Ngāti Whare Claims Settlement Bill

Government Bill

As reported from the committee of the whole House

225—3B

Key to symbols used in reprinted bill

As reported from the committee of the whole House

text inserted

~~text deleted~~

Hon Christopher Finlayson

Ngāti Whare Claims Settlement Bill

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Contents

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Ngāti Whare Claims Settlement Act **2012**.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

. . . . .

Purpose of Part

133 Purpose

The purpose of **this Part** is—

(a) to record the acknowledgements and the apology offered by the Crown to Ngāti Whare in the deed of settlement dated 8 December 2009 and signed by—

(i) the Minister for Treaty of Waitangi Negotiations, the Honourable Christopher Finlayson; and

(ii) James Carlson, David Bronco Carson, Kōhiti Kōhiti, Lena Brew, Pene Olsen, Robert Taylor, and Roberta Rickard:

(b) to give effect to certain provisions of the deed of settlement, which is the deed that settles the Ngāti Whare historical claims.

134 Act binds the Crown

This Part binds the Crown.

135 Outline

(1) This section is a guide to the overall scheme and effect of **this Part**, but does not affect the interpretation or application of the other provisions of **this Part** or of the deed of settlement.

(2) **Section 136** sets out the historical account given in Part 2 of the deed of settlement.

(3) **Sections 133, 134, and 137 to 149**—

(a) set out the purpose of **this Part**, record the acknowledgements and apology given by the Crown to Ngāti Whare in the deed of settlement, and specify that the Act binds the Crown; and

(b) define terms used in **this Part**, including key terms such as Ngāti Whare and historical claims; and

(c) provide that the settlement of the historical claims is final; and

(d) provide for—

(i) the effect of the settlement on the jurisdiction of a court, tribunal, or other judicial body in respect of the historical claims; and

(ii) consequential amendments to the Treaty of Waitangi Act 1975; and

(iii) the effect of the settlement on certain memorials; and

(iv) the exclusion of the law against perpetuities, the timing of actions or matters provided for in **this Part**, and access to the deed of settlement.

(4) **This Part** provides for cultural redress, including—

(a) a joint governance role for the Whirinaki Conservation Park; and
(b) the 2 specially protected areas; and
(c) protocols to be issued to the trustees of Te Rūnanga o Ngāti Whare by the Minister of Fisheries, the Minister of Energy and Resources, and the Minister for Arts, Culture and Heritage; and
(d) an accord to be issued to the trustees of Te Rūnanga o Ngāti Whare by the Minister of Conservation; and
(e) an acknowledgement by the Crown of the statements made by Ngāti Whare of their cultural, spiritual, historical, and traditional association with 3 statutory areas and the effect of that acknowledgement; and
(f) deeds of recognition between the Crown and the trustees of Te Rūnanga o Ngāti Whare; and
(g) the 2 advisory committees; and
(h) the alteration of place names; and
(i) the vesting in the trustees of Te Rūnanga o Ngāti Whare of the fee simple estate in 11 cultural redress properties and 6 non-cultural redress properties (including 4 jointly vested sites) and subsequent management arrangements in relation to various sites.

(5) There are 3 schedules that—
(a) describe the 2 specially protected areas:
(b) describe the 3 statutory areas to which the statutory acknowledgement relates:
(c) describe the 11 cultural redress properties and 6 non-cultural redress properties (including 4 jointly vested sites).

Historical account

136 Account

Introduction

(1) This is an account of the historical events upon which the Crown's acknowledgements and apology in **sections 137 and 138** are based.

Ngāti Whare: Origins

(2) Ngāti Whare are the descendants of Toi Te Huatahi. Ngāti Whare take their name from their most prominent ancestor, Wharepakau-Tao-Tao-Ki-Te-Kapua (Wharepakau) of the ancient Tini-o-Toi, who had settled around the Bay of Plenty. After a series of heke, Wharepakau and his whānau migrated to the Rangitaiki and Te Whāiti-Nui-a-Toi area. Together, Wharepakau and his nephew Tangiharuru fought and defeated Te Marangaranga, the original occupants of the land. When the fighting ceased Wharepakau and his whānau took up residence with Te Marangaranga on lands along the Whirinaki River, bordered by a great expanse of ancient forest rich in resources. From that time the descendants of Wharepakau and Te Marangaranga adopted the name "Ngāti Whare" in recognition of their common ancestor.

