5 describes the gifting-back properties:	
(f)	Schedule 6 sets out provisions that apply to notices given in relation to RFR land.	
	<i>Acknowledgements and apology of the Crown</i>	10
7	Acknowledgements and apology	
(1)	Sections 8 and 9 record the acknowledgements of, and the apology offered to the Maungaharuru-Tangitū Hapū by, the Crown in the deed of settlement.	
(2)	The acknowledgements and apology are to be read in conjunction with the account of the historical relations between the Maungaharuru-Tangitū Hapū and the Crown recorded in part 2 of the deed of settlement.	15
8	Text of Crown acknowledgements	
	<i>Whakaaetanga</i>	20
(1)	E ai ki ngā whākinga a te Karauna ko te whāinga o ngā aureretanga a te Hapū he tino takaroa.	
(2)	E whāki ake ana te Karauna arā i te wā i hokona ai e ia te rohe whenua o Ahuriri i te tau 1851—	
(a)	Kāore i uiui atu ki te Hapū i te tīmatanga o ngā whiriwhiri; ā	25
(b)	I tahuri ake te Karauna ki te hoko i taua whenua mō te utu iti rawa e whakaaehia ai e Ngāi Māori ā i āta mōhio kāore rawa i rata atu te Hapū ki te wāhanga i whakawhiwhia ai rātau mō te utunga; ā	30
(c)	Kīhai ngā Māori o Tangoio i whiwhi ki te katoa o ngā hua ka toko ake i ngā take ohaoha o te urunga mai o te hunga noho whenua Tauivi i kī ake ai te Karauna ka whiwhi rātau mena ka whakaae atu kia hokona mō te utu i tukua atu e te Karauna; ā	35

- (d) Kāore te Karauna i āta whakarite kia rāhuihia he whenua mai i te hokonga o Ahuriri i haumaruhia e te mana pupuri o te Hapū ā he takahanga hoki i te Tiriti o Waitangi me ōna mātāpono.
- (3) E whāki ake ana te Karauna arā i te wā i hokona ai e ia te rohe 5
whenua o Mōhaka i te tau 1851—
- (a) He iti noa tana utu ā kāore hoki a Ngāi Tahu i whiwhi i te katoa o ngā hua putaputa noa mai te nohonga whenua a Tauwiwi i pōhēhē ai rātau ka whiwhi mā te whakaaenga ki te utu iti rawa; ā 10
- (b) He takahanga hoki i te Tiriti o Waitangi mā te kore e āta whakarite whenua rāhuiā mō Ngāi Tahu.
- (4) E whāki ana te Karauna i te tau 1866 tua atu i te whai tonu i te rongomau ki Ōmarunui ka tahi kē ka tukua tana tono whakamutunga kia tuku ki raro te hunga i roto i te pā. Mai i tēnei ka huri ngā hōia o te Karauna ki te whakaeke me te mōrearea noa o te oranga o ngā tāne o ngā wāhine o ngā tamariki i roto o te pā. Rua tekau ngā tāngata i mate i a rātau e wawao ana i a rātau ake mai i ngā tira pakanga a te Karauna i Ōmarunui i Petane hoki. E whāki ana te Karauna he takahā mana ēnei whakaeke he takahanga hoki i te Tiriti o Waitangi me ōna mātāpono. 20
- (5) E whāki ana te Karauna ko te mauherenga me te kore whakawā ki ngā tūmomo āhua matangerengere rawa atu i runga o ngā motu o Wharekauri tata ki te rua tau o ngā uri tekau mā toru o te Hapū i muri i tō rātau uiuinga i Ōmarunui he tino takahi mana he takahanga hoki i te Tiriti o Waitangi me ōna mātāpono. 25
- (6) E whāki ana te Karauna kō ngā mahi whakamate o ana tira whawhai i Ngātapa i te Kohi-tātea o te tau 1869 he takahanga hoki i te Tiriti o Waitangi me ōna mātāpono i pokea ai te mana o te Karauna. 30
- (7) E whāki ana te Karauna ā—
- (a) I te tau 1867 i pānuhia he takiwā raupatu tata kia pou katoa atu te takiwā o te Hapū; ā
- (b) Whai ake ana ngā hua tuku iho katoa o te Hapū ki ō rātau whenua ki tēnei takiwā i wetoa ā ka puritia e te Karauna te rohe whenua o Tangoio ki te Raki kō atu i te 9000 eka ā he takahanga hoki i te Tiriti o Waitangi me ōna mātāpono. 35

- (8) Ka whāki atu anō te Karauna arā ko te nuinga o ngā whenua i roto i te rohe raupatu i whakaae ai ia ki te whakahoki ki a Ngāi Māori te mana pupuri i te tau 1870 ka puritia tonu e te Karauna te mana kō atu i te whā tekau tau tae noa atu ki te tukunga o ngā tohanga a te Karauna i ngā mana pupuri ki a Ngāi Māori i noho pū ki aua whenua. 5
- (9) Ka whāki te Karauna kāore rawa ia i whakarite i tētahi tiro tiro motuhake i ngā hua tuku iho o te Hapū ki ngā rohe whenua i whakaae ia kia whakahokia atu ki a Ngāi Māori te mana pupuri i te tau 1870 ā— 10
- (a) I te tau 1870 i tukua e ia kō atu i te 30 000 eka ki Kaiwaka hei tākoha atu ki tētahi kūpapa a te Karauna; ā
- (b) I parea e te Karauna ngā uri o te Hapū mai i ngā mana pupuri mō Kaiwaka ā he takahanga hoki i te Tiriti o Waitangi me ōna mātāpono. 15
- (10) E whāki ake ana te Karauna nā tana kore e rongō i ngā tono maha a te Hapū kia tiro tirohia ō rātau tika ki Kaiwaka i kino atu ai te whakatoihara a te takahanga nei. I amohia e te Hapū ngā tūmomo utu teitei mō ngā raru ture i tā rātau whai i ō rātau tika ki Kaiwaka. 20
- (11) E whāki ana te Karauna ā—
- (a) Kāore ia i uiui atu ki te Hapū i mua i te tukunga o ngā ture whenua taketake i te rautau tekau mā iwa i puta ai te tikanga kia tū ko ia tangata noa hei mana pupuri whenua i riro ai taua mana pupuri ki te iwi katoa i mua atu; ā 25
- (b) I te tau 1866 i tukua e te Kōti Whenua Taketake te mana pupuri mō te whenua rāhui o Moeangiāngi me ngā rohe whenua o Petane o Te Pāhou hoki ki ngā tāngata tokoiti iho i te tekau a tae rawa atu ki te tau 1873 kua hokona kē e ia mana pupuri te katoa o ngā rohe whenua a te Hapū; ā 30
- (c) Mā te tuku i aua tāngata ki te hoko noa i ngā whenua rāhui ki Moeangiāngi me ngā rohe whenua o Petane me Te Pāhou nā te Hapū kē kāore te ture whenua taketake i whai i ngā ōati a te Karauna kia haumaruhia ngā hua a te Hapū ki aua rohe whenua ā he takahanga hoki i te Tiriti o Waitangi me ōna mātāpono. 35

**Maungaharuru-Tangitū Hapū Claims
Settlement Bill**

Part 1 cl 8

- (12) E whāki ana te Karauna ko te tukunga here o te Tonga o Tangioio ki te Poari Whenua Māori o te Takiwā o Ikaroa i te tau 1907 he takahanga hoki i te Tiriti o Waitangi me ōna mātāpono.
- (13) E whāki ana te Karauna mai i te tau 1911 ki te tau 1930 i hokona tata ki te katoa o ngā whenua i whakahokia atu ki ia uri o te Hapū i te tau 1870. E whāki ake ana hoki te Karauna nāna pū—
- (a) Te mahi tinihanga ki roto i ngā ture whenua taketake mō Ngāi Māori ki te whakatau ā-rōpū nei kātahi ka huri ake ki te hoko haere i te maha o ngā whenua mai ia mana pupuri i muri ake i ngā whakataunga o ngā huihuinga kia kaua e hoko i ō rātau whenua; ā
- (b) Kāhore i hāngai pū ngā mahi a te Karauna i tōna mana apunga nā tana ārai i ētahi mana pupuri whenua o te Hapū ki te whakaoti ake i ā rātau whiriwhiri me ngā hunga motuhake ki te kawē i ngā rīhi mō ō rātau whenua kia wātea ai te Karauna ki te hoko; ā
- (c) I kō kē atu ana mahi tinihanga i tōnā mana apunga mā te tuku kia tārewa noa mō te wā roa nei ki runga ki ētahi o aua hunga kīhai nei i hiahia ki te hoko atu ki te Karauna i te mutunga i pērā nā tō rātau whai kia puta he hua mai i ō rātau whenua; ā
- (d) I huri te Karauna ki āna mahi nanakia mō ētahi o ngā mana pupuri i hiahia ai ki te hoko ā kia whiwhi ai ia i te maha o ngā whenua ā maenga ake kō rātau kāore nei i hoko atu ka raru i te itiiti noa o ngā whenua hei pūtake mō rātau i waenga o te takiwā; ā
- (e) Ko ngā mahi a te Karauna he mahi tinihanga he mahi takatakahi ā kāore hoki i tae ki te taumata o te pono o te whakaaro pai e kī mai rā i roto i Te Tiriti o Waitangi me ōna mātāpono.
- (14) Ka whāki ake te Karauna nā tana kore e haumarū i te Hapū mai i te noho kore whenua mō ō rātau hiahia o aua wā me ngā wā ō muri mai ā tae rawa atu ki ngā tau o ngā 1930s—
- (a) I tino murua te oranga ohaoha, te oranga hāpori tae atu ki te tikanga-ā-iwi me tō rātau tairanga ake ā he takahanga i te Tiriti o Waitangi me ōna mātāpono; ā
- (b) He tino pānga hoki ki te hekenga o te tatau tāngata o ngā uri o te Hapū i mua atu i te tau 1930 ā he roa rawa

te noho o ngā uri o te Hapū e tāmia ana e te rawa kore, te māuiui noa, te hauarea noa o ngā kāinga me ngā taumata mātauranga pāpaku noa iho.

- (15) E whāki ana te Karauna nā te turaki haere i ngā ngahere me ngā kaupapa ahuhenua i ngā tau mutunga o te rautau tekau mā iwa me te tīmatanga o te rautau rua tekau i tāpiri atu ki ngā tino takahuringa o te taiao i te takiwā o te Hapū pērā i te pikinga ake o te horoa whenua me te waipuke hoki. Ka whāki ake anō te Karauna—
- (a) I te ngoi kore noa o te oranga o te Roto o Tūtira; ā 10
- (b) Te pānga o te paru o te para ki te tahatai; ā
- (c) Te murunga te rironga hoki o ngā mahinga kai o te Hapū; ā
- (d) Ko te tino rarunga o ngā waipukenga ki te hāpori ki te marae hoki i Tangoio. 15

Acknowledgements

- (1) The Crown acknowledges that addressing the grievances of the Hapū is long overdue.
- (2) The Crown acknowledges that when it purchased the Ahuriri block in 1851— 20
- (a) it failed to consult the Hapū in the first stage of the negotiations; and
- (b) the Crown sought to purchase this land for the lowest price Māori would accept, and was aware that the Hapū were discontented with their share of the purchase price; 25
- and
- (c) Tangoio Māori did not receive the full, ongoing economic benefits from European settlement the Crown led them to expect if they agreed to sell for the price offered by the Crown; and 30
- (d) the Crown did not ensure that adequate reserves of land from the Ahuriri purchase were protected in Hapū ownership, and this was a breach of the Treaty of Waitangi and its principles.
- (3) The Crown acknowledges that when it acquired the Mohaka block in 1851— 35
- (a) it paid a low price, and Ngāi Tahu did not receive the full, ongoing benefits from European settlement they were led to expect in accepting a low price; and

- (b) it breached the Treaty of Waitangi by failing to ensure that adequate reserves were set aside for Ngāi Tahu.
- (4) The Crown acknowledges that in 1866, rather than continue negotiations to preserve the peace at Omarunui, it issued an unreasonable ultimatum demanding the surrender of all those inside the pā. This led to a Crown military attack, which endangered the lives of all men, women, and children inside the pā. The Crown's forces killed more than 20 people defending themselves at Omarunui and Petane. The Crown acknowledges that these attacks were an injustice and breached the Treaty of Waitangi and its principles.
- (5) The Crown acknowledges that the detention without trial in harsh conditions on the Chatham Islands for nearly 2 years of at least 13 members of the Hapū after they were interrogated at Omarunui was an injustice and a breach of the Treaty of Waitangi and its principles.
- (6) The Crown acknowledges that the summary executions by Crown forces at Ngatapa in January 1869 breached the Treaty of Waitangi and its principles and tarnished the honour of the Crown.
- (7) The Crown acknowledges that—
- (a) in 1867 it proclaimed a confiscation district which included most of the takiwā of the Hapū; and
- (b) subsequently, all the customary interests of the Hapū in their land in this district were extinguished and the Crown retained the Tangoio North block of more than 9 000 acres and these actions breached the Treaty of Waitangi and its principles.
- (8) The Crown further acknowledges that most of the land in the confiscation district, which it agreed to return to Māori ownership in 1870, remained in Crown title for more than 40 years until Crown grants were issued to the Māori owners who had been occupying it.
- (9) The Crown acknowledges that it never provided for any independent investigation of the customary interests of the Hapū in the blocks it agreed to return to Māori ownership in 1870 and that—

-
- (a) in 1870 it used more than 30 000 acres at Kaiwaka to reward a Crown ally; and
 - (b) the Crown excluded Hapū members from the ownership of Kaiwaka and this was a breach of the Treaty of Waitangi and its principles. 5
 - (10) The Crown further acknowledges that it made the prejudice arising from this breach worse by declining repeated requests from the Hapū to allow an investigation into their rights in Kaiwaka. The Hapū bore crippling legal expenses as a result of trying to establish their legal rights to Kaiwaka. 10
 - (11) The Crown acknowledges that—
 - (a) it did not consult the Hapū before introducing native land laws in the 19th century, which provided for the individualisation of Māori land holdings that had previously been held in tribal tenure; and 15
 - (b) in 1866 the Native Land Court awarded ownership of the Moeangiāngi Reserve and the Petane and Te Pahou blocks to fewer than 10 individuals, and by 1873, individual owners had sold all the Hapū land in these blocks; and 20
 - (c) by allowing these individuals to sell Hapū land in the Moeangiāngi Reserve and the Petane and Te Pahou blocks, the native land legislation did not reflect the Crown’s obligation to actively protect the interests of the Hapū in these blocks, and this was a breach of the Treaty of Waitangi and its principles. 25
 - (12) The Crown acknowledges that the compulsory vesting of Tangōio South in the Ikarōa District Māori Land Board in 1907 breached the Treaty of Waitangi and its principles.
 - (13) The Crown acknowledges that between 1911 and 1930 it purchased nearly all of the land returned to Hapū individuals in 1870. The Crown further acknowledges that— 30
 - (a) it made a sham of a provision in the native land laws for Māori to make land alienation decisions collectively by purchasing substantial quantities of land from individual owners after the owners had collectively decided at hui not to sell their land; and 35
 - (b) the Crown misused its monopoly powers by preventing some land owners of the Hapū from completing ne-

- gotiations with private parties to lease their land so the Crown could purchase it; and
- (c) it further misused its monopoly powers by imposing them for long periods on some owners who had shown no inclination to sell to the Crown and were left with little choice but to sell to the Crown if they wished to derive economic benefits from their land; and 5
- (d) the Crown exploited the willingness of some owners to sell, to acquire so much land that those who did not wish to sell were left with too little land to maintain a viable presence in the region; and 10
- (e) the Crown’s actions were unfair, oppressive, and did not live up to the standards of good faith and fair dealing, which are expressed in the Treaty of Waitangi and its principles. 15
- (14) The Crown acknowledges that its failure to protect the Hapū from being left with insufficient land for their present and future needs by the 1930s—
- (a) had a devastating impact on their economic, social, and cultural well-being and on their development and was a breach of the Treaty of Waitangi and its principles; and 20
- (b) contributed to significant population losses suffered by the Hapū before 1930, and that for too long Hapū members have endured poverty, poor health, poor housing, and low educational standards. 25
- (15) The Crown acknowledges that extensive deforestation and pastoral farming in the late 19th and early 20th centuries has contributed to significant environmental change in the Hapū takiwā with increased erosion and flooding. The Crown further acknowledges— 30
- (a) the poor health of Lake Tūtira:
- (b) the pollution of the coastline:
- (c) the degradation and loss of many mahinga kai of the Hapū:
- (d) the severe impact of flooding on the community and marae at Tangoio. 35