(3) Over time the descendants of Wharepakau increased in number and prospered, and in the process formed hapū. New pā and kāinga were erected. Patterns of seasonal resource use were developed through Te Whāiti-Nui-a-Toi and neighbouring areas. Strategic marriages were also made with the descendants of Tangiharuru, to whom Ngāti Whare remained closely connected, as well as with others such as the descendants of Ngā Potiki, Tuhoe and Apa Hapai-Taketake. Occasionally persons from outside hapū were invited by Ngāti Whare to reside with them and through intermarriage these groups were incorporated as new hapū into Ngāti Whare.

(4) The hapū of Ngāti Whare comprise Ngāti Kohiwi, Ngāti Te Karaha, Ngāi Te Au, Ngāti Tuahiwi, Ngāti Whare ki Ngā Potiki, Ngāti Mahanga, Ngāti Hamua ki Te Whāiti and Warahoe ki Te Whāiti.

(5) Ngāti Whare held their land and resources under collective tribal and hapū custodianship. Their land tenure system did not operate on fixed iwi and hapū boundaries. Ngāti Whare practised a system where the rights of hapū or whānau to travel through, to gather resources from, to cultivate upon, or to occupy lands depended to a great extent on the genealogical, social and political relationships between different kin groups.

(6) Ngāti Whare generally lived in peace with their neighbours. At times, however, Ngāti Whare hapū fought against their

neighbours and sometimes they allied with their neighbours against common foes. In the 1820s Ngāti Whare were drawn into the wars which ranged throughout New Zealand, as access to muskets upset existing relationships between hapū and iwi. The disruption caused by the fighting and the complex alliances that were made and remade in this period was considerable. By the mid 1830s more stable relationships between Ngāti Whare and their neighbours were reinstated, often with the assistance of peace-making marriages. Ngāti Whare continued to occupy their lands largely as before.

(7) Ngāti Whare did not sign the Treaty of Waitangi. Ngāti Whare visited places of early European settlement, such as Whakatane, Tūranganui-a-Kiwa and Ahuriri in the Hawke's Bay where they were exposed to new ideas and practices such as literacy. They also worked and traded goods in the developing colonial economy.

(8) In the two decades following the signing of the Treaty of Waitangi the Crown did not try to exercise any form of authority in the Urewera region, including over Ngāti Whare. Ngāti Whare did not sell any of their land. The only European presence was the missionary James Preece and his family, from 1847 to 1852, who resided on land that Ngāti Whare gifted near their kāinga Ahikereru. After Preece's departure Ngāti Whare continued to practise the Christian faith, led by their own teachers.

War in the Waikato

(9) The first visit by a government official to the area took place in 1862. It was only after war broke out between the Crown and Māori in the early 1860s in Taranaki and later in the Waikato that the arrival of the Crown had any real impact upon Ngāti Whare. Following the Crown's unjust invasion of the Waikato in 1863 the Kingitanga was pushed down the Waikato River. In early 1864, senior emissaries of the King sought support from the tribes of Te Urewera. Ngāti Whare and Ngāti Manawa held a hui and decided that the two iwi would divide, one to go with the Māori King, the other to go with the government. In late March 1864 approximately 20 Ngāti Whare went to the Waikato and fought with their whanaunga against the Crown at Orakau. A number of Ngāti Whare people were killed but

others managed to return home. Ngāti Whare had no further involvement in the Waikato War.