9 Text of the Crown’s apology

Whakapāha

- (1) E tuku ana te Karauna i tēnei whakapāha ki te Hapū, ki ō rātau tīpuna ki o rātau uri hoki.
- (2) E tino pouri ana te Karauna mō tana kore e hāpai i ana ōati mai i te Tiriti o Waitangi ā i ana takahanga hoki i te Tiriti o Waitangi me ōna mātāpono i roto i ana kōkiri me te Hapū. E aronui ana te Karauna i te puku mahi i ngā piki i ngā heke o ngā tīpuna o te Hapū i ā rātau whai i ngā tonono atu ki te Karauna tērā kia noho tōtika aua take i raro i te ture. 5 10
- (3) Ka nui te tino pāpourī o te Karauna mō ana whakaeke poka noa ki runga o Ōmarunui me Petane hoki i te tau 1866, ngā hunga i parekurahia tae atu hoki ki ērā o koutou i riro kia mauherehia. E tino whakapāha ana te Karauna mō ana mahi parahako ki te Hapū mai i ana pānuitanga i tētahi takiwā raupatu, te murunga o te Raki o Tangoio me te ārai i te Hapū mai i te mana pupuri ō Kaiwaka. 15
- (4) E tino pāpourī ana te Karauna i ana mahi i tino piki ake ai aua mahi parahako mā tana hokonga i te nuinga o ngā toetoenga whenua ō te Hapū i mua atu i te tau 1930 mā ngā tūmomo āhua takatakahi mana ārai tikanga tangata. E tino pouri ana te Karauna mō tana waiho kia noho tata whenua kore te Hapū me ngā raruraru i pā ki o koutou rōpū-ā-iwi me te tuku i a koutou kia whakaatu ake i ō koutou tika tuku iho hoki. E whakapāha ana te Karauna mō tana kore e whai whakaaro ki te rangatiratanga o te Hapū me ngā tūmomo mahi ngā tūmomo warewarenga hoki a te Karauna i pā atu ai ki ō whenua ki ō tauranga ika me ērā atu taonga me tō koutou pūkaha ki te whakatairanga ā-iwi ā-oaha hoki. 20 25
- (5) E whāki ake ana te Karauna he maha ngā reanga hono o ngā whānau kua mate oti atu. E tino pāpourī ana ia mō te noho rawa kore me te māuiui noa i pā ki ō uri. Ka nui tana pouri mō ana mahi mō ana warewarenga hoki i raru ai tō pūkaha kia whakatairanga ake i tō noho ā-hāpori ā-oaha me tō oranga tinana oranga ahurea oranga wairua hoki. 30 35
- (6) Mā roto mai i tēnei whakataunga e rapu ana te Karauna i te huarahi hei tāpae ake i ana mahi hē ki te Hapū ki te whakaū i te mana ki tōna taumata me te tīmata ake i te hātepe whakaora.

**Maungaharuru-Tangitū Hapū Claims
Settlement Bill**

Part 1 cl 9

E manako ana te Karauna mā te whakapāha nei e toko ake ai he hononga hōu i waenga i te Karauna me te Hapū mai i te piripono ki te Tiriti o Waitangi me ōna mātāpono.

Apology

- (1) The Crown makes this apology to the Hapū, their ancestors, and their descendants. 5
- (2) The Crown is deeply sorry that it has not always lived up to its Treaty of Waitangi obligations and that it has breached the Treaty of Waitangi, and its principles, in its dealings with the Hapū. The Crown recognises the tireless efforts and struggles of the ancestors of the Hapū in the pursuit of their longstanding claims for justice and redress from the Crown. 10
- (3) The Crown is deeply remorseful for its unjust attacks on Omarunui and Petane in 1866, the deaths that were caused, and the subsequent imprisonment of some of your people. The Crown sincerely apologises for the immense prejudice it inflicted on the Hapū by the proclamation of a confiscation district, the loss of Tangoio North, and the exclusion of the Hapū from the ownership of Kaiwaka. 15
- (4) The Crown profoundly regrets compounding this prejudice by purchasing most of the remaining land of the Hapū before 1930 in ways that were unfair and oppressive. The Crown is very sorry it left the Hapū virtually landless, and for the harm this caused to your tribal structures and ability to exercise customary rights and responsibilities. The Crown apologises for its failure to respect the rangatiratanga of the Hapū and for Crown acts and omissions which have impacted on your lands, fisheries, and other taonga, and your capacity for social and economic development. 25
- (5) The Crown acknowledges that many family lines have died out and cannot be brought back. It profoundly regrets the poverty and poor health which have long afflicted your people. It deeply regrets its acts and omissions which have affected your capacity for social and economic development and your physical, cultural, and spiritual well-being. 35
- (6) Through this settlement the Crown is seeking to atone for its past wrongs towards the Hapū, to restore its tarnished honour, and to begin the process of healing. The Crown hopes that this

conservation management plan has the meaning given in section 2(1) of the Conservation Act 1987

conservation management strategy has the meaning given in section 2(1) of the Conservation Act 1987

Crown has the meaning given in section 2(1) of the Public Finance Act 1989 5

cultural redress property has the meaning given in **section 71**

deed of recognition—

- (a) means a deed of recognition issued under **section 46** 10
by—
- (i) the Minister of Conservation and the Director-General; or
 - (ii) the Commissioner of Crown Lands; and
- (b) includes any amendments made under **section 46(4)** 15

deed of settlement—

- (a) means the deed of settlement dated 25 May 2013 and signed by—
- (i) the Honourable Christopher Finlayson, Minister for Treaty of Waitangi Negotiations, for and on behalf of the Crown; and 20
 - (ii) Bevan Maihi Taylor, Tania Marama Petrus Hopmans, Tamehana Pekapeka Manaena, Charmaine Dawn Kui Butler, Kerri Donna Nuku, Justin Owen Ian Puna, Frederick Roy Maadi Reti, and Elaine Rangitua Taylor, being the trustees of the Maungaharuru-Tangitū Trust and for and on behalf of the Maungaharuru-Tangitū Hapū; and 25
- (b) includes—
- (i) the schedules of, and attachments to, the deed; and 30
 - (ii) any amendments to the deed or its schedules and attachments

Director-General means the Director-General of Conservation 35

documents schedule means the documents schedule of the deed of settlement

- effective date** means the date that is 6 months after the settlement date
- gifting-back property** has the meaning given in **section 107(5)**
- Historic Places Trust** has the meaning given to Trust in section 2 of the Historic Places Act 1993 5
- historical claims** has the meaning given in **section 13**
- interest** means a covenant, easement, lease, licence, licence to occupy, tenancy, or other right or obligation affecting a property 10
- LINZ** means Land Information New Zealand
- local authority** has the meaning given in section 5(1) of the Local Government Act 2002
- Maungaharuru-Tangitū Trust** means the trust of that name established by a trust deed dated 18 December 2012 15
- member of the Maungaharuru-Tangitū Hapū** means an individual referred to in **section 12(1)(a)**
- national park management plan** has the meaning given to management plan in section 2 of the National Parks Act 1980
- property redress schedule** means the property redress schedule of the deed of settlement 20
- regional council** has the meaning given in section 2(1) of the Resource Management Act 1991
- Registrar-General** means the Registrar-General of Land appointed under section 4 of the Land Transfer Act 1952 25
- related company** has the meaning given in section 2(3) of the Companies Act 1993
- representative entity** means—
- (a) the trustees; and
 - (b) any person (including any trustee) acting for or on behalf of— 30
 - (i) the collective group referred to in **section 12(1)(a)**; or
 - (ii) 1 or more members of the Maungaharuru-Tangitū Hapū; or 35
 - (iii) 1 or more of the whānau, hapū, or groups referred to in **section 12(1)(b)**

- reserve** has the meaning given in section 2(1) of the Reserves Act 1977
- reserve property** has the meaning given in **section 71**
- resource consent** has the meaning given in section 2(1) of the Resource Management Act 1991 5
- RFR** means the right of first refusal provided for by **subpart 4 of Part 3**
- RFR area** has the meaning given in **section 121**
- RFR land** has the meaning given in **section 122**
- settlement date** means the date that is 20 working days after the date on which this Act comes into force 10
- statutory acknowledgement** has the meaning given in **section 37**
- subsidiary** has the meaning given in section 5 of the Companies Act 1993 15
- Tātai Tūāpapa** has the meaning given in **section 51**
- trustees of the Maungaharuru-Tangitū Trust** and **trustees** means the trustees, acting in their capacity as trustees, of the Maungaharuru-Tangitū Trust
- working day** means a day other than— 20
- (a) Saturday, Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign’s birthday, and Labour Day;
- (b) a day in the period commencing with 25 December in any year and ending with the close of 15 January in the following year: 25
- (c) the days observed as the anniversaries of the provinces of Hawke’s Bay and Wellington.
- 12 Meaning of Maungaharuru-Tangitū Hapū**
- (1) In this Act, **Maungaharuru-Tangitū Hapū** or **Hapū** means— 30
- (a) the collective group composed of individuals who are descended from 1 or more Maungaharuru-Tangitū Hapū tīpuna; and
- (b) every whānau, hapū, or group to the extent that it is composed of individuals referred to in **paragraph (a)**, including the following groups: 35

- (i) Ngāti Kurumōkihi (formerly known as Ngāi Tatara); and
 - (ii) Marangatūhetaua (also known as Ngāti Tū); and
 - (iii) Ngāti Whakaari; and
 - (iv) Ngāi Tauira; and 5
 - (v) Ngāi Te Ruruku ki Tangoio; and
 - (vi) Ngāi Tahu; and
 - (c) every individual referred to in **paragraph (a)**.
- (2) In this section and **section 13**,—
- customary rights** means rights exercised according to tikanga Māori (Māori customary values and practices), including— 10
- (a) rights to occupy land; and
 - (b) rights in relation to the use of land or other natural or physical resources
- descended** means that a person is descended from another person by— 15
- (a) birth; or
 - (b) legal adoption
- Maungaharuru-Tangitū Hapū tipuna** means an individual who— 20
- (a) exercised customary rights by virtue of being descended from—
 - (i) Tataramoa (for Ngāi Tatara and Ngāti Kurumōkihi); or
 - (ii) Tukapua I (for Marangatūhetaua (Ngāti Tū)); or 25
 - (iii) Whakaari (for Ngāti Whakaari); or
 - (iv) Tauira and Mateawha (for Ngāi Tauira); or
 - (v) Te Ruruku through Hemi Puna and Taraipene Tuaitu (for Ngāi Te Ruruku ki Tangoio); or
 - (vi) Tahumatua II (for Ngāi Tahu) and the tipuna 30
named in 1 of **subparagraphs (i) to (v)**; and
 - (b) exercised the customary rights in relation to the area of interest at any time after 6 February 1840.
- 13 Meaning of historical claims**
- (1) In this Act, **historical claims**— 35
- (a) means the claims described in **subsection (2)**; and
 - (b) includes the claims described in **subsection (3)**; but

- (c) does not include the claims described in **subsection (4)**.
- (2) The historical claims are every claim that the Maungaharuru-Tangitū Hapū or a representative entity had on or before the settlement date, or may have after the settlement date, and that—
- (a) is founded on a right arising—
- (i) from the Treaty of Waitangi or its principles; or
 - (ii) under legislation; or
 - (iii) at common law (including aboriginal title or customary law); or
 - (iv) from a fiduciary duty; or
 - (v) otherwise; and
- (b) arises from, or relates to, acts or omissions before 21 September 1992—
- (i) by or on behalf of the Crown; or
 - (ii) by or under legislation.
- (3) The historical claims include any claim to the Waitangi Tribunal, including each of the following claims, to the extent that **subsection (2)** applies to the claim and the claim relates to the Maungaharuru-Tangitū Hapū or a representative entity:
- (a) Wai 119—Mohaka Purchase claim:
 - (b) Wai 201—Wairoa ki Wairarapa claims/Ngāti Kahungunu generic claim:
 - (c) Wai 299—Mohaka-Waikare Raupatu/Confiscation claim:
 - (d) Wai 400—Ahuriri Purchase claim.
- (4) However, the historical claims do not include—
- (a) Wai 55—Te Whanganui-ā-Orotu claim (negotiated by another Crown-approved mandated body on behalf of Marangatūhetaua and Ngāi Te Ruruku ki Tangoio); or
 - (b) Wai 692—Napier Hospital and Health Services claim (negotiated by another Crown-approved mandated body on behalf of the Hapū); or
 - (c) a claim that a member of the Maungaharuru-Tangitū Hapū, or a whānau, hapū, or group referred to in **section 12(1)(b)**, had or may have that is founded on a right arising by virtue of being descended from a tipuna who is not a Maungaharuru-Tangitū Hapū tipuna; or

- (d) a claim that a representative entity had or may have that is based on a claim referred to in **paragraph (c)**.
- (5) A claim may be a historical claim whether or not the claim has arisen or been considered, researched, registered, notified, or made on or before the settlement date. 5

Historical claims settled and jurisdiction of courts, etc, removed

14 Settlement of historical claims final

- (1) The historical claims are settled.
- (2) The settlement of the historical claims is final, and, on and from the settlement date, the Crown is released and discharged from all obligations and liabilities in respect of those claims. 10
- (3) **Subsections (1) and (2)** do not limit the deed of settlement.
- (4) Despite any other enactment or rule of law, on and from the settlement date, no court, tribunal, or other judicial body has jurisdiction (including the jurisdiction to inquire or further inquire, or to make a finding or recommendation) in respect of— 15
- (a) the historical claims; or
- (b) the deed of settlement; or
- (c) this Act; or 20
- (d) the redress provided under the deed of settlement or this Act.
- (5) **Subsection (4)** does not exclude the jurisdiction of a court, tribunal, or other judicial body in respect of the interpretation or implementation of the deed of settlement or this Act. 25

Amendment to Treaty of Waitangi Act 1975

15 Amendment to Treaty of Waitangi Act 1975

- (1) This section amends the Treaty of Waitangi Act 1975.
- (2) In Schedule 3, insert in its appropriate alphabetical order “Maungaharuru-Tangitū Hapū Claims Settlement Act **2013**, **section 14(4) and (5)**”. 30

Resumptive memorials no longer to apply

16 Certain enactments do not apply

- (1) The enactments listed in **subsection (2)** do not apply—

- (a) to a commercial redress property; or
 - (b) to land in the RFR area; or
 - (c) for the benefit of the Maungaharuru-Tangitū Hapū or a representative entity.
- (2) The enactments are— 5
- (a) Part 3 of the Crown Forest Assets Act 1989:
 - (b) sections 211 to 213 of the Education Act 1989:
 - (c) Part 3 of the New Zealand Railways Corporation Restructuring Act 1990:
 - (d) sections 27A to 27C of the State-Owned Enterprises Act 1986: 10
 - (e) sections 8A to 8HJ of the Treaty of Waitangi Act 1975.
- 17 Resumptive memorials to be cancelled**
- (1) The chief executive of LINZ must issue to the Registrar-General 1 or more certificates that specify the legal description of, 15
and identify the computer register for, each allotment that is subject to a resumptive memorial recorded under any enactment listed in **section 16(2)** and that—
- (a) is all or part of a commercial redress property; or
 - (b) is solely within the RFR area. 20
- (2) The chief executive of LINZ must issue a certificate as soon as is reasonably practicable after the settlement date.
- (3) Each certificate must state that it is issued under this section.
- (4) As soon as is reasonably practicable after receiving a certificate, the Registrar-General must— 25
- (a) register the certificate against each computer register identified in the certificate; and
 - (b) cancel each memorial recorded under an enactment listed in **section 16(2)** on a computer register identified in the certificate, but only in respect of each allotment described in the certificate. 30

Miscellaneous matters

18 Rule against perpetuities does not apply

- (1) The rule against perpetuities and the provisions of the Perpetuities Act 1964— 35
- (a) do not prescribe or restrict the period during which—

- (i) the Maungaharuru-Tangitū Trust may exist in law; or
 - (ii) the trustees of the Maungaharuru-Tangitū Trust may hold or deal with property or income derived from property; and 5
 - (b) do not apply to a document entered into to give effect to the deed of settlement 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. 10
 - (2) However, if the Maungaharuru-Tangitū Trust is, or becomes, a charitable trust, the application (if any) of the rule against perpetuities or of any provision of the Perpetuities Act 1964 to that trust must be determined under the general law.
- 19 Access to deed of settlement** 15
- The chief executive of the Ministry of Justice must make copies of the deed of settlement available—
- (a) for inspection free of charge, and for purchase at a reasonable price, at the head office of the Ministry of Justice in Wellington between 9 am and 5 pm on any working day; and 20
 - (b) free of charge on an Internet site maintained by or on behalf of the Ministry of Justice.
- Part 2**
- Cultural redress** 25
- Subpart 1—Tangoio
- 20 Interpretation**
- In this subpart,—
- catchments fund** means the fund established under **section 21** 30
- catchments management area** means those parts of the following water catchments surrounding the reserve that are within the area of interest as shown on OTS-201-53:
- (a) Esk water catchment:
 - (b) Te Ngarue water catchment: 35
 - (c) Waipātiki water catchment:

(d) Aropaoanui water catchment

Council means the Hawke’s Bay Regional Council

environment has the meaning given in section 2(1) of the Resource Management Act 1991

reserve fund means the fund administered by the Council that relates to the income derived from, and expenses incurred in relation to, the reserve and the commercial forest on the reserve from time to time 5

Tangoio Soil Conservation Reserve or **reserve** means the land described in **Schedule 1** that is controlled and managed by the Council under section 16 of the Soil Conservation and Rivers Control Act 1941. 10

21 Council must establish and administer catchments fund

- (1) The Council must establish a catchments fund by opening a dedicated account at a registered bank. 15
- (2) The Council must administer the catchments fund.