Pai Mārire

(10) In 1862, the Taranaki spiritual leader Te Ua Haumene developed the peaceful, biblically based doctrines of the Pai Mārire faith. In the context of warfare his doctrines were misinterpreted and misapplied by some of his emissaries. In February 1865 a group of Pai Mārire emissaries, including Kereopa Te Rau and Patara Raukatauri, arrived at Tauaroa pā near Te Whāiti en route to Tūranga. Te Urewera Māori were divided on whether to accept the new religion. Many Ngāti Whare embraced its teachings while other iwi rejected them.

(11) Kereopa and Patara proceeded to Whakatane and Opotiki later that month and on 2 March 1865 Kereopa led the group that killed Reverend Volkner at Opotiki. Ngāti Whare played no part in his death. In April 1865 the Government proclaimed that it would use all the means in its power to suppress Pai Mārire and called upon all "well disposed" persons to assist them.

(12) In June 1865, members of Ngāti Whare and another iwi resolved to accompany many of the Pai Mārire emissaries back to the Taranaki region. Ngāti Manawa, who had previously warned Pai Mārire not to enter their rohe, sought to stop them. They fortified Te Tāpiri and demanded to know the whereabouts of Kereopa. Ngāti Whare and their allies took offence at these actions and besieged Te Tāpiri. Over the period of a fortnight reinforcements arrived to support the besiegers. Kereopa was with one of these groups. After some fighting and loss of life on both sides, the defenders evacuated the pā and escaped to Rotorua.

(13) In July 1865, a Crown commander visited the recently erected Ngāti Whare pā at Te Whāiti called Te Harema. He concluded that Ngāti Whare were not taking any further role in Kereopa's campaign. Kereopa remained in the region until his capture in late 1871. Ngāti Whare continued to practise the Pai Mārire faith and lived in relative peace for three years.

War and Destruction 1869–1871

(14) In June 1868 Te Kooti Arikirangi Te Turuki led the escape of several hundred Māori, who had been held for two and a half years without trial on the Chatham Islands following fighting on the East Coast between Crown forces and Pai Mārire adherents. Te Kooti and his followers (known as the Whakarau) landed south of Tūranga and hoped to find sanctuary in Taupo.

(15) The Crown set out to apprehend the Whakarau and a number of skirmishes were fought through July and August 1868. Te Kooti attacked Matawhero in early November 1868, where a considerable number of Māori and Pākehā men, women and children were killed. Following this Crown forces besieged and defeated the Whakarau at Ngatapa pā. Some escaped, but a considerable number of Māori men, women and children were killed. This included the execution of prisoners by Crown forces without trial.

(16) In January 1869, Te Kooti sought refuge in the Urewera region. Ngāti Whare joined neighbours in an agreement to support Te Kooti and his followers seeing him as a prophet and identifying with the injustice of his detention without trial by the Crown. Some Ngāti Whare took part in an attack, led by Te Kooti, on Mohaka in April 1869, in which a significant number of Māori and Pākehā men, women and children were killed. Following this the Crown planned a three-pronged military operation into Te Urewera in an effort to capture or kill Te Kooti and to punish those who supported him.

(17) In pursuit of Te Kooti, a Crown force led by the same officer who had overseen the execution of prisoners at Ngatapa, made a surprise attack on the Ngāti Whare pā Te Harema at Ahikereru on 6 May 1869. Te Kooti was not there nor were most of the Ngāti Whare fighting force. In total five or six Ngāti Whare men were killed. Some were shot as they resisted the attackers, while others were shot down as they tried to retreat from the pā "hampered with their women and children". Some of the men shot were elderly. A few men managed to escape. As many as 50 women and children were taken prisoner.

(18) According to Ngāti Whare oral tradition, women were raped in the attack and as a consequence some committed suicide by drowning themselves in the Whirinaki River. The cap-

tured women and children were handed over to Māori troops fighting alongside the Crown, and taken from their rohe. The Commander of the Crown forces commented that he had done this "so that this hapū will be destroyed". Those Ngāti Whare remaining in Te Urewera were told that they could surrender and join their women in exile, where they were to remain. Te Harema pā was destroyed, leaving it in a "mass of flames". The Crown forces also looted and destroyed all other kāinga, cultivations and provisions in the valley.