22 Application of money in catchments fund

- (1) The Council and the trustees must agree on the application of the money in the catchments fund.
- (2) The Council may apply the money in the catchments fund only for the following purposes: 20
 - (a) maintaining the physical, chemical, and biological qualities of the soil in the catchments management area:
 - (b) avoiding, remedying, or mitigating soil erosion and its effects on the environment in the catchments management area. 25
- (3) Neither the Council nor the trustees must unreasonably withhold consent to any proposed application of money in the catchments fund under **subsection (1)**.
- (4) To avoid doubt, **subsection (2)** does not authorise the Council to use any money in the catchments fund to purchase land. 30
- (5) The Council must return any money generated from the application of money under **subsection (1)** to the catchments fund (minus any actual and reasonable expenses incurred by the Council in administering the catchments fund). 35

- 23 Transfers from reserve fund to catchments fund**
- (1) The Council may, from time to time, transfer money from the reserve fund to the catchments fund if the Council is satisfied that the transfer will not adversely affect its obligations under section 16(4) of the Soil Conservation and Rivers Control Act 1941 to manage and control the Tangoio Soil Conservation Reserve in a manner that in its opinion will best conserve the soil of the reserve and prevent injury to other land. 5
- (2) The Council must, at least once every 3 years after the settlement date, assess whether any money may be transferred from the reserve fund to the catchments fund in accordance with **subsection (1)**. 10
- 24 Application of Soil Conservation and Rivers Control Act 1941**
- (1) Nothing in the Soil Conservation and Rivers Control Act 1941 applies to the catchments fund or the management of the catchments fund by the Council. 15
- (2) To avoid doubt, nothing in this subpart derogates from the Council’s obligations under the Soil Conservation and Rivers Control Act 1941 in relation to the reserve, the commercial forest on the reserve, or the reserve fund. 20
- 25 Power of LINZ to obtain information relating to catchments fund**
- (1) LINZ may request the Council to supply it with any information in relation to the catchments fund that is necessary to enable LINZ to meet its reporting obligations under the Public Finance Act 1989. 25
- (2) A request under **subsection (1)**—
- (a) must be in writing; and
- (b) state the date by which, and the manner in which, the information requested must be provided. 30
- (3) If the Council receives a request under **subsection (1)**, the Council must—
- (a) provide a written response; and
- (b) provide a copy of the response to the trustees. 35

Subpart 2—Te Kawenata

- 26 Interpretation**
In this subpart,—
conservation document means a national park management plan, conservation management plan, conservation management strategy, or freshwater fisheries management plan 5
freshwater fisheries management plan has the meaning given in section 2(1) of the Conservation Act 1987
Te Kawenata means a partnership agreement in the form set out in part 7 of the documents schedule. 10
- 27 Authority to enter into Te Kawenata**
Not later than the settlement date, the Minister of Conservation, the Director-General, and the trustees of the Maungaharuru-Tangitū Trust must enter into Te Kawenata.
- 28 Noting of Te Kawenata on conservation documents** 15
(1) The Director-General must ensure that a summary of Te Kawenata is noted on every conservation document affecting Te Kawenata Area (as defined in Te Kawenata).
(2) The noting of the summary—
(a) is for the purpose of public notice only; and 20
(b) does not amend a conservation document for the purposes of the Conservation Act 1987 or the National Parks Act 1980.
- 29 Te Kawenata subject to rights, functions, duties, and powers** 25
(1) Te Kawenata does not limit or affect—
(a) the rights, functions, duties, or powers of the Crown, including (without limitation) the Crown’s ability to—
(i) introduce legislation; or
(ii) change government policy; or 30
(b) the functions, duties, or powers of the Minister of Conservation or the Director-General.
(2) Te Kawenata does not have the effect of granting, creating, or providing evidence of an estate or interest in, or rights relating to,— 35

- (a) land or any other resource held, managed, or administered under the conservation legislation; or
- (b) the common marine and coastal area (as defined in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011). 5

30 Enforcement of Te Kawenata

- (1) The Crown and the trustees must comply with Te Kawenata unless they agree to terminate it in accordance with its terms.
- (2) If the Crown fails to comply with Te Kawenata without good cause, the trustees may seek— 10
 - (a) a public law remedy (for example, judicial review):
 - (b) to enforce Te Kawenata, subject to the Crown Proceedings Act 1950.
- (3) Despite **subsection (2)**, damages or other forms of monetary compensation are not available as a remedy for a failure by the Crown to comply with Te Kawenata. 15
- (4) To avoid doubt, **subsection (3)** does not affect the ability of a court to award costs incurred by the trustees in enforcing Te Kawenata under **subsection (2)**.
- (5) **Subsection (2)** does not affect any contract entered into between the Minister of Conservation or the Director-General and the trustees, including any contract for service or concession. 20

Subpart 3—Protocols

31 Interpretation 25

In this subpart,—

protocol—

- (a) means each of the following protocols issued under **section 32(1)(a)**: 30
 - (i) the Crown minerals protocol:
 - (ii) the taonga tūturu protocol; and
- (b) includes any amendments made under **section 32(1)(b)**

responsible Minister means,—

- (a) for the Crown minerals protocol, the Minister of Energy and Resources: 35

- (b) for the taonga tūturu protocol, the Minister for Arts, Culture and Heritage:
- (c) for any protocol, any other Minister of the Crown authorised by the Prime Minister to exercise powers and perform functions and duties in relation to the protocol. 5

General provisions applying to protocols

32 Issuing, amending, and cancelling protocols

- (1) Each responsible Minister—
 - (a) must issue a protocol to the trustees on the terms set out in part 5 of the documents schedule; and 10
 - (b) may amend or cancel that protocol.
- (2) The responsible Minister may amend or cancel a protocol at the initiative of—
 - (a) the trustees; or
 - (b) the responsible Minister. 15
- (3) The responsible Minister may amend or cancel a protocol only after consulting, and having particular regard to the views of, the trustees.

33 Protocols subject to rights, functions, and duties

- Protocols do not restrict— 20
- (a) the ability of the Crown to exercise its powers and perform its functions and duties in accordance with the law and government policy, for example, the ability to—
 - (i) introduce legislation and change government policy; and 25
 - (ii) interact with or consult a person the Crown considers appropriate, including any iwi, hapū, marae, whānau, or other representative of tāngata whenua; or
 - (b) the responsibilities of a responsible Minister or a department of State; or 30
 - (c) the legal rights of the Maungaharuru-Tangitū Hapū or a representative entity.

34 Enforcement of protocols

- (1) The Crown must comply with a protocol while it is in force. 35

- (2) If the Crown fails to comply with a protocol without good cause, the trustees may enforce the protocol, subject to the Crown Proceedings Act 1950.
- (3) Despite **subsection (2)**, damages or other forms of monetary compensation are not available as a remedy for a failure by the Crown to comply with a protocol. 5
- (4) To avoid doubt,—
- (a) **subsections (1) and (2)** do not apply to guidelines developed for the implementation of a protocol; and
- (b) **subsection (3)** does not affect the ability of a court to award costs incurred by the trustees in enforcing the protocol under **subsection (2)**. 10

Crown minerals

35 Crown minerals protocol

- (1) The chief executive of the department of State responsible for the administration of the Crown Minerals Act 1991 must note a summary of the terms of the Crown minerals protocol in— 15
- (a) a register of protocols maintained by the chief executive; and
- (b) the minerals programmes that affect the Crown minerals protocol area, but only when those programmes are changed. 20
- (2) The noting of the summary is—
- (a) for the purpose of public notice only; and
- (b) not a change to the minerals programmes for the purposes of the Crown Minerals Act 1991. 25
- (3) The Crown minerals protocol does not have the effect of granting, creating, or providing evidence of an estate or interest in, or rights relating to, Crown minerals.
- (4) In this section,— 30
- Crown mineral** means a mineral, as defined in section 2(1) of the Crown Minerals Act 1991,—
- (a) that is the property of the Crown under section 10 or 11 of that Act; or
- (b) over which the Crown has jurisdiction under the Continental Shelf Act 1964 35

Crown minerals protocol area means the area shown on the map attached to the Crown minerals protocol, together with the adjacent waters

minerals programme has the meaning given in section 2(1) of the Crown Minerals Act 1991. 5

Taonga tūturu

36 Taonga tūturu protocol

(1) The taonga tūturu protocol does not have the effect of granting, creating, or providing evidence of an estate or interest in, or rights relating to, taonga tūturu. 10

(2) In this section, **taonga tūturu**—

(a) has the meaning given in section 2(1) of the Protected Objects Act 1975; and

(b) includes ngā taonga tūturu, as defined in section 2(1) of that Act. 15

Subpart 4—Statutory acknowledgement and deeds of recognition

37 Interpretation

In this subpart,—

affected person has the meaning given in section 2AA(2) of the Resource Management Act 1991 20

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

statement of association, for a statutory area, means the statement— 25

(a) made by the Maungaharuru-Tangitū Hapū of their particular cultural, historical, spiritual, and traditional association with the statutory area; and

(b) set out in part 3 of the documents schedule 30

statutory acknowledgement means the acknowledgement made by the Crown in **section 38** in respect of the statutory areas, on the terms set out in this subpart

statutory area means an area described in **Schedule 2**, the general location of which is indicated on the deed plan for that area

statutory plan—

- (a) means a district plan, regional coastal plan, regional plan, regional policy statement, or proposed policy statement as defined in section 43AA of the Resource Management Act 1991; and 5
- (b) includes a proposed plan, as defined in section 43AAC of that Act. 10

Statutory acknowledgement

38 Statutory acknowledgement by the Crown

The Crown acknowledges the statements of association for the statutory areas.

39 Purposes of statutory acknowledgement

The only purposes of the statutory acknowledgement are to—

- (a) require relevant consent authorities, the Environment Court, and the Historic Places Trust to have regard to the statutory acknowledgement, in accordance with **sections 40 to 42**; and 20
- (b) require relevant consent authorities to record the statutory acknowledgement on statutory plans that relate to the statutory areas and to provide summaries of resource consent applications or copies of notices of applications to the trustees in accordance with **sections 43 and 44**; and 25
- (c) enable the trustees and any member of the Maungaharuru-Tangitū Hapū to cite the statutory acknowledgement as evidence of the association of the Maungaharuru-Tangitū Hapū with a statutory area, in accordance with **section 45**. 30

- 40 Relevant consent authorities to have regard to statutory acknowledgement**
- (1) This section applies in relation to an application for a resource consent for an activity within, adjacent to, or directly affecting a statutory area. 5
- (2) On and from the effective date, a relevant consent authority must have regard to the statutory acknowledgement relating to the statutory area in deciding, under section 95E of the Resource Management Act 1991, whether the trustees are affected persons in relation to the activity. 10
- (3) **Subsection (2)** does not limit the obligations of a relevant consent authority under the Resource Management Act 1991.
- 41 Environment Court to have regard to statutory acknowledgement**
- (1) This section applies to proceedings in the Environment Court in relation to an application for a resource consent for an activity within, adjacent to, or directly affecting a statutory area. 15
- (2) On and from the effective date, the Environment Court must have regard to the statutory acknowledgement relating to the statutory area in deciding, under section 274 of the Resource Management Act 1991, whether the trustees are persons with an interest in the proceedings greater than that of the general public. 20
- (3) **Subsection (2)** does not limit the obligations of the Environment Court under the Resource Management Act 1991. 25
- 42 Historic Places Trust and Environment Court to have regard to statutory acknowledgement**
- (1) This section applies to an application 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. 30
- (2) On and from the effective date, the Historic Places Trust must have regard to the statutory acknowledgement relating to the statutory area in exercising its powers under section 14 of the Historic Places Act 1993 in relation to the application. 35

- (3) On and from the effective date, the Environment Court must have regard to the statutory acknowledgement relating to the statutory area—
- (a) in determining whether the trustees are persons directly affected by the decision; and 5
 - (b) in determining, under section 20 of the Historic Places Act 1993, an appeal against a decision of the Historic Places Trust in relation to the application.
- (4) In this section, **archaeological site** has the meaning given in section 2 of the Historic Places Act 1993. 10
- 43 Recording statutory acknowledgement on statutory plans**
- (1) On and from the effective date, each relevant consent authority must attach information recording the statutory acknowledgement to all statutory plans that wholly or partly cover a statutory area. 15
- (2) The information attached to a statutory plan must include—
- (a) a copy of **sections 38 to 42, 44, and 45**; and
 - (b) descriptions of the statutory areas wholly or partly covered by the plan; and
 - (c) the statement of association for each statutory area. 20
- (3) The attachment of information to a statutory plan under this section is for the purpose of public information only and, unless adopted by the relevant consent authority as part of the statutory plan, the information is not—
- (a) part of the statutory plan; or 25
 - (b) subject to the provisions of Schedule 1 of the Resource Management Act 1991.
- 44 Provision of summary or notice to trustees**
- (1) Each relevant consent authority must, for a period of 20 years on and from the effective date, provide the following to the trustees for each resource consent application for an activity within, adjacent to, or directly affecting a statutory area: 30
- (a) if the application is received by the consent authority, a summary of the application; or
 - (b) if notice of the application is served on the consent authority under section 145(10) of the Resource Management Act 1991, a copy of the notice. 35

- (2) A summary provided under **subsection (1)(a)** must be the same as would be given to an affected person by limited notification under section 95B of the Resource Management Act 1991 or as may be agreed between the trustees and the relevant consent authority. 5
- (3) The summary must be provided—
- (a) as soon as is reasonably practicable after the relevant consent authority receives the application; but
 - (b) before the relevant consent authority decides under section 95 of the Resource Management Act 1991 whether to notify the application. 10
- (4) A copy of a notice must be provided under **subsection (1)(b)** not later than 10 working days after the day on which the consent authority receives the notice.
- (5) The trustees may, by written notice to a relevant consent authority,—
- (a) waive the right to be provided with a summary or copy of a notice under this section; and
 - (b) state the scope of that waiver and the period it applies for. 20
- (6) This section does not affect the obligation of a relevant consent authority to decide,—
- (a) under section 95 of the Resource Management Act 1991, whether to notify an application:
 - (b) under section 95E of that Act, whether the trustees are affected persons in relation to an activity. 25

45 Use of statutory acknowledgement

- (1) The trustees and any member of the Maungaharuru-Tangitū Hapū may, as evidence of the association of the Maungaharuru-Tangitū Hapū with a statutory area, cite the statutory acknowledgement that relates to that area in submissions and proceedings concerning activities within, adjacent to, or directly affecting the statutory area that are made to or before—
- (a) the relevant consent authorities; or 35
 - (b) the Environment Court; or
 - (c) the Historic Places Trust; or

- (d) the Environmental Protection Authority or a board of inquiry under Part 6AA of the Resource Management Act 1991.
- (2) The content of a statement of association is not, by virtue of the statutory acknowledgement, binding as fact on— 5
 - (a) the bodies referred to in **subsection (1)**; or
 - (b) parties to proceedings before those bodies; or
 - (c) any other person who is entitled to participate in those proceedings.
- (3) However, the bodies and persons specified in **subsection (2)** 10 may take the statutory acknowledgement into account.
- (4) To avoid doubt,—
 - (a) neither the trustees nor members of the Maungaharuru-Tangitū Hapū are precluded from stating that the Maungaharuru-Tangitū Hapū have an association with a statutory area that is not described in the statutory acknowledgement; and 15
 - (b) the content and existence of the statutory acknowledgement do not limit any statement made.