(19) Members of Ngāti Whare accompanied Te Kooti to Taupo and Te Rohe Potae during 1869 and 1870, where Te Kooti sought an audience with the Māori King. King Tawhiao refused to receive him. Te Kooti and his followers, including some members of Ngāti Whare, subsequently fought Crown forces at Te Ponanga and Te Porere before being pursued around the central North Island and slipping back into Te Urewera on 8 February 1870.

(20) Te Kooti was never captured, but was pardoned in 1883 and returned to Te Whāiti in 1884 to acknowledge those who had sheltered him by opening the new meeting house, Eripitana.

(21) During early 1870 the members of Ngāti Whare who accompanied Te Kooti returned to Ahikereru. Crown officers then negotiated with Ngāti Whare to surrender. The Defence Minister offered immunity from prosecution to those who did so voluntarily. They had to surrender their weapons and leave Te Urewera. On 25 April 1870, 18 Ngāti Whare surrendered including six men, three women and nine children. On 20 May 1870, the Ngāti Whare chief Hapurona Kohi surrendered, taking the remaining Ngāti Whare with him. They joined the prisoners taken at Te Harema and were placed under the control of Crown allies at Te Pūtere.

(22) While kept at Te Pūtere, Ngāti Whare had to supplement insufficient government rations by growing and catching their own food, despite the limited and poor quality of the land made available to them. In February 1871, Hapurona Kohi and Hamiora Potakurua complained of their difficulties producing food at Te Pūtere. The Defence Minister promised officials would look for other land and said that "they should have a supply of clothing and also of food". The Minister informed

chiefs at Te Pūtere that they could return home on 15 April 1872. Ngāti Whare gradually returned to Te Whāiti between 1872 and 1874.

(23) Some Ngāti Whare women remained near the coast because of the shame they felt in consequence of the circumstances of their capture and imprisonment.

(24) The Ringatu Church, established by Te Kooti, spread through the region and Pai Mārire was abandoned.

(25) In 1872 Urewera hapū and iwi established a confederation—Te Whitu Tekau—to coordinate decision-making in the region. Ngāti Whare participated in and usually supported the confederation. It objected to lands being surveyed and title being determined by the Native Land Court, as in other places this had led to land alienation.

The Native Land Court and Crown Purchasing

(26) The Native Land Court was established under the Native Land Acts of 1862 and 1865 to determine the owners of Māori land "according to Native Custom" and to convert customary title into title derived from the Crown.

(27) The Court's investigation of title for land could be initiated with an application in writing by any Māori. The Court did not act on all applications but in some instances surveys or investigations of title proceeded without the support of all of the hapū who claimed interests in the lands. In most cases the land was surveyed and then the Court would hear the claims of the claimants and any counter-claimants. Those the Court determined were owners received a certificate of title.

(28) In the late 1870s the Native Land Court began to investigate title to lands along the western side of Te Urewera. These lands became known by the block names Heruiwi, Heruiwi 4, Kaingaroa 1 and 2, Kuhawaea, Whirinaki, Rūnanga, Pukahunui and Pohokura.

(29) Ngāti Whare maintained opposition to the Court and did not actively participate in hearings or contest the title investigations, even though they had interests in these blocks. Ngāti Whare interests were later acknowledged by a leading rangatira of another iwi that was awarded a share of the titles to

most of these blocks. The Native Land Court awarded all the blocks to other iwi, even though:

(a) a rangatira of another iwi claimed Heruiwi 4 in 1890 on behalf of Ngāti Whare as well as his own iwi; and

(b) Ngāti Whare representatives were originally proposed for inclusion on the Kaingaroa 1 block title; and

(c) a Ngāti Whare ancestor was named as being associated with the Kuhawaea block; and

(d) Ngāti Whare were named by the representative of another iwi as having interests in the Pohokura block.

(30) Some Ngāti Whare names were included in the titles to most of these blocks when other iwi chose to include them in the lists of owners they handed into the Court. While these individuals were possibly seen as representatives of Ngāti Whare interests, or the interests of Ngāti Whare hapū, they did not in law have a trustee capacity for all Ngāti Whare.