Deeds of recognition 20

46 Issuing and amending deeds of recognition

- (1) This section applies in respect of the statutory areas listed in **Part 2 of Schedule 2**.
- (2) The Minister of Conservation and the Director-General must issue a deed of recognition in the form set out in part 4 of the documents schedule for the statutory areas administered by the Department of Conservation. 25
- (3) The Commissioner of Crown Lands must issue a deed of recognition in the form set out in part 4 of the documents schedule for the statutory areas administered by the Commissioner. 30
- (4) The person or persons who issue a deed of recognition may amend the deed, but only with the written consent of the trustees.

*General provisions relating to statutory
acknowledgement and deeds of recognition*

- 47 Application of statutory acknowledgement and deed of recognition to river or stream**
- (1) If any part of the statutory acknowledgement applies to a river or stream, including a tributary, that part of the acknowledgement—
- (a) applies only to—
 - (i) the continuously or intermittently flowing body of fresh water, including a modified watercourse, that comprises the river or stream; and
 - (ii) the bed of the river or stream, which is the land that the waters of the river or stream cover at their fullest flow without flowing over the banks of the river or stream; but
 - (b) does not apply to—
 - (i) a part of the bed of the river or stream that is not owned by the Crown; or
 - (ii) an artificial watercourse.
- (2) If any part of a deed of recognition applies to a river or stream, including a tributary, that part of the deed—
- (a) applies only to the bed of the river or stream, which is the land that the waters of the river or stream cover at their fullest flow without flowing over the banks of the river or stream; but
 - (b) does not apply to—
 - (i) a part of the bed of the river or stream that is not owned and managed by the Crown; or
 - (ii) the bed of an artificial watercourse.
- 48 Exercise of powers and performance of functions and duties**
- (1) The statutory acknowledgement and a deed of recognition do not affect, and must not be taken into account by, a person exercising a power or performing a function or duty under an enactment or a bylaw.
- (2) A person, in considering a matter or making a decision or recommendation under an enactment or a bylaw, must not give greater or lesser weight to the association of the Maun-

gaharuru-Tangitū Hapū with a statutory area than that person would give if there were no statutory acknowledgement or deed of recognition for the statutory area.

(3) **Subsection (2)** does not limit **subsection (1)**.

(4) This section is subject to— 5

- (a) the other provisions of this subpart; and
- (b) any obligation imposed on the Minister of Conservation, the Director-General, or the Commissioner of Crown Lands by a deed of recognition.

49 Rights not affected 10

(1) The statutory acknowledgement and a deed of recognition do not—

- (a) affect the lawful rights or interests of a person who is not a party to the deed of settlement; or
- (b) have the effect of granting, creating, or providing evidence of an estate or interest in, or rights relating to, a statutory area. 15

(2) This section is subject to the other provisions of this subpart.

*Consequential amendment to Resource
Management Act 1991* 20

50 Amendment to Resource Management Act 1991

- (1) This section amends the Resource Management Act 1991.
- (2) In Schedule 11, insert in its appropriate alphabetical order “Maungaharuru-Tangitū Hapū Claims Settlement Act **2013**”.

Subpart 5—Tātai Tūāpapa 25

51 Interpretation

In this subpart,—

Conservation Board means a board established under section 6L of the Conservation Act 1987

New Zealand Conservation Authority means the Authority established by section 6A of the Conservation Act 1987 30

protection principles, for a Tātai Tūāpapa area, means the principles set out for the area in part 2 of the documents schedule, or as amended under **section 54(3)**

specified actions, for a Tātai Tūāpapa area, means the actions set out for the area in part 2 of the documents schedule

statement of values, for a Tātai Tūāpapa area, means the statement—

- (a) made by the Maungaharuru-Tangitū Hapū of their values relating to their cultural, historical, spiritual, and traditional association with the Tātai Tūāpapa area; and 5
- (b) set out in part 1 of the documents schedule.

Tātai Tūāpapa means the application of this subpart to each Tātai Tūāpapa area 10

Tātai Tūāpapa area—

- (a) means an area that is declared under **section 52(1)** to be subject to Tātai Tūāpapa; but
- (b) does not include an area that is declared under **section 63(1)** to be no longer subject to Tātai Tūāpapa. 15

52 Declaration of Tātai Tūāpapa and the Crown's acknowledgement

- (1) Each area described in **Schedule 3** is declared to be subject to the Tātai Tūāpapa.
- (2) The Crown acknowledges the statements of values for the Tātai Tūāpapa areas. 20

53 Purposes of Tātai Tūāpapa

The only purposes of Tātai Tūāpapa are to—

- (a) require the New Zealand Conservation Authority and relevant Conservation Boards to comply with the obligations in **section 55**; and 25
- (b) enable the taking of action under **sections 56 to 61**.

54 Agreement on protection principles

- (1) The trustees and the Minister of Conservation may agree on and publicise protection principles that are intended to prevent the values stated in the statement of values for a Tātai Tūāpapa area from being harmed or diminished. 30
- (2) The protection principles set out in part 2 of the documents schedule are to be treated as having been agreed by the trustees and the Minister of Conservation. 35

- (3) The trustees and the Minister of Conservation may agree in writing to any amendments to the protection principles.

55 Obligations on New Zealand Conservation Authority and Conservation Boards

- (1) When the New Zealand Conservation Authority or a Conservation Board considers a conservation management strategy, conservation management plan, or national park management plan that relates to a Tātai Tūāpapa area, the Authority or Board must have particular regard to—
- (a) the statement of values for the area; and 10
 - (b) the protection principles for the area.
- (2) Before approving a strategy or plan that relates to a Tātai Tūāpapa area, the New Zealand Conservation Authority or a Conservation Board must—
- (a) consult the trustees; and 15
 - (b) have particular regard to the views of the trustees as to the effect of the strategy or plan on—
 - (i) the statement of values for the area; and
 - (ii) the protection principles for the area.
- (3) If the trustees advise the New Zealand Conservation Authority in writing that they have significant concerns about a draft conservation management strategy in relation to a Tātai Tūāpapa area, the Authority must, before approving the strategy, give the trustees an opportunity to make submissions in relation to those concerns. 25

56 Noting of Tātai Tūāpapa in strategies and plans

- (1) The application of the Tātai Tūāpapa to a Tātai Tūāpapa area must be noted in any conservation management strategy, conservation management plan, or national park management plan affecting the area. 30
- (2) The noting of the Tātai Tūāpapa is—
- (a) for the purpose of public notice only; and
 - (b) not an amendment to the strategy or plan for the purposes of section 17I of the Conservation Act 1987 or section 46 of the National Parks Act 1980. 35

57 Notification in Gazette

- (1) The Minister of Conservation must notify in the *Gazette*, as soon as practicable after the settlement date,—
- (a) the declaration made by **section 52** that the Tātai Tūāpapa applies to the Tātai Tūāpapa areas; and 5
 - (b) the protection principles for each Tātai Tūāpapa area.
- (2) Any amendment to the protection principles agreed under **section 54(3)** must be notified by the Minister in the *Gazette* as soon as practicable after the amendment has been agreed in writing. 10
- (3) The Director-General may notify in the *Gazette* any action (including any specified action) taken or intended to be taken under **section 58 or 59**.

58 Actions by Director-General

- (1) The Director-General must take action in relation to the protection principles that relate to a Tātai Tūāpapa area, including the specified actions. 15
- (2) The Director-General retains complete discretion to determine the method and extent of the action to be taken.
- (3) The Director-General must notify the trustees in writing of any action intended to be taken. 20

59 Amendment to strategies or plans

- (1) The Director-General may initiate an amendment to a conservation management strategy, conservation management plan, or national park management plan to incorporate objectives for the protection principles that relate to a Tātai Tūāpapa area. 25
- (2) The Director-General must consult relevant Conservation Boards before initiating the amendment.
- (3) The amendment is an amendment for the purposes of section 17I(1) to (3) of the Conservation Act 1987 or section 46(1) to (4) of the National Parks Act 1980. 30

60 Regulations

The Governor-General may, by Order in Council made on the recommendation of the Minister of Conservation, make regulations for 1 or more of the following purposes: 35

- (a) to provide for the implementation of objectives included in a strategy or plan under **section 59(1)**:
- (b) to regulate or prohibit activities or conduct by members of the public in relation to a Tātai Tūāpapa area:
- (c) to create offences for breaches of regulations made under **paragraph (b)**: 5
- (d) to prescribe the following fines:
 - (i) for an offence referred to in **paragraph (c)**, a fine not exceeding \$5,000; and
 - (ii) for a continuing offence, an additional amount not exceeding \$50 for every day on which the offence continues. 10

61 Bylaws

The Minister of Conservation may make bylaws for 1 or more of the following purposes: 15

- (a) to provide for the implementation of objectives included in a strategy or plan under **section 59(1)**:
- (b) to regulate or prohibit activities or conduct by members of the public in relation to a Tātai Tūāpapa area:
- (c) to create offences for breaches of bylaws made under **paragraph (b)**: 20
- (d) to prescribe the following fines:
 - (i) for an offence referred to in **paragraph (c)**, a fine not exceeding \$1,000; and
 - (ii) for a continuing offence, an additional amount not exceeding \$50 for every day on which the offence continues. 25

62 Existing classification of Tātai Tūāpapa areas

- (1) This section applies if the Tātai Tūāpapa applies to any land in— 30
 - (a) a national park under the National Parks Act 1980; or
 - (b) a conservation area under the Conservation Act 1987; or
 - (c) a reserve under the Reserves Act 1977.
- (2) The Tātai Tūāpapa does not affect— 35
 - (a) the purpose of the national park, conservation area, or reserve; or

- (b) the classification of the land as a national park, conservation area, or reserve.

63 Termination of Tātai Tūāpapa

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister of Conservation, declare that all or part of a Tātai Tūāpapa area is no longer subject to the Tātai Tūāpapa. 5
- (2) The Minister of Conservation must not make a recommendation for the purposes of **subsection (1)** unless—
- (a) the trustees and the Minister of Conservation have agreed in writing that the Tātai Tūāpapa is no longer appropriate for the relevant area; or 10
- (b) the relevant area is to be, or has been, disposed of by the Crown; or
- (c) the responsibility for managing the relevant area is to be, or has been, transferred to a different Minister of the Crown or the Commissioner of Crown Lands. 15
- (3) The Crown must take reasonable steps to ensure that the trustees continue to have input into the management of a relevant area if— 20
- (a) **subsection (2)(c)** applies; or
- (b) there is a change in the statutory management regime that applies to all or part of the Tātai Tūāpapa area.

64 Exercise of powers and performance of functions and duties

- (1) The Tātai Tūāpapa does not affect, and must not be taken into account by, any person exercising a power or performing a function or duty under an enactment or a bylaw. 25
- (2) A person, in considering a matter or making a decision or recommendation under legislation or a bylaw, must not give greater or lesser weight to the values stated in the statement of values for a Tātai Tūāpapa area than that person would give if the area were not subject to the Tātai Tūāpapa. 30
- (3) **Subsection (2)** does not limit **subsection (1)**.
- (4) This section is subject to the other provisions of this subpart. 35

65 Rights not affected

- (1) The Tātai Tūāpapa does not—
- (a) affect the lawful rights or interests of a person who is not a party to the deed of settlement; or
 - (b) have the effect of granting, creating, or providing evidence of an estate or interest in, or rights relating to, a Tātai Tūāpapa area. 5
- (2) This section is subject to the other provisions of this subpart.

Subpart 6—Fisheries redress

66 Appointment of advisory committee in relation to Wairoa Hard 10

- (1) The Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of the Ministry of Agriculture and Fisheries (Restructuring) Act 1995, must, on or before the settlement date, appoint the trustees as an advisory committee under section 21(1) of that Act for the purposes of advising the Minister on any proposed changes to—
- (a) the prohibition on the commercial taking of finfish from the waters of the area in Hawke’s Bay known as the Wairoa Hard; and 20
 - (b) the restriction on the use of nets for the taking of finfish in the waters of the area in Hawke’s Bay known as the Wairoa Hard. 25
- (2) In **subsection (1)**, **finfish** has the same meaning as in section 2(1) of the Fisheries Act 1996.

Subpart 7—Official geographic names

67 Interpretation

In this subpart,— 30

Act means the New Zealand Geographic Board (Ngā Pou Taunaha o Aotearoa) Act 2008

Board has the meaning given in section 4 of the Act

official geographic name has the meaning given in section 4 of the Act. 35

- 68 Assignment and alteration of official geographic names**
- (1) A name specified in the first column of the table in clause 5.52.1 of the deed of settlement is assigned to the feature described in the second and third columns of that table.
- (2) A name specified in the first column of the table in clause 5.52.2 of the deed of settlement for the feature described in the third and fourth columns is altered to the name specified in the second column of that table. 5
- (3) Each assignment or alteration of a name is to be treated as if it were an assignment or alteration of the official geographic name made by a determination of the Board under section 19 of the Act that takes effect on the settlement date. 10
- 69 Publication of official geographic names**
- (1) The Board must, as soon as practicable after the settlement date, give public notice of each assignment or alteration of an official geographic name specified under **section 68** in accordance with section 21(2) and (3) of the Act. 15
- (2) The notices must state that each official geographic name became an official geographic name on the settlement date.
- 70 Subsequent alteration of official geographic names** 20
- (1) In making a determination to alter the official geographic name of a feature named by this subpart, the Board—
- (a) need not comply with sections 16, 17, 18, 19(1), and 20 of the Act; but
- (b) must have the written consent of the trustees. 25
- (2) To avoid doubt, the Board must give public notice of the determination in accordance with section 21(2) and (3) of the Act.
- Subpart 8—Vesting of cultural redress
properties
- 71 Interpretation** 30
- In this subpart,—
- bed of Lake Opouahi, bed of Lake Orakai, part bed of Lake Tūtira, and bed of Lake Waikopiro** mean, in each case, the land described by that name in the second column of **Schedule 4** 35

Council means Hastings District Council

cultural redress property means each of the following properties and each property means the land described by that name in **Schedule 4**:

- | | | |
|-----|---|----|
| | <i>Property vested in fee simple</i> | 5 |
| (a) | Part Opouahi Scenic Reserve: | |
| | <i>Properties vested in fee simple to be administered as reserves</i> | |
| (b) | Te Pohue Domain Recreation Reserve: | |
| (c) | Lake Opouahi property: | 10 |
| (d) | Lake Orakai property: | |
| (e) | part Lake Tūtira property: | |
| (f) | Lake Waikopiro property | |

lake means—

- | | | |
|-----|--|----|
| (a) | the space occupied from time to time by the waters of the lake at their highest level without overflowing its banks; and | 15 |
| (b) | the airspace above the water; and | |
| (c) | the bed below the water | |

lake property—

- | | | |
|-----|--|----|
| (a) | means each of the properties specified in paragraphs (c) to (f) of the definition of cultural redress property; and | 20 |
| (b) | includes the bed and stratum for each lake property | |

reserve property means—

- | | | |
|-----|-------------------------------------|----|
| (a) | Te Pohue Domain Recreation Reserve: | 25 |
| (b) | a lake property | |

stratum, in relation to a lake property, means the space occupied by—

- | | | |
|-----|----------------------------|----|
| (a) | the water of the lake; and | 30 |
| (b) | the air above the water | |

stratum above bed of Lake Opouahi, stratum above bed of Lake Orakai, stratum above part bed of Lake Tūtira, and stratum above bed of Lake Waikopiro mean, in each case, the stratum described by that name in the second column of **Schedule 4**. 35

*Part Opouahi Scenic Reserve***72 Part Opouahi Scenic Reserve**

- (1) The reservation of Part Opouahi Scenic Reserve (being part of Opouahi Scenic Reserve) as a scenic reserve subject to the Reserves Act 1977 is revoked. 5
- (2) The fee simple estate in Part Opouahi Scenic Reserve vests in the trustees.
- (3) **Subsections (1) and (2)** do not take effect until the trustees have provided the Crown with a registrable easement for a right of way on the terms and conditions set out in part 6.1 of the documents schedule. 10

*Te Pohue Domain Recreation Reserve and hall***73 Meaning of hall**

In **sections 74 to 78, hall**—

- (a) means the hall and the ancillary buildings adjacent to the hall on Te Pohue Domain Recreation Reserve owned by the Council immediately before the vesting of that property in the trustees under **section 74**: 15
- (b) includes any hall or building that replaces the hall or an ancillary building adjacent to the hall (as the case may be) under **section 75(b) or 77(2)**. 20

74 Te Pohue Domain Recreation Reserve

- (1) The reservation of Te Pohue Domain Recreation Reserve (being part of Te Pohue Upper Mohaka Recreation Reserve) as a recreation reserve subject to the Reserves Act 1977 is revoked. 25
- (2) Subject to **section 75**, the fee simple estate in Te Pohue Domain Recreation Reserve vests in the trustees.
- (3) Te Pohue Domain Recreation Reserve is declared a reserve and classified as a recreation reserve subject to section 17 of the Reserves Act 1977. 30
- (4) The reserve is named Te Pohue Domain Recreation Reserve.
- (5) The Council is the administering body of Te Pohue Domain Recreation Reserve as if the Council were appointed to control and manage the reserve under section 28 of the Reserves Act 1977. 35

- (6) Despite section 15 of the Reserves Act 1977, Te Pohue Domain Recreation Reserve may not be exchanged for other land.
- (7) Despite section 41 of the Reserves Act 1977, all management plans relating to Te Pohue Domain Recreation Reserve must be prepared in agreement between the Council and the trustees. 5

75 Ownership of hall on Te Pohue Domain Recreation Reserve

Despite the vesting of Te Pohue Domain Recreation Reserve in the trustees under **section 74**, the hall does not vest in the trustees and—

- (a) may remain on Te Pohue Domain Recreation Reserve without the consent of, and without charge by, the trustees; and 10
- (b) may be accessed, used, occupied, repaired, maintained, removed, demolished, or replaced by the Council (or any person with the consent of the Council) at any time without the consent of, and without charge by, the trustees; and 15
- (c) the trustees are not liable under any enactment or rule of law for any matter in relation to the hall for which they would, apart from this section, be liable by reason of their ownership of Te Pohue Domain Recreation Reserve. 20

76 Status of Te Pohue Domain Recreation Reserve under Reserves Act 1977

Despite the Reserves Act 1977, the reserve status of Te Pohue Domain Recreation Reserve must not be revoked or reclassified. 25

77 Obligations of Council relating to hall

- (1) While the hall remains on Te Pohue Domain Recreation Reserve, the Council must keep the hall in the same clean order, repair, and condition as the hall was in at the time of the vesting of Te Pohue Domain Recreation Reserve in the trustees. 30
- (2) The Council must remove, demolish, or replace the hall if— 35
- (a) the hall is damaged or is destroyed so that it is untenable; and

- (b) the Council has not repaired the damage or destruction within 12 months of the date on which the damage or destruction occurred.