(31) Following the Native Land Court hearings those awarded interests in the blocks sold much of the land to the Crown. Kuhawaea 1 block was sold to a private purchaser, as were parts of Pukahunui, Pohokura and Kaingaroa 2 blocks. In 1907 a Ngāti Whare rangatira denied that Ngāti Whare received any money from these sales. The rapid alienation of these blocks left Ngāti Whare eager to protect their remaining lands from sale.

The Seddon Agreement 1894–1895 and the Urewera District Native Reserve Act 1896

(32) In 1894 a delegation led by Premier Richard Seddon travelled through Te Urewera. Seddon wanted to hear the views of Urewera groups on a range of issues. All land in Te Urewera was still held under Māori customary title and Seddon also wanted to explain Crown policy on issues relating to Māori land and prosperity, in particular in relation to the determination of title. When visiting Ngāti Whare, Seddon argued that benefits would flow to Ngāti Whare if title to their lands was determined. He stated that the Crown would act as a ‘protector’ for Ngāti Whare, as set out in the Treaty of Waitangi. Ngāti Whare responded positively to these suggestions and agreed to enter further discussions.

(33) Crown officials met with Te Urewera leaders in Ruatoki in January 1895 and advised that trigonometrical survey work would be carried out through Te Urewera in the near future. Survey work began in April 1895. Ngāti Whare and other Urewera Māori were fearful that consequences of the surveying would be land loss. Ngāti Whare obstructed the survey party at Te Whāiti. The Crown responded by sending soldiers to occupy Te Whāiti among other places.

(34) These events served as a catalyst for meetings in September 1895 between the Crown and Urewera leaders. Te Urewera leaders sought self-government and protection of their lands from alienation. The Premier offered Ngāti Whare and other Urewera Māori:

- (a) a specially constituted Native Reserve; and
- (b) provisions for the election of a General Committee and local hapū-based Committees for self-government; and
- (c) a process of land title investigation with a government-appointed commissioner working with owners to assist in defining the outer boundary of the Reserve and hapū boundaries; and
- (d) assistance to prospect for gold and other minerals with a promise of royalties; and
- (e) the provision of schools and teachers.

(35) Decisions for the use and alienation of land would be made collectively and according to Māori custom. Seddon also made statements about protecting birds and forests and providing trout to stock waterways.

(36) Parliament enacted the Urewera District Native Reserve Act 1896 to give effect to these agreements. The Act provided for an alternative to the Native Land Court to determine ownership of customary lands in a reserve of 656,000 acres, including the remaining lands of Ngāti Whare. Title was to be held at hapū level and would be determined by a Commission, comprised of five Tūhoe and two Pākehā commissioners. The Crown would pay the survey and other costs involved in determining title. In addition, local block committees would be set up to administer land and a General Committee established to deal with local affairs including making decisions about the alienation of land.

(37) Ngāti Whare believed this system would protect their lands in the Reserve from sale.

Te Whāiti, Title Determination

(38) The determination of land titles by the two Urewera Commissions was a drawn out process and proved difficult for Ngāti Whare. The first Urewera Commission investigated title to a series of blocks around Te Whāiti in 1901–1902. The Te Whāiti block was awarded to Ngāti Whare and another iwi, with a third iwi missing out. Other blocks around Te Whāiti included the Maraetahia, Otairi and Tawhiuau blocks, which were separately awarded to hapū of Ngāti Whare and another iwi.

(39) The Second Urewera Commission (1906–1907) heard nineteen appeals against the Te Whāiti block award. The original title was overturned. Ngāti Whare and the neighbouring iwi who had been excluded in 1902 were together awarded title. In total 318 Ngāti Whare individuals were granted title, along with 189 individuals from the neighbouring iwi. The Commission rejected some of the names Ngāti Whare put forward for inclusion on the title. In 1913 the Native Land Court on appeal added a further 65 Ngāti Whare names to the title.