78 Further provisions relating to removal, demolition, or replacement of hall 5

- (1) If the hall is removed, demolished, or replaced under **section 75(b) or 77(2)**, the Council must leave that part of Te Pohue Domain Recreation Reserve in a clean and tidy condition.
- (2) To avoid doubt, nothing in **section 75(b) or 77(2)** limits or affects the requirements of any enactment that may apply to the removal, demolition, or replacement of the hall. 10

Lake properties

79 Lake Opouahi property

- (1) The reservation of bed of Lake Opouahi (being part of Opouahi Scenic Reserve) as a scenic reserve subject to the Reserves Act 1977 is revoked. 15
- (2) The fee simple estate in bed of Lake Opouahi vests in the trustees.
- (3) The stratum above bed of Lake Opouahi vests in the trustees—
- (a) as a scenic reserve for the purposes specified in section 19(1)(a) of the Reserves Act 1977; and 20
- (b) as if it were vested under section 26 of the Reserves Act 1977.
- (4) Bed of Lake Opouahi is declared a reserve and classified as a scenic reserve for the purposes specified in section 19(1)(a) of the Reserves Act 1977. 25
- (5) The reserve comprising bed of Lake Opouahi and the stratum above bed of Lake Opouahi is named Lake Opouahi Scenic Reserve.
- (6) The Minister of Conservation must provide the trustees with a registrable right of way easement in relation to the bed of Lake Opouahi and the stratum above bed of Lake Opouahi on the terms and conditions set out in part 6.3 of the documents schedule. 30
- (7) The easement is— 35

- (a) enforceable in accordance with its terms, despite Part 3B of the Conservation Act 1987; and
- (b) to be treated as having been granted in accordance with Part 3B of that Act; and
- (c) registrable under section 17ZA(2) of that Act, as if it were a deed to which that provision applied. 5

80 Lake Orakai property

- (1) The reservation of bed of Lake Orakai (being part of Tutira Domain Recreation Reserve) as a recreation reserve subject to the Reserves Act 1977 is revoked. 10
- (2) The fee simple estate in bed of Lake Orakai vests in the trustees.
- (3) The stratum above bed of Lake Orakai vests in the trustees—
 - (a) as a recreation reserve subject to section 17 of the Reserves Act 1977; and 15
 - (b) as if it were vested under section 26 of the Reserves Act 1977.
- (4) Bed of Lake Orakai is declared a reserve and classified as a recreation reserve subject to section 17 of the Reserves Act 1977. 20
- (5) The reserve comprising bed of Lake Orakai and the stratum above bed of Lake Orakai is named Lake Orakai Recreation Reserve.
- (6) The Minister of Conservation must provide the trustees with a registrable right of way easement in relation to the bed of Lake Orakai and the stratum above bed of Lake Orakai on the terms and conditions set out in part 6.2 of the documents schedule. 25
- (7) The easement is—
 - (a) enforceable in accordance with its terms, despite Part 3B of the Conservation Act 1987; and 30
 - (b) to be treated as having been granted in accordance with Part 3B of that Act; and
 - (c) registrable under section 17ZA(2) of that Act, as if it were a deed to which that provision applied.

81 Part Lake Tūtira property

- (1) The reservation of part bed of Lake Tūtira (being part of Tutira Domain Recreation Reserve) as a recreation reserve subject to the Reserves Act 1977 is revoked.
- (2) The fee simple estate in part bed of Lake Tūtira vests in the trustees. 5
- (3) The stratum above part bed of Lake Tūtira vests in the trustees—
- (a) as a recreation reserve subject to section 17 of the Reserves Act 1977; and 10
- (b) as if it were vested under section 26 of the Reserves Act 1977.
- (4) Part bed of Lake Tūtira is declared a reserve and classified as a recreation reserve subject to section 17 of the Reserves Act 1977. 15
- (5) The reserve comprising part bed of Lake Tūtira and the stratum above part bed of Lake Tūtira is named Lake Tūtira Recreation Reserve.
- (6) The Minister of Conservation must provide the trustees with a registrable right of way easement in relation to part bed of Lake Tūtira and the stratum above part bed of Lake Tūtira on the terms and conditions set out in part 6.2 of the documents schedule. 20
- (7) The easement is—
- (a) enforceable in accordance with its terms, despite Part 3B of the Conservation Act 1987; and 25
- (b) to be treated as having been granted in accordance with Part 3B of that Act; and
- (c) registrable under section 17ZA(2) of that Act, as if it were a deed to which that provision applied. 30

82 Lake Waikopiro property

- (1) The reservation of bed of Lake Waikopiro (being part of Tutira Domain Recreation Reserve) as a recreation reserve subject to the Reserves Act 1977 is revoked.
- (2) The fee simple estate in bed of Lake Waikopiro vests in the trustees. 35

- (3) The stratum above bed of Lake Waikopiro vests in the trustees—
- (a) as a recreation reserve subject to section 17 of the Reserves Act 1977; and
 - (b) as if it were vested under section 26 of the Reserves Act 1977. 5
- (4) Bed of Lake Waikopiro is declared a reserve and classified as a recreation reserve subject to section 17 of the Reserves Act 1977.
- (5) The reserve comprising bed of Lake Waikopiro and the stratum above bed of Lake Waikopiro is named Lake Waikopiro Recreation Reserve. 10
- (6) The Minister of Conservation must provide the trustees with a registrable right of way easement in relation to Lake Waikopiro and the stratum above bed of Lake Waikopiro on the terms and conditions set out in part 6.2 of the documents schedule. 15
- (7) The easement is—
- (a) enforceable in accordance with its terms, despite Part 3B of the Conservation Act 1987; and 20
 - (b) to be treated as having been granted in accordance with Part 3B of that Act; and
 - (c) registrable under section 17ZA(2) of that Act, as if it were a deed to which that provision applied.
- 83 Limits on trustees’ rights and obligations in relation to lake properties** 25
- To avoid doubt, the vesting of a lake property under this sub-part does not give any rights to, or impose any obligations on, the trustees in relation to—
- (a) the waters of the lake; or 30
 - (b) the aquatic life of the lake (other than plants attached to the bed of the lake).
- 84 Limits on liability for plants**
- Despite **section 83(b)**, the trustees are not—
- (a) liable for any plants attached to the bed of a lake property; or 35

- (b) responsible for the control or removal of those plants.

85 Limits on liability for contamination

- (1) Despite any enactment or rule of law, the trustees are not liable for any contamination—
- (a) of a lake property (including contamination by plants attached to the bed of the lake); or 5
 - (b) of natural and physical resources by a lake property (including contamination by plants attached to the bed of the lake); or
 - (c) of a lake property that occurred before the settlement date; or 10
 - (d) if liability for contamination arises only because the trustees are the owners of a lake property.
- (2) **Subsection (1)** does not apply to the extent that any contamination is caused by an intentional, reckless, or negligent act or omission of the trustees. 15
- (3) In **subsection (1)(b)**, **natural and physical resources** has the meaning given in section 2(1) of the Resource Management Act 1991.

86 Boundaries relating to lake properties 20

To the extent that a lake property has moveable boundaries, the boundaries are governed by the common law rules of accretion, erosion, and avulsion.

87 Existing structures

- (1) Despite the vesting of each lake property under this subpart, an existing structure— 25
- (a) does not vest in the trustees; and
 - (b) may remain in or on a lake property without the consent of, and without charge by, the owners of the lake property; and 30
 - (c) may be used, occupied, accessed, repaired, maintained, removed, or demolished at any time without the consent of, and without charge by, the owners of the lake property.

- (2) However, if the owner of an existing structure removes or demolishes the structure, the owners of the lake property may require the owner of the structure to leave the lake property in a clean and tidy condition.
- (3) In this section and **sections 88 and 89, existing structure**— 5
- (a) means a structure in or on the bed of a lake property to the extent that the structure existed on the settlement date; and
- (b) includes such a structure whether or not, at any time, it was or is unlawful or unauthorised. 10

88 Determination of applications relating to existing structures

- (1) Despite the vesting of each lake property under this subpart, certain applications relating to an existing structure must be determined as if the lake property were owned by the Crown. 15
- (2) The applications are each application for a resource consent under the Resource Management Act 1991, or for a building consent under the Building Act 2004,—
- (a) to use, occupy, access, repair, maintain, remove, or demolish the existing structure; or 20
- (b) to rectify the non-compliance of the existing structure with that Act.

89 Liability for existing structures

The owners of a lake property are not liable under any enactment or rule of law for an existing structure for which they would, apart from this section, be liable by reason of their ownership of the lake property. 25

90 New structures require consent

- (1) No person may erect or modify a structure in or on, or attach a structure to, the bed of a lake property, unless the owners of the lake property first give their written consent. 30
- (2) However, **subsection (1)** does not apply if **section 87** permits the activity relating to the structure.
- (3) The owners may impose conditions on the grant of their consent, including imposing a charge. 35

*General provisions applying to vesting of
cultural redress properties***91 Properties vest subject to or together with interests**

Each cultural redress property vested under this subpart is subject to, or has the benefit of, any interests listed for the property in the third column of the table in **Schedule 4**. 5

92 Interests in land for Te Pohue Domain Recreation Reserve

(1) This section applies while the Council is treated as if it were appointed to control and manage Te Pohue Domain Recreation Reserve under section 28 of the Reserves Act 1977. 10

(2) Despite the appointment of the Council as the administering body for Te Pohue Domain Recreation Reserve under **section 74(5)**, the Council may grant, or be the grantee of, an interest in the property as if it were vested in the Council under section 26 of the Reserves Act 1977. 15

(3) If Te Pohue Domain Recreation Reserve is affected by an interest in land listed for the property in **Schedule 4**, the interest applies as if the Council were the grantor, or the grantee, as the case may be, of the interest in respect of the property.

(4) Any interest in land that affects Te Pohue Domain Recreation Reserve must be dealt with for registration purposes as if the Council were the registered proprietor of Te Pohue Domain Recreation Reserve. 20

93 Interests that are not interests in land

(1) This section applies if a cultural redress property is subject to an interest (other than an interest in land) listed for the property in **Schedule 4** for which there is a grantor, whether or not the interest also applies to land outside the cultural redress property. 25

(2) The interest applies as if the owners of the cultural redress property were the grantor of the interest in respect of the property, except to the extent that **subsection (3)** applies. 30

(3) If all or part of the cultural redress property is Te Pohue Domain Recreation Reserve to which **section 92** applies, the interest applies as if the Council were the grantor of the interest in respect of Te Pohue Domain Recreation Reserve. 35

- (4) The interest applies—
- (a) until the interest expires or is terminated, but any subsequent transfer of the cultural redress property must be ignored in determining whether the interest expires or is or may be terminated; and 5
 - (b) with any other necessary modifications; and
 - (c) despite any change in status of the land in the property.
- 94 Registration of ownership**
- (1) This section applies to a cultural redress property vested in the trustees under this subpart. 10
- (2) **Subsection (3)** applies to a cultural redress property, but only to the extent that the property is all of the land contained in a computer freehold register.
- (3) The Registrar-General must, on written application by an authorised person,— 15
- (a) register the trustees as the proprietors of the fee simple estate in the property; and
 - (b) record any entry on the computer freehold register and do anything else necessary to give effect to this subpart and to part 5 of the deed of settlement. 20
- (4) **Subsection (5)** applies to a cultural redress property, but only to the extent that **subsection (2)** does not apply to the property.
- (5) The Registrar-General must, in accordance with a written application by an authorised person,— 25
- (a) create 1 or more computer freehold registers for the fee simple estate in the property in the name of the trustees; and
 - (b) record on the computer freehold register or registers any interests that are registered, notified, or notifiable and that are described in the application. 30
- (6) **Subsection (5)** is subject to the completion of any survey necessary to create a computer freehold register.
- (7) A computer freehold register must be created under this section as soon as is reasonably practicable after the settlement date, but no later than— 35
- (a) 24 months after the settlement date; or

- (b) any later date that may be agreed in writing by the Crown and the trustees.
- (8) In this section, **authorised person** means a person authorised by the Director-General.
- 95 Application of Part 4A of Conservation Act 1987** 5
- (1) The vesting of the fee simple estate in a cultural redress property in the trustees under this subpart 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. 10
- (2) Section 24 of the Conservation Act 1987 does not apply to the vesting of Te Pohue Domain Recreation Reserve.
- (3) Part 4A of the Conservation Act 1987 does not apply to the vesting of a lake property under this subpart.
- (4) **Subsection (3)** does not limit **subsection (1)**. 15
- 96 Matters to be recorded on computer freehold register**
- (1) The Registrar-General must record on any computer freehold register for—
- (a) Part Opouahi Scenic Reserve that the land is subject to Part 4A of the Conservation Act 1987: 20
- (b) Te Pohue Domain Recreation Reserve—
- (i) that the land is subject to Part 4A of the Conservation Act 1987, but that section 24 of that Act does not apply; and
- (ii) that the land is subject to **sections 76 and 101**: 25
- (c) a lake property—
- (i) that Part 4A of the Conservation Act 1987 does not apply; and
- (ii) that the land is subject to **section 101**.
- (2) A notification made under **subsection (1)** 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. 30
- (3) If the reservation of a lake property is revoked for—
- (a) all of the lake property, the Director-General must apply in writing to the Registrar-General to remove from the 35

- computer freehold register or registers for the property the notifications that the property is subject to **sections 95(3) and 101**:
- (b) part of the lake property, the Registrar-General must ensure that the notifications referred to in **paragraph (a)** remain only on the computer freehold register or registers for the part of the property that remains a reserve. 5
- (4) If section 27 of the Reserves Act 1977 is invoked in relation to the stratum above bed of Lake Opouahi, the stratum above bed of Lake Orakai, the stratum above part bed of Lake Tūtira, or the stratum above bed of Lake Waikopiro for— 10
- (a) all of the stratum, the Director-General must apply in writing to the Registrar-General to remove from the computer freehold register for the stratum the notifications that the stratum is subject to **sections 95(3) and 101**: 15
 - (b) part of the stratum, the Registrar-General must ensure that the notifications referred to in **paragraph (a)** remain only on the computer freehold register for that part of the stratum that remains a reserve. 20
- (5) The Registrar-General must comply with an application received in accordance with **subsection (3)(a) or (4)(a)** (as the case may be).
- 97 Application of other enactments**
- (1) The vesting of the fee simple estate in a cultural redress property under this subpart does not— 25
 - (a) limit section 10 or 11 of the Crown Minerals Act 1991; or
 - (b) affect other rights to subsurface minerals.
 - (2) 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 terms of the deed of settlement in relation to a cultural redress property. 30
 - (3) Sections 24 and 25 of the Reserves Act 1977 do not apply to the revocation, under this subpart, of the reserve status of a cultural redress property. 35

- (4) Section 11 and Part 10 of the Resource Management Act 1991 do not apply to—
- (a) the vesting of the fee simple estate in a cultural redress property under this subpart; or
 - (b) any matter incidental to, or required for the purpose of, the vesting. 5

98 Minister of Conservation may grant easements

- (1) The Minister of Conservation may grant any easement over a conservation area or reserve that is required to fulfil the terms of the deed of settlement in relation to a cultural redress property. 10
- (2) Any such easement is—
- (a) enforceable in accordance with its terms, despite Part 3B of the Conservation Act 1987; and
 - (b) to be treated as having been granted in accordance with Part 3B of that Act; and 15
 - (c) registrable under section 17ZA(2) of that Act, as if it were a deed to which that provision applied.

Further provisions applying to reserve properties 20

99 Application of other enactments to reserve properties

- (1) Except as provided in **section 74**, the trustees are the administering body for a reserve property.
- (2) Sections 48A, 114, and 115 of the Reserves Act 1977 apply to a reserve property, despite sections 48A(6), 114(5), and 115(6) of that Act. 25
- (3) Sections 78(1)(a), 79 to 81, and 88 of the Reserves Act 1977 do not apply in relation to a reserve property.
- (4) If the reservation of a reserve property under this subpart is revoked under section 24 of the Reserves Act 1977 for all or part of the property, section 25(2) of that Act applies to the revocation, but not the rest of section 25 of that Act. 30
- (5) To avoid doubt, **subsection (4)** does not apply to—
- (a) the stratum above bed of Lake Opouahi:
 - (b) the stratum above bed of Lake Orakai: 35
 - (c) the stratum above part bed of Lake Tūtira:

- (d) the stratum above bed of Lake Waikopiro.
- (6) A reserve property is not a Crown protected area under the New Zealand Geographic Board (Ngā Pou Taunaha o Aotearoa) Act 2008, despite anything in that Act.
- (7) The name of a reserve property must not be changed or a name assigned to it under section 16(10) of the Reserves Act 1977 without the written consent of the owners of the property, and section 16(10A) of that Act does not apply to the proposed change. 5
- 100 Meaning of reserve land** 10
In **sections 101 to 104**, **reserve land** means all or the part of a reserve property that remains a reserve under the Reserves Act 1977 after the property has vested in the trustees under this subpart.
- 101 Subsequent transfer of reserve land** 15
(1) This section applies to the subsequent transfer of the reserve land.
(2) The fee simple estate in the reserve land in a lake property may be transferred only in accordance with **section 102 or 103**.
(3) Despite **section 103**, the fee simple estate in Te Pohue Domain Recreation Reserve may be transferred only in accordance with **section 102**. 20
- 102 Transfer of reserve land if trustees change**
The registered proprietors of the reserve land may transfer the fee simple estate in the reserve land if— 25
(a) the transferors of the reserve land are or were the trustees of a trust; and
(b) the transferees are the trustees of the same trust, after any new trustee has been appointed to the trust or any transferor has ceased to be a trustee of the trust; and 30
(c) the instrument to transfer the reserve land is accompanied by a certificate given by the transferees, or the transferees' solicitor, verifying that **paragraphs (a) and (b)** apply.

103 Transfer of reserve land to new administering body

- (1) The registered proprietors of the reserve land may apply in writing to the Minister of Conservation for consent to transfer the fee simple estate in the reserve land to 1 or more persons (the **new owners**). 5
- (2) The Minister of Conservation must give written consent to the transfer if the registered proprietors satisfy the Minister that the new owners are able to—
- (a) comply with the requirements of the Reserves Act 1977; and 10
 - (b) perform the duties of an administering body under that Act.
- (3) The Registrar-General must, upon receiving the required documents, register the new owners as the proprietors of the fee simple estate in the reserve land. 15
- (4) The required documents are—
- (a) a transfer instrument to transfer the fee simple estate in the reserve land to the new owners, including a notification that the new owners are to hold the reserve land for the same reserve purposes as those for which it was held by the administering body immediately before the transfer; and 20
 - (b) the written consent of the Minister of Conservation to the transfer of the reserve land; and
 - (c) any other document required for the registration of the transfer instrument. 25
- (5) The new owners, from the time of their registration under this section,—
- (a) are the administering body of the reserve land; and
 - (b) hold the reserve land for the same reserve purposes as those for which it was held by the administering body immediately before the transfer; and 30
 - (c) have the same rights and obligations (including under this subpart) as the registered proprietors had immediately before the transfer. 35
- (6) A transfer that complies with this section need not comply with any other requirements.

- (7) To avoid doubt, section 27 of the Reserves Act 1977 continues to apply to any part of the reserve land that is vested under any of **section 79(3), 80(3), 81(3), and 82(3)** as if the new owners were the trustees.

104 Reserve land not to be mortgaged 5
The owners of reserve land must not mortgage, or give a security interest in, the reserve land.

105 Saving of bylaws, etc, in relation to reserve properties

- (1) This section applies to any bylaw, or any prohibition or restriction on use or access, that an administering body or the Minister of Conservation made or imposed under the Conservation Act 1987 or the Reserves Act 1977 in relation to a reserve property before the property was vested in the trustees under this subpart. 10
- (2) The bylaw, prohibition, or restriction remains in force until it expires or is revoked under the Conservation Act 1987 or the Reserves Act 1977. 15

Names of Crown protected areas

106 Names of Crown protected areas discontinued

- (1) **Subsection (2)** applies to the land, or the part of the land, in a cultural redress property that, immediately before the settlement date, was all or part of a Crown protected area. 20
- (2) The official geographic name of the Crown protected area is discontinued in respect of the land, or the part of the land, and the Board must amend the Gazetteer accordingly. 25
- (3) In this section, **Board, Crown protected area, Gazetteer,** and **official geographic name** have the meanings given in section 4 of the New Zealand Geographic Board (Ngā Pou Taunaha o Aotearoa) Act 2008.

Subpart 9—Vesting and gifting back of
properties**107 Delayed vesting and gifting back of gifting-back
properties**

- (1) The fee simple estate in a gifting-back property vests in the trustees on the vesting date. 5
- (2) On the seventh day after the vesting date, the fee simple estate in a gifting-back property vests in the Crown as a gifting back to the Crown by the trustees for the people of New Zealand.
- (3) However, the following matters apply as if the vestings had not occurred: 10
- (a) a gifting-back property remains a reserve under the Reserves Act 1977; and
 - (b) any enactment, instrument, or interest that applied to a gifting-back property immediately before the vesting date continues to apply to it; and 15
 - (c) to the extent that the statutory acknowledgement or the Tātai Tūāpapa applies to a gifting-back property immediately before the vesting date, it continues to apply to that property; and 20
 - (d) the Crown retains all liability for a gifting-back property.
- (4) The vestings are not affected by Part 4A of the Conservation Act 1987, section 11 or Part 10 of the Resource Management Act 1991, or any other enactment. 25
- (5) In this section,—
- gifting-back property** means each of the following sites and each site means the land described by that name in **Schedule 5**:
- (a) Bellbird Bush Scenic Reserve: 30
 - (b) Boundary Stream Scenic Reserve:
 - (c) balance of the Opouahi Scenic Reserve:
 - (d) Whakaari Landing Place Reserve
- vesting date** means 12 January 2017.

Part 3 Commercial redress

108 Interpretation

In **subparts 1 to 3**,—

commercial redress property means a property described in part 3 of the property redress schedule 5

Crown forest land has the meaning given in section 2(1) of the Crown Forest Assets Act 1989

Crown forestry assets has the meaning given in section 2(1) of the Crown Forest Assets Act 1989 10

Crown forestry licence—

(a) has the meaning given in section 2(1) of the Crown Forest Assets Act 1989; and

(b) in relation to the licensed land, means the licence described in the third column of the table in part 3 of the property redress schedule 15

Crown forestry rental trust means the forestry rental trust referred to in section 34 of the Crown Forest Assets Act 1989

Crown forestry rental trust deed means the trust deed made on 30 April 1990 establishing the Crown forestry rental trust 20

land holding agency means the land holding agency specified for a commercial redress property in part 3 of the property redress schedule

licensed land—

(a) means Part Esk Forest described as licensed land in part 3 of the property redress schedule; but 25

(b) excludes trees growing, standing, or lying on the land; and

(c) excludes improvements that have been—

(i) acquired by a purchaser of the trees on the land; or 30

(ii) made by the purchaser or the licensee after the purchaser has acquired the trees on the land

licensee means the registered holder of the Crown forestry licence 35

licensor means the licensor of the Crown forestry licence

protected site means any area of land situated in the 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 a registered place within the meaning of section 2 of that Act 5

right of access means the right conferred by **section 118**.

Subpart 1—Transfer of commercial redress properties

109 The Crown may transfer properties 10

- (1) To give effect to part 6 of the deed of settlement, the Crown (acting by and through the chief executive of the land holding agency) is authorised to—
 - (a) transfer the fee simple estate in a commercial redress property to the trustees; and 15
 - (b) sign a transfer instrument or other document, or do anything else, as necessary to effect the transfer.
- (2) To avoid doubt, **subsection (1)(b)** authorises the chief executive of the Ministry of Justice to accept, on behalf of Her Majesty the Queen, a transfer of Opouahi Station (as described in part 3 of the property redress schedule) from Landcorp Holdings Limited to Her Majesty the Queen. 20

110 Minister of Conservation may grant easements

- (1) The Minister of Conservation may grant any easement over a conservation area or reserve that is required to fulfil the terms of the deed of settlement in relation to a commercial redress property. 25
- (2) Any such easement is—
 - (a) enforceable in accordance with its terms, despite Part 3B of the Conservation Act 1987; and 30
 - (b) to be treated as having been granted in accordance with Part 3B of that Act; and
 - (c) registrable under section 17ZA(2) of that Act, as if it were a deed to which that provision applied.

111 Computer freehold registers for commercial redress properties

- (1) This section applies to the transfer under **section 109** of a commercial redress property (other than licensed land).
- (2) However, this section applies only to the extent that— 5
 - (a) the property 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.
- (3) The Registrar-General must, in accordance with a written application by an authorised person,— 10
 - (a) create a computer freehold register for the fee simple estate in the property in the name of the Crown; and
 - (b) record on the computer freehold register any interests that are registered, notified, or notifiable and that are described in the application; but 15
 - (c) omit any statement of purpose from the computer freehold register.
- (4) **Subsection (3)** is subject to the completion of any survey necessary to create a computer freehold register. 20
- (5) In this section and **sections 112 and 113**, **authorised person** means a person authorised by the chief executive of the land holding agency for the relevant property.

112 Computer freehold register for licensed land subject to single Crown forestry licence

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- (1) This section applies to licensed land that is subject to a single Crown forestry licence and is to be transferred to the trustees under **section 109**.
- (2) The Registrar-General must, in accordance with a written application by an authorised person,— 30
 - (a) create a computer freehold register in the name of the Crown for the fee simple estate in the property; and
 - (b) record on the computer freehold register any interests that are registered, notified, or notifiable and that are described in the application; but 35
 - (c) omit any statement of purpose from the computer freehold register.

- (3) **Subsection (2)** is subject to the completion of any survey necessary to create a computer freehold register.

113 Authorised person may grant covenant for later creation of computer freehold register

- (1) For the purposes of **sections 111 and 112**, the authorised person may grant a covenant for the later creation of a computer freehold register for any commercial redress property. 5
- (2) Despite the Land Transfer Act 1952,—
- (a) the authorised person may request the Registrar-General to register the covenant under that Act by creating a computer interest register; and 10
- (b) the Registrar-General must comply with the request.

114 Application of other enactments

- (1) This section applies to the transfer to the trustees of the fee simple estate in a commercial redress property. 15
- (2) The transfer 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.
- (3) The transfer does not—
- (a) limit section 10 or 11 of the Crown Minerals Act 1991; 20
or
- (b) affect other rights to subsurface minerals.
- (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 terms of the deed of settlement in relation to the transfer. 25
- (5) Section 11 and Part 10 of the Resource Management Act 1991 do not apply to the transfer or to any matter incidental to, or required for the purpose of, the transfer. 30
- (6) In exercising the powers conferred by **section 109**, the Crown is not required to comply with any other enactment that would otherwise regulate or apply to the transfer.
- (7) **Subsection (6)** is subject to **subsections (2) and (3)**.

Subpart 2—Licensed land

115 Licensed land ceases to be Crown forest land

- (1) The 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. 5
- (2) However, the Crown, courts, and tribunals must not do or omit to do anything if that act or omission would, between the settlement date and the date of registration, be permitted by the Crown Forest Assets Act 1989 but be inconsistent with this subpart, part 6 of the deed of settlement, or part 4 of the property redress schedule. 10

116 Trustees are confirmed beneficiaries and licensors of licensed land

- (1) The trustees are the confirmed beneficiaries under clause 11.1 of the Crown forestry rental trust deed in relation to the licensed land. 15
- (2) The effect of **subsection (1)** is that—
- (a) the trustees are entitled to the rental proceeds payable for the licensed land to the trustees of the Crown forestry rental trust under a Crown forestry licence since the commencement of the licence; and 20
 - (b) all the provisions of the Crown forestry rental trust deed apply on the basis that the trustees are the confirmed beneficiaries in relation to the licensed land.
- (3) The Crown must give notice under section 17(4)(b) of the Crown Forest Assets Act 1989 in respect of a Crown forestry licence, 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. 25
- (4) Notice given by the Crown under **subsection (3)** has effect as if— 30
- (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 settlement date. 35

- (5) The trustees are the licensors under the Crown forestry licence as if the licensed land had been returned to Māori ownership—
- (a) on the settlement date; and
 - (b) under section 36 of the Crown Forest Assets Act 1989.
- (6) However, section 36(1)(b) of the Crown Forest Assets Act 1989 does not apply to the licensed land. 5

117 Effect of transfer of licensed land

- (1) **Section 116** applies whether or not—
- (a) the transfer of the fee simple estate in the licensed land has been registered; or 10
 - (b) the processes described in clause 17.4 of the Crown forestry licence have been completed.
- (2) To the extent that the Crown has not completed the processes referred to in **subsection (1)(b)** before the settlement date, it must continue those processes— 15
- (a) on and after the settlement date; and
 - (b) until the processes are completed.
- (3) For the period starting on the settlement date until the completion of the processes referred to in **subsections (1) and (2)**, the licence fee payable under the Crown forestry licence in respect of the licensed land is the amount calculated in the manner described in paragraphs 4.23 and 4.24 of the property redress schedule. 20
- (4) On and from the settlement date, references to the prospective proprietors in clause 17.4 of the Crown forestry licence must, in relation to the licensed land, be read as references to the trustees. 25

Subpart 3—Access to protected sites

118 Right of access to protected sites

- (1) The owner of land on which a protected site is situated and any person holding an interest in, or right of occupancy to, that land must allow Māori for whom the protected site is of special cultural, historical, or spiritual significance to have access across the land to each protected site. 30
- (2) **Subsection (1)** takes effect on and from the date of the transfer of a property to the trustees. 35

- (3) The right of access may be exercised by vehicle or by foot over any reasonably convenient routes specified by the owner.
- (4) The right of access is subject to the following conditions:
 - (a) a person intending to exercise the right of access must give the owner reasonable notice in writing of his or her intention to exercise that right; and 5
 - (b) the right of access may be exercised only at reasonable times and during daylight hours; and
 - (c) a person exercising the right of access must observe any conditions imposed by the owner relating to the time, location, or manner of access that are reasonably required— 10
 - (i) for the safety of people; or
 - (ii) for the protection of land, improvements, flora and fauna, plant and equipment, or livestock; or 15
 - (iii) for operational reasons.

119 Right of access over licensed land

- (1) A right of access over licensed land is subject to the terms of any Crown forestry licence.
- (2) However, **subsection (1)** does not apply if the licensee has agreed to the right of access being exercised. 20
- (3) An amendment to a Crown forestry licence is of no effect to the extent that it would—
 - (a) delay the date from which a person may exercise a right of access; or 25
 - (b) adversely affect a right of access in any other way.

120 Right of access to be recorded on computer freehold registers

- (1) This section applies to the transfer to the trustees of any licensed land. 30
- (2) The transfer instrument for the transfer must include a statement that the land is subject to a right of access to any protected sites on the land.
- (3) The Registrar-General must, upon the registration of the transfer of the land, record on any computer freehold register for 35

the land that the land is subject to a right of access to protected sites on the land.