Implementation of the Urewera District Native Reserve Act

(40) The key aim of the Urewera District Native Reserve Act was to establish local Māori governance but no formal body was established for more than a decade. There was also considerable delay in establishing functioning Block Committees. In 1902, the first Urewera Commission appointed provisional block committees. They were not subsequently approved by the Crown because of the outstanding appeals to the Commission's decisions on owners. A second group of provisional block committees were approved after the publication of the Commission's 1907 awards.

(41) The Crown subsequently amended the Act in ways which undermined the system of self-government it provided for the Reserve. The first General Committee was elected in 1908. Later that year the Crown gave itself power to appoint and dismiss members of the Committee. Coupled with other amend-

ments, this undermined the original democratic structure of the Reserve.

(42) The Crown appointed a Urewera General Committee, which included Wharepapa Whatanui of Ngāti Whare, as the governing body of the Reserve in March 1909. The Crown made no move to assist the Committee to prepare regulations for the running of the Reserve.

(43) In 1909 legislation was enacted empowering the Crown to declare individual blocks in the Reserve subject to the jurisdiction of the Native Land Court. Ngāti Whare were not consulted over these amendments to the 1896 Act.

Ngāti Whare in the Early 20th Century

(44) Ngāti Whare suffered poverty in the early twentieth century. Regular food shortages, combined with poor housing, exacerbated the impact of introduced diseases such as influenza, smallpox, measles and typhoid. Aside from seasonal work outside Te Urewera there were few sources of income available to Ngāti Whare. In 1898 a series of unseasonal frosts swept through Te Urewera leading to total crop destruction.

(45) Other crop failures took place periodically to the 1910s, creating an environment of considerable economic and social stress for Ngāti Whare. Teachers at Te Whāiti Native School regularly informed the Crown about such issues.

(46) Ngāti Whare were, however, asset rich in the timber that grew on the Te Whāiti block. From the later nineteenth century they sought opportunities to sell some of the timber to generate an income, including limited harvesting of totara for fence posts. In 1909 Te Whāiti owners negotiated the sale of timber cutting rights with a private party, with the intention of establishing a saw mill. However, the Crown prevented the sale.

Te Whāiti Block: Purchase

(47) In 1910 some Ngāti Whare offered to sell 6000 acres in the Te Whāiti block to the Crown. The Crown wanted to secure land in the area and agreed to advances of two shillings per acre. That year, a Crown adviser suggested that the Te Whāiti block be subdivided to end disputes between Ngāti Whare and the other iwi with whom they shared the block. In 1913 the block

was partitioned and Ngāti Whare received Te Whāiti 1 block of 45,048 acres.

(48) Ngāti Whare continued to pursue their economic options, taking their timber selling proposal to two meetings of the General Committee in 1914. The General Committee approved their proposal in April 1914, but the Crown did not endorse their decision effectively preventing the lease from taking place.

(49) Later that year, the Crown started purchasing the land interests of individuals in Te Urewera without seeking approval of the General Committee. This was illegal under the Urewera District Native Reserve Act. The Crown's land purchase agent was informed by the Native Department that future legislation would be required to "validate these purchases, the present state of the law plainly requiring that all purchases should be made through the General Committee of the Urewera Natives".

(50) In May 1915 the Crown resolved to purchase the Te Whāiti blocks. The Crown's decision to purchase individual shares in the two Te Whāiti blocks prevented private leases from being completed and thus prevented Ngāti Whare from gaining any direct economic benefit from their land, other than sale to the Crown, for well over a decade.

(51) Under the Urewera District Native Reserve Act, the final say in leasing and sale of the land or its timber was held by the General Committee. The law required the Crown to hold a meeting of the assembled owners of a land block, before beginning negotiations to purchase individual interests in the land. The Crown did not hold such a meeting in its negotiations for Te Whāiti and nothing was done to ensure that those selling their interests were left with sufficient land for their subsistence.