Subpart 4—Right of first refusal over RFR land

- 121 Interpretation** 5
- In this subpart and **Schedule 6**,—
- control**, for the purposes of **paragraph (d)** of the definition of Crown body, means,—
- (a) for a company, control of the composition of its board of directors; and 10
 - (b) for another body, control of the composition of the group that would be its board of directors if the body were a company
- Crown body** means—
- (a) a Crown entity, as defined in section 7(1) of the Crown Entities Act 2004; and 15
 - (b) a State enterprise, as defined in section 2 of the State-Owned Enterprises Act 1986; and
 - (c) the New Zealand Railways Corporation; and
 - (d) a company or body that is wholly owned or controlled 20
by 1 or more of the following:
 - (i) the Crown:
 - (ii) a Crown entity:
 - (iii) a State enterprise:
 - (iv) the New Zealand Railways Corporation; and 25
 - (e) a subsidiary or related company of a company or body referred to in **paragraph (d)**
- dispose of**, in relation to RFR land,—
- (a) means to—
 - (i) transfer or vest the fee simple estate in the land; 30
or
 - (ii) grant a lease of the land for a term that is, or will be (if any rights of renewal or extension are exercised under the lease), 50 years or longer; but
 - (b) to avoid doubt, does not include to— 35
 - (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, a fixture, or a fitting from the land

5

expiry date, in relation to an offer, means its expiry date under **sections 124(2)(a) and 125**

notice means a notice given under this subpart

offer means an offer by an RFR landowner, made in accordance with **section 124**, to dispose of RFR land to the trustees

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public work has the meaning given in section 2 of the Public Works Act 1981

RFR area means the area shown on SO 459557

RFR landowner, in relation to RFR land,—

- (a) means the Crown, if the land is vested in the Crown or the Crown holds the fee simple estate in the land; and
- (b) means a Crown body, if the body holds the fee simple estate in the land; and
- (c) includes a local authority to which RFR land has been disposed of under **section 130(1)**; but
- (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 **section 131(1)**

15

20

RFR period, for the RFR land, means the period of 172 years on and from the settlement date.

25

122 Meaning of RFR land

(1) In this subpart, **RFR land** means—

- (a) the land that is within the RFR area that, on the settlement date, is—
 - (i) vested in the Crown; or
 - (ii) held in fee simple by the Crown; or
 - (iii) a reserve vested in an administering body that derived title to the reserve from the Crown and that would, on the application of section 25 or 27 of the Reserves Act 1977, revert in the Crown; and

30

35

- (b) any land obtained in exchange for a disposal of RFR land under **section 135(1)(c) or 136**.
- (2) RFR land does not include a commercial redress property.
- (3) Land ceases to be RFR land if—
- (a) the fee simple estate in the land transfers from the RFR landowner to—
- (i) the trustees or their nominee (for example, under a contract formed under **section 128**); or
- (ii) any other person (including the Crown or a Crown body) under **section 123(c)**; or
- (b) the fee simple estate in the land transfers or vests from the RFR landowner to or in a person other than the Crown or a Crown body—
- (i) under any of **sections 132 to 138** (which relate to permitted disposals of RFR land); or
- (ii) under any matter referred to in **section 139(1)** (which specifies matters that may override the obligations of an RFR landowner under this sub-part); or
- (c) the RFR period for the land ends.

Restrictions on disposal of RFR land

123 Restrictions on disposal of RFR land

An RFR landowner must not dispose of RFR land to a person other than the trustees or their nominee unless the land is disposed of—

- (a) under any of **sections 129 to 138**; or
- (b) under any matter referred to in **section 139(1)**; or
- (c) within 2 years after the expiry date of an offer by the RFR landowner to dispose of the land to the trustees if the offer to the trustees was—
- (i) made in accordance with **section 124**; and
- (ii) made on terms that were the same as, or more favourable to the trustees than, the terms of the disposal to the person; and
- (iii) not withdrawn under **section 126**; and
- (iv) not accepted under **section 127**.

Trustees' right of first refusal

124 Requirements for offer

- (1) An offer by an RFR landowner to dispose of RFR land to the trustees must be by notice to the trustees.
- (2) The notice must include— 5
- (a) the terms of the offer, including its expiry date; and
 - (b) the legal description of the land, including any interests affecting it, and the reference for any computer register for the land; and
 - (c) a statement that identifies the RFR land as RFR land; and 10
 - (d) a street address for the land (if applicable); and
 - (e) a street address, postal address, and fax number for the trustees to give notices to the RFR landowner in relation to the offer. 15

125 Expiry date of offer

- (1) The expiry date of an offer must be on or after the date that is 40 working days after the date on which the trustees receive notice of the offer.
- (2) However, the expiry date of an offer may be on or after the date that is 20 working days after the date on which the trustees receive notice of the offer if— 20
- (a) the trustees received an earlier offer to dispose of the land; and
 - (b) the expiry date of the earlier offer was not more than 6 months before the expiry date of the later offer; and 25
 - (c) the earlier offer was not withdrawn.

126 Withdrawal of offer

The RFR landowner may, by notice to the trustees, withdraw an offer at any time before it is accepted. 30

127 Acceptance of offer

- (1) The trustees may, by notice to the RFR landowner who made an offer, accept the offer if—
- (a) it has not been withdrawn; and
 - (b) its expiry date has not passed. 35

- (2) The trustees must accept all the RFR land offered, unless the offer permits them to accept less.

128 Formation of contract

- (1) If the trustees accept an offer by an RFR landowner to dispose of RFR land, a contract for the disposal of the land is formed between the RFR landowner and the trustees on the terms in the offer. 5
- (2) The terms of the contract may be varied by written agreement between the RFR landowner and the trustees.
- (3) Under the contract, the trustees may nominate any person other than the trustees (the **nominee**) to receive the transfer of the RFR land. 10
- (4) The trustees may nominate a nominee only if—
- (a) the nominee is lawfully able to hold the RFR land; and
 - (b) notice is given to the RFR landowner on or before the day that is 10 working days before the day on which the transfer is to settle. 15
- (5) The notice must specify—
- (a) the full name of the nominee; and
 - (b) any other details about the nominee that the RFR landowner needs in order to transfer the RFR land to the nominee. 20
- (6) If the trustees nominate a nominee, the trustees remain liable for the obligations of the transferee under the contract.

Disposals to others but land remains RFR land 25

129 Disposal to the Crown or Crown bodies

- (1) An RFR landowner may dispose of RFR land to—
- (a) the Crown; or
 - (b) a Crown body.
- (2) To avoid doubt, the Crown may dispose of RFR land to a Crown body in accordance with section 143(5) or 206 of the Education Act 1989. 30

130 Disposal of existing public works to local authorities

- (1) An RFR landowner may dispose of RFR land that is a public work, or part of a public work, in accordance with section 50 35

of the Public Works Act 1981 to a local authority, as defined in section 2 of that Act.

- (2) To avoid doubt, if RFR land is disposed of to a local authority under **subsection (1)**, the local authority becomes—
- (a) the RFR landowner of the land; and 5
 - (b) subject to the obligations of an RFR landowner under this subpart.
- 131 Disposal of reserves to administering bodies**
- (1) An RFR landowner may dispose of RFR land in accordance with section 26 or 26A of the Reserves Act 1977. 10
- (2) To avoid doubt, if RFR land that is a reserve is vested in an administering body under **subsection (1)**, the administering body does not become—
- (a) the RFR landowner of the land; or
 - (b) subject to the obligations of an RFR landowner under this subpart. 15
- (3) 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 of the land; and
 - (b) subject to the obligations of an RFR landowner under this subpart. 20

*Disposals to others where land may cease to be
RFR land*

- 132 Disposal in accordance with obligations under enactment or rule of law** 25
- An RFR landowner may dispose of RFR land in accordance with an obligation under any enactment or rule of law.
- 133 Disposal in accordance with legal or equitable obligations**
- An RFR landowner may dispose of RFR land in accordance with— 30
- (a) a legal or an equitable obligation that—
 - (i) was unconditional before the settlement date; or
 - (ii) was conditional before the settlement date but became unconditional on or after the settlement date; or 35

- (iii) arose after the exercise (whether before, on, or after the settlement date) of an option existing before the settlement date; or
- (b) the requirements, existing before the settlement date, of a gift, an endowment, or a trust relating to the land. 5

134 Disposal under certain legislation

An RFR landowner may dispose of RFR land in accordance with—

- (a) section 54(1)(d) of the Land Act 1948; or
- (b) section 34, 43, or 44 of the Marine and Coastal Area (Takutai Moana) Act 2011; or 10
- (c) section 355(3) of the Resource Management Act 1991; or
- (d) an Act that—
 - (i) excludes the land from a national park within the meaning of the National Parks Act 1980; and 15
 - (ii) authorises that land to be disposed of in consideration or part consideration for other land to be held or administered under the Conservation Act 1987, the National Parks Act 1980, or the Reserves Act 1977. 20

135 Disposal of land held for public works

(1) An RFR landowner may dispose of RFR land in accordance with—

- (a) section 40(2) or (4) or 41 of the Public Works Act 1981 (including as applied by another enactment); or 25
- (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 30
- (e) section 23(1) or (4), 24(4), or 26 of the New Zealand Railways Corporation Restructuring Act 1990.

(2) To avoid doubt, RFR land may be disposed of by an order of the Maori 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. 35

136 Disposal for reserve or conservation purposes

An RFR landowner may dispose of RFR land in accordance with—

- (a) section 15 of the Reserves Act 1977; or
- (b) section 16A or 24E of the Conservation Act 1987. 5

137 Disposal for charitable purposes

An RFR landowner may dispose of RFR land as a gift for charitable purposes.

138 Disposal to tenants

The Crown may dispose of RFR land— 10

- (a) that was held on the settlement date for education purposes to a person who, immediately before the disposal, is a tenant of the land or all or part of a building on the land; or
- (b) under section 67 of the Land Act 1948, if the disposal is to a lessee under a lease of the land granted— 15
 - (i) before the settlement date; or
 - (ii) on or after the settlement date under a right of renewal in a lease granted before the settlement date; or 20
- (c) under section 93(4) of the Land Act 1948.

RFR landowner obligations

139 RFR landowner's obligations subject to other matters

(1) An RFR landowner's obligations under this subpart in relation to RFR land are subject to— 25

- (a) any other enactment or rule of law except that, in the case of a Crown body, the obligations apply despite the purpose, functions, or objectives of the Crown body; and
- (b) any interest, or legal or equitable obligation, that— 30
 - (i) prevents or limits an RFR landowner's disposal of RFR land to the trustees; and
 - (ii) the RFR landowner cannot satisfy by taking reasonable steps; and

- (c) the terms of a mortgage over, or security interest in, RFR land.
- (2) For the purposes of **subsection (1)(b)(ii)**, reasonable steps do not include steps to promote the passing of an enactment.

Notices about RFR land

5

140 Notice to LINZ of RFR land with computer register after settlement date

- (1) If a computer register is first created for RFR land after the settlement date, the RFR landowner must give the chief executive of LINZ notice that the register has been created. 10
- (2) If land for which there is a computer register becomes RFR land after the settlement date, the RFR landowner must give the chief executive of LINZ notice that the land has become RFR land.
- (3) The notice must be given as soon as is reasonably practicable after a computer register is first created for the RFR land or after the land becomes RFR land. 15
- (4) The notice must include the legal description of the land and the reference for the computer register.

141 Notice to trustees of disposal of RFR land to others 20

- (1) An RFR landowner must give the trustees notice of the disposal of RFR land by the landowner to a person other than the trustees or their nominee.
- (2) The notice must be given on or before the date that is 20 working days before the day of the disposal. 25
- (3) The notice must include—
 - (a) the legal description of the land, including any interests affecting it; and
 - (b) the reference for any computer register for the land; and
 - (c) the street address for the land (if applicable); and 30
 - (d) the name of the person to whom the land is being disposed of; and
 - (e) an explanation of how the disposal complies with **section 123**; and
 - (f) if the disposal is to be made under **section 123(c)**, a 35
copy of any written contract for the disposal.

142 Notice to LINZ of land ceasing to be RFR land

- (1) This section applies if land contained in a computer register is to cease being RFR land because—
- (a) the fee simple estate in the land is to transfer from the RFR landowner to— 5
 - (i) the trustees or their nominee (for example, under a contract formed under **section 128**); or
 - (ii) any other person (including the Crown or a Crown body) under **section 123(c)**; or
 - (b) the fee simple estate in the land is to transfer or vest from the RFR landowner to or in a person other than the Crown or a Crown body— 10
 - (i) under any of **sections 132 to 138**; or
 - (ii) under any matter referred to in **section 139(1)**.
- (2) The RFR landowner must, as early as practicable before the transfer or vesting, give the chief executive of LINZ notice that the land is to cease being RFR land. 15
- (3) The notice must include—
- (a) the legal description of the land; and
 - (b) the reference for the computer register for the land; and 20
 - (c) the details of the transfer or vesting of the land.

143 Notice requirements

- Schedule 6** applies to notices given under this subpart by or to—
- (a) an RFR landowner; or 25
 - (b) the trustees.

Right of first refusal recorded on computer registers

144 Right of first refusal to be recorded on computer registers for RFR land 30

- (1) The chief executive of LINZ must issue to the Registrar-General 1 or more certificates that specify the legal descriptions of, and identify the computer registers for,—
- (a) the RFR land for which there is a computer register on the settlement date; and 35

- (b) the RFR land for which a computer register is first created after the settlement date; and
 - (c) land for which there is a computer register that becomes RFR land after the settlement date.
- (2) The chief executive must issue a certificate as soon as is reasonably practicable— 5
- (a) after the settlement date, for RFR land for which there is a computer register on the settlement date; or
 - (b) after receiving a notice under **section 140** that a computer register has been created for the RFR land or that the land has become RFR land, for any other land. 10
- (3) Each certificate must state that it is issued under this section.
- (4) The chief executive must provide a copy of each certificate to the trustees as soon as is reasonably practicable after issuing the certificate. 15
- (5) The Registrar-General must, as soon as is reasonably practicable after receiving a certificate issued under this section, record on each computer register for the RFR land identified in the certificate that the land is—
- (a) RFR land, as defined in **section 122**; and 20
 - (b) subject to this subpart (which restricts disposal, including leasing, of the land).

145 Removal of notifications when land to be transferred or vested

- (1) The chief executive of LINZ must, before registration of the transfer or vesting of land described in a notice received under **section 142**, issue to the Registrar-General a certificate that includes— 25
- (a) the legal description of the land; and
 - (b) the reference for the computer register for the land; and 30
 - (c) the details of the transfer or vesting of the land; and
 - (d) a statement that the certificate is issued under this section.
- (2) The chief executive must provide a copy of each certificate to the trustees as soon as is reasonably practicable after issuing the certificate. 35

- (3) If the Registrar-General receives a certificate issued under this section, he or she must, immediately before registering the transfer or vesting described in the certificate, remove from the computer register identified in the certificate any notification recorded under **section 144** for the land described in the certificate. 5

146 Removal of notifications when RFR period ends

- (1) The chief executive of LINZ must, as soon as is reasonably practicable after the RFR period ends in respect of any RFR land, issue to the Registrar-General a certificate that includes— 10
- (a) the reference for each computer register for that RFR land that still has a notification recorded under **section 144**; and
- (b) a statement that the certificate is issued under this section. 15
- (2) The chief executive must provide a copy of each certificate to the trustees as soon as is reasonably practicable after issuing the certificate.
- (3) The Registrar-General must, as soon as is reasonably practicable after receiving a certificate issued under this section, remove any notification recorded under **section 144** from any computer register identified in the certificate. 20

General provisions applying to right of first refusal 25

147 Waiver and variation

- (1) The trustees may, by notice to an RFR landowner, waive any or all of the rights the trustees have in relation to the landowner under this subpart.
- (2) The trustees and an RFR landowner may agree in writing to vary or waive any of the rights each has in relation to the other under this subpart. 30
- (3) A waiver or an agreement under this section is on the terms, and applies for the period, specified in it.

- 148 Disposal of Crown bodies not affected**
This subpart does not limit the ability of the Crown, or a Crown body, to sell or dispose of a Crown body.
- 149 Assignment of rights and obligations under this subpart**
- (1) **Subsection (3)** applies if the RFR holder— 5
- (a) assigns the RFR holder’s rights and obligations under this subpart to 1 or more persons in accordance with the RFR holder’s constitutional document; and
- (b) has given the notices required by **subsection (2)**.
- (2) The RFR holder must give notices to each RFR landowner— 10
- (a) stating that the RFR holder’s rights and obligations under this subpart are being assigned under this section; and
- (b) specifying the date of the assignment; and
- (c) specifying the names of the assignees and, if they are the trustees of a trust, the name of the trust; and 15
- (d) specifying the street address, postal address, or fax number for notices to the assignees.
- (3) This subpart and **Schedule 6** apply to the assignees (instead of to the RFR holder) as if the assignees were the trustees, with any necessary modifications. 20
- (4) In this section,—
- constitutional document** means the trust deed or other instrument adopted for the governance of the RFR holder
- RFR holder** means the 1 or more persons who have the rights and obligations of the trustees under this subpart, either because— 25
- (a) they are the trustees; or
- (b) they have previously been assigned those rights and obligations under this section. 30
-

Schedule 1 **s 20**
**Description of Tangoio Soil Conservation
Reserve**

41.0756 hectares, more or less, being Part Sections 3 and 10 Block XVI Maungaharuru Survey District. All Proclamation 91747.	5
491.9175 hectares, more or less, being Parts Section 6 and Part Sections 7 and 12 Block XVI Maungaharuru Survey District, Sections 32, 37 and 39, Part Sections 8, 33, and 38, Parts Sections 35 and 36 Block IV Puketapu Survey District and Sections 2, 5, 9, 10, 11, 14, 15, and 26 SO 320789. All computer freehold register 170653.	10
8.9815 hectares, more or less, being Section 19 Block IV Puketapu Survey District. All Proclamation 109324.	
0.4553 hectares, more or less, being Section 24 Block IV Puketapu Survey District. All Proclamation 102168.	
1.8077 hectares, more or less, being Section 43 Block IV Puketapu Survey District. All Proclamation 158894.	15
5.3886 hectares, more or less, being Sections 52, 55, and 57 Block IV Puketapu Survey District. All <i>Gazette</i> 1989 page 2845.	
Total area: 549.6262 hectares	

Schedule 2

Statutory areas

ss 37, 46

Part 1

Areas subject to statutory acknowledgement

Statutory area	Location
Earthquake Slip Marginal Strip	As shown on OTS-201-20
Moeangiāngi Marginal Strip	As shown on OTS-201-21
Esk Kiwi Sanctuary Area	As shown on OTS-201-22
Tangoio Falls Scenic Reserve	As shown on OTS-201-23
White Pine Bush Scenic Reserve	As shown on OTS-201-24
Mangapukahu Scenic Reserve	As shown on OTS-201-25
Te Kuta Recreation Reserve	As shown on OTS-201-26
Waipatiki Scenic Reserve	As shown on OTS-201-27
Waikoau Conservation Area	As shown on OTS-201-28
Peaks of Maungaharuru Range	As shown on OTS-201-29
Balance of the Tutira Domain Recreation Reserve	As shown on OTS-201-30
Balance of the Opouahi Scenic Reserve	As shown on OTS-201-31
Anaura Stream and its tributaries	As shown on OTS-201-32
Aropaoanui River and its tributaries	As shown on OTS-201-33
Esk River and its tributaries	As shown on OTS-201-34
Mahiaruhe Stream and its tributaries	As shown on OTS-201-35
Te Ngarue Stream and its tributaries	As shown on OTS-201-36
Waikari River and its tributaries	As shown on OTS-201-37
Waikoau River and its tributaries	As shown on OTS-201-38
Moeangiāngi River and its tributaries	As shown on OTS-201-39
Hapū Coastal Marine Area	As shown on OTS-201-40
Rocks and Reefs	As shown on OTS-201-41
Sandy Creek and its tributaries	As shown on OTS-201-43
Waitaha Stream and its tributaries	As shown on OTS-201-44
Pākuratahi Stream and its tributaries	As shown on OTS-201-45
Boundary Stream Scenic Reserve	As shown on OTS-201-46
Bellbird Bush Scenic Reserve	As shown on OTS-201-47
Whakaari Landing Place Reserve	As shown on OTS-201-48
Tangoio Marginal Strip	As shown on OTS-201-49
Waipatiki Beach Marginal Strip	As shown on OTS-201-50

Part 2
Areas also subject to deeds of recognition

Statutory area	Location
Earthquake Slip Marginal Strip	As shown on OTS-201-20
Moeangi Marginal Strip	As shown on OTS-201-21
Esk Kiwi Sanctuary Area	As shown on OTS-201-22
Tangoio Falls Scenic Reserve	As shown on OTS-201-23
White Pine Bush Scenic Reserve	As shown on OTS-201-24
Mangapukahu Scenic Reserve	As shown on OTS-201-25
Te Kuta Recreation Reserve	As shown on OTS-201-26
Waipatiki Scenic Reserve	As shown on OTS-201-27
Waikoau Conservation Area	As shown on OTS-201-28
Peaks of Maungaharuru Range	As shown on OTS-201-29
Anaura Stream and its tributaries	As shown on OTS-201-32
Aropoanui River and its tributaries	As shown on OTS-201-33
Esk River and its tributaries	As shown on OTS-201-34
Mahiaruhe Stream and its tributaries	As shown on OTS-201-35
Te Ngarue Stream and its tributaries	As shown on OTS-201-36
Waikari River and its tributaries	As shown on OTS-201-37
Waikoau River and its tributaries	As shown on OTS-201-38

Schedule 3**ss 51, 52****Tātai Tūāpapa areas**

Tātai Tūāpapa areas	Location
Boundary Stream Scenic Reserve	As shown on OTS-201-10
Bellbird Bush Scenic Reserve	As shown on OTS-201-11
Balance of the Tutira Domain Recreation Reserve	As shown on OTS-201-12
Earthquake Slip Marginal Strip	As shown on OTS-201-13
Moeangiāngi Marginal Strip	As shown on OTS-201-14
Tangoio Marginal Strip	As shown on OTS-201-15
Waipatiki Beach Marginal Strip	As shown on OTS-201-16
Whakaari Landing Place Reserve	As shown on OTS-201-17
Balance of the Opouahi Scenic Reserve	As shown on OTS-201-42

Schedule 4

ss 71, 91

Cultural redress properties

Properties vesting in fee simple

Name of property	Description <i>Hawke's Bay Land District—Hastings District</i>	Interests
Part Opouahi Scenic Reserve	28.15 hectares, approximately, being Part Lot 1 DP 405468. Part computer freehold register 419234. Subject to survey. As shown on OTS-201-04.	<p>Subject to section 3 of the Geothermal Energy Act 1953.</p> <p>Subject to section 8 of the Atomic Energy Act 1945. Together with rights of way and a right to convey water and electricity created by Certificate 572627.2.</p> <p>Subject to a right of way (in gross) in favour of Landcorp Farming Limited (shown as C and D on DP 405468) created by Easement Instrument 7922111.3.</p> <p>Subject to a right to convey water (shown as C on DP 405468) created by Easement Instrument 7922111.4.</p> <p>Subject to a right of way easement specified in section 72(3).</p> <p>Subject to an unregistered concession to ECOED with concession number WE-29952-INS.</p> <p>Subject to an unregistered guiding concession to Kiwi Adventure Trust with concession number WE-24985-GUI.</p>

Properties vesting in fee simple to be
administered as reserves

Name of property	Description	Interests
Te Pohue Domain Recreation Reserve	<i>Hawke's Bay Land District—Hastings District</i> 2.2328 hectares, more or less, being Section 8 Block XIII Maungaharuru Survey District. Part computer freehold register HBJ1/1292.	Subject to being a recreation reserve as referred to in section 74(3) .
Lake Opouahi property	<p data-bbox="667 853 930 1133"><i>Bed of Lake Opouahi</i> 5.86 hectares, approximately, being Part Section 11 Block III Maungaharuru Survey District. Part computer freehold register HBK4/1278 (excluding stratum above bed of Lake Opouahi). Subject to survey.</p> <p data-bbox="667 1167 930 1447"><i>Stratum above bed of Lake Opouahi</i> That part of Lake Opouahi property comprising the space occupied by— (a) the water of the lake; and (b) the air above the water. Subject to survey.</p> <p data-bbox="667 1469 930 1525">As shown on OTS-201-02.</p>	<p data-bbox="962 880 1217 1160">Subject to being a scenic reserve as referred to in section 79(3)(a). Subject to a right to convey water created by computer interest register HBH4/596. Together with a right of way easement specified in section 79(6).</p> <p data-bbox="962 1167 1217 1576">Subject to being a scenic reserve as referred to in section 79(4). Subject to an unregistered research and collection permit with concession number ECHB-23012-FAU. Subject to a right to convey water created by computer interest register HBH4/596. Together with a right of way easement specified in section 79(6).</p>

Name of property	Description	Interests
Lake Orakai property	<p><i>Hawke's Bay Land District—Hastings District</i></p> <p><i>Bed of Lake Orakai</i> 3.3 hectares, approximately, being Part Section 24 Block XII Maungaharuru Survey District. Part <i>Gazette</i> Notice 189845 (excluding stratum above bed of Lake Orakai). Subject to survey.</p> <p><i>Stratum above bed of Lake Orakai</i> That part of Lake Orakai property comprising the space occupied by— (a) the water of the lake; and (b) the air above the water. Subject to survey.</p> <p>As shown on OTS-201-03.</p>	<p>Subject to being a recreation reserve as referred to in section 80(3)(a). Subject to Lakes Orakai, Tutira and Waikopiro Wildlife Refuge Order 1973 (SR 1973/274). Together with a right of way easement specified in section 80(6).</p> <p>Subject to being a recreation reserve as referred to in section 80(4). Subject to Lakes Orakai, Tutira and Waikopiro Wildlife Refuge Order 1973 (SR 1973/274). Together with a right of way easement specified in section 80(6).</p>
Part Lake Tūtira property	<p><i>Part bed of Lake Tūtira</i> 170 hectares, approximately, being Part Section 22 Block XII Maungaharuru Survey District. Part <i>Gazette</i> Notice 189845 (excluding stratum above bed of Lake Tūtira). Subject to survey.</p>	<p>Subject to being a recreation reserve as referred to in section 81(3)(a). Subject to Lakes Orakai, Tutira and Waikopiro Wildlife Refuge Order 1973 (SR 1973/274). Together with a right of way easement specified in section 81(6).</p>

Name of property	Description	Interests
	<p data-bbox="667 495 933 555"><i>Hawke's Bay Land District—Hastings District</i></p> <p data-bbox="667 555 933 616"><i>Stratum above part bed of Lake Tūtira</i></p> <p data-bbox="667 616 933 728">That part of part Lake Tūtira property comprising the space occupied by—</p> <p data-bbox="667 728 933 788">(a) the water of the lake; and</p> <p data-bbox="667 788 933 848">(b) the air above the water.</p> <p data-bbox="667 848 933 882">Subject to survey.</p> <p data-bbox="667 882 933 952">As shown on OTS-201-03.</p>	<p data-bbox="962 495 1216 667">Subject to being a recreation reserve as referred to in section 81(4).</p> <p data-bbox="962 667 1216 817">Subject to an unregistered research and collection permit with concession number ECHB-23012-FAU.</p> <p data-bbox="962 817 1216 1003">Subject to an unregistered guiding concession to M A Skeet T/A One Cast Adventures with concession number WE-27667-GUI.</p> <p data-bbox="962 1003 1216 1120">Subject to Lakes Orakai, Tutira, and Waikopiro Wildlife Refuge Order 1973 (SR 1973/274).</p> <p data-bbox="962 1120 1216 1200">Together with a right of way easement specified in section 81(6).</p>

Name of property	Description	Interests
Lake Waikopiro property	<p><i>Hawke's Bay Land District—Hastings District</i></p> <p><i>Bed of Lake Waikopiro</i> 10 hectares, approximately, being Part Section 23 Block XII Maungaharuru Survey District. Part <i>Gazette</i> Notice 189845 (excluding stratum above bed of Lake Waikopiro). Subject to survey.</p> <p><i>Stratum above bed of Lake Waikopiro</i> That part of Lake Waikopiro property comprising the space occupied by—</p> <p>(a) the water of the lake; and</p> <p>(b) the air above the water.</p> <p>Subject to survey.</p> <p>As shown on OTS-201-03.</p>	<p>Subject to being a recreation reserve as referred to in section 82(3)(a).</p> <p>Subject to Lakes Orakai, Tutira, and Waikopiro Wildlife Refuge Order 1973 (SR 1973/274). Together with a right of way easement specified in section 82(6).</p> <p>Subject to being a recreation reserve as referred to in section 82(4).</p> <p>Subject to an unregistered research and collection permit with concession number ECHB-23012-FAU.</p> <p>Subject to an unregistered guiding concession to M A Skeet T/A One Cast Adventures with concession number WE-27667-GUI.</p> <p>Subject to Lakes Orakai, Tutira, and Waikopiro Wildlife Refuge Order 1973 (SR 1973/274). Together with a right of way easement specified in section 82(6).</p>

Schedule 5**s 107(5)****Gifting-back properties**

Name of property	Description
	<i>Hawke's Bay Land District</i>
Balance of the Opouahi Scenic Reserve	9.5690 hectares, more or less, being Section 16 Block III Maungaharuru Survey District. All computer freehold register HBL4/663.
	115.40 hectares, approximately, being Part Section 11 and Section 13 Block III Maungaharuru Survey District. Balance computer freehold register HBK4/1278. Subject to survey.
	8.23 hectares, approximately, being Part Lot 1 DP 405468. Balance computer freehold register 419234. Subject to survey.
Bellbird Bush Scenic Reserve	181.9349 hectares, more or less, being Sections 3, 4, 8, 9, and 15 Block III Maungaharuru Survey District. All computer freehold register HBL3/681.
Boundary Stream Scenic Reserve	569.3992 hectares, more or less, being Sections 9, 11, 12 and 13 Block XI Waitara Survey District, Section 12 Block III Maungaharuru Survey District, and Sections 28 and 29 Block IV Maungaharuru Survey District. All computer freehold register HBK4/388.
	124.1320 hectares, more or less, being Part Section 4 Block XI Waitara Survey District. Balance computer freehold register HBL2/971.
	45.7126 hectares, more or less, being Section 1 Block II Maungaharuru Survey District. All computer interest register 136261.
	32.4000 hectares, more or less, being Lot 1 DP 314729. All computer freehold register 58149.
	17.4400 hectares, more or less, being Lot 2 DP 314729. All computer freehold register 58150.
	2.2515 hectares, more or less, being Lot 3 DP 314729. All computer freehold register 58151.
	0.9400 hectares, more or less, being Lot 5 DP 314729. All computer freehold register 58152.

**Maungaharuru-Tangitū Hapū Claims
Settlement Bill**

Schedule 5

Name of property	Description
	<i>Hawke's Bay Land District</i>
	0.3500 hectares, more or less, being Lot 8 DP 314729. All computer freehold register 58153.
	23.6066 hectares, more or less, being Lot 1 DP 394455. All computer freehold register 377706.
Whakaari Landing Place Reserve	4.0468 hectares, more or less, being Section 3A Block I Tangoio Survey District. Section 6 Mohaka and Waikare District Act 1870.

Schedule 6**ss 121, 143, 149(3)****Notices in relation to RFR land****1 Requirements for giving notice**

A notice by or to an RFR landowner or the trustees under **sub-part 4 of Part 3** must be—

- (a) in writing and signed by—
 - (i) the person giving it; or
 - (ii) at least 2 of the trustees, for a notice given by the trustees; and
- (b) addressed to the recipient at the street address, postal address, fax number, or email address,—
 - (i) for a notice to the trustees, specified for the trustees in accordance with the deed of settlement; or
 - (ii) for a notice to an RFR landowner, specified by the RFR landowner in an offer made under **section 124**, specified in a later notice given to the trustees, or identified by the trustees as the current address or fax number of the RFR landowner; or
 - (iii) for a notice given to the chief executive of LINZ under **section 140 or 142**, in the Wellington office of LINZ; and
- (c) given by—
 - (i) delivering it by hand to the recipient's street address; or
 - (ii) posting it to the recipient's postal address; or
 - (iii) faxing it to the recipient's fax number; or
 - (iv) sending it by electronic means such as email.

2 Limitation on use of electronic transmission

Notices given under **sections 124, 127, 128, and 147**—

- (a) may be given by fax; but
- (b) must not be given by other electronic means, such as email.

3 Time when notice received

- (1) A notice is to be treated as having been received—

- (a) at the time of delivery, if delivered by hand; or
 - (b) on the second day after posting, if posted; or
 - (c) at the time of transmission, if faxed or sent by other electronic means.
- (2) However, a notice is to be treated as having been received on 5 the next working day if, under **subclause (1)**, it would be treated as having been received—
- (a) after 5 pm on a working day; or
 - (b) on a day that is not a working day.