(52) Through the period of Crown purchase the Crown used a number of techniques to maximise sales in the Te Whāiti blocks. Resident non-sellers were actively restrained by the Crown from cutting timber for fence posts. The Crown worked to prevent hearing of applications made to the Māori Land Court by non-selling owners to partition out their interests so that they could utilise their own land as they saw fit. Absentee owners were more likely to sell their interests, although a good num-

ber of resident owners sold part of their interests. Such sales were likely driven by economic necessity.

(53) In 1916 legislation was enacted that allowed the Crown to purchase individual interests in the Reserve. In 1921 further legislation was enacted to retrospectively legalise Crown purchases in Te Urewera, including purchases in the Te Whāiti block. The General Committee was not consulted on these departures from the 1895 agreement and its powers were extinguished in the 1921 legislation.

(54) The Crown's purchase of Te Whāiti 1 was based on its 1915 valuation of £18,687 for the 45,048 acres or 8s 3d per acre. The valuation was not tested on the open market and there was no independent review of the valuation. The owners considered the land and its timber were worth between £5 to £10 per acre, while the Crown land purchaser considered Ngāti Whare had "a very exaggerated idea of the value" of the timber. The value attributed to the land by the Crown was the value at which purchases were made.

(55) Surveys undertaken in the 1990s revealed the 1915 valuation had considerably underestimated the amount of productive timber on the block and overstated the development costs of the land. There is no evidence that the Crown deliberately underestimated the volume of timber on the block, but it benefited from a poor valuation. Ngāti Whare owners later protested the low valuation given for the timber.

The Urewera Consolidation Scheme

(56) By 1919 the rate of sale of individual interests in the Reserve had decreased considerably. The Crown's policy of acquiring individual interests in blocks throughout the Reserve had left both the Crown and Māori without clear title to any blocks and unable to develop the land they owned. Both faced expensive and extended court processes to partition out their respective interests. The Crown continued purchasing interests in the Te Whāiti block, but also began organising a scheme to consolidate interests throughout the Reserve to create economic units for Māori non-sellers and incoming settlers. It also aimed to set aside areas for soil conservation and scenic reserves.

(57) Under the scheme individual owners had their interest in blocks across the Reserve consolidated into what were expected to be whānau blocks in single locations. Because most Ngāti Whare non-sellers only had interests in the Te Whāiti series blocks, an attempt to shift them to blocks where they had no customary interests failed. Non-sellers in the Te Whāiti series blocks were eventually consolidated into 10 groups in subdivisions, as well as residue blocks.

(58) The Ngāti Whare and other non-sellers were awarded 14,466 acres of the original 71,340 acre block. This was later reduced to 10,840 acres to cover costs of survey and roads. The Urewera District Native Reserves Act had sought to avert such losses. The Crown was awarded almost all of the valuable timber land in the Te Whāiti block.

(59) In 1926 titles were awarded. Ngāti Whare were then able to utilise the resources on their remaining land. In 1928 they began selling timber cutting rights to commercial millers.

Te Whāiti 1930s and 1940s

(60) In 1928 the first sawmill opened at Te Whāiti. At this time the Crown had granted the Waiariki District Māori Land Board authority to grant cutting rights over Ngāti Whare owned lands. Neither the Board nor the sawmillers gained the consent of the Commissioner of Forests, whose written consent was required before cutting on Māori land took place. Ngāti Whare notified the Crown that the millers were cutting timber in a wasteful way. The Commissioner of Forests considered the owners had been treated unfairly and "that this invalid contract should be terminated as soon as possible". However, neither the Māori Land Court nor the Forest Service intervened to safeguard the interests of landowners. Consequently the amount of saleable timber on Māori owned land at Te Whāiti decreased rapidly in the first years of the Depression. The State Forest Service withheld its consent when another private company applied for cutting rights so the mill remained the only company allowed to mill at Te Whāiti.

(61) In 1935 Crown officers recommended that all felling in Te Urewera stop, except in the Whirinaki Valley in which the Te Whāiti block sat. The officers also suggested that Māori should be compensated adequately if they were prevented

from logging their forests. In 1936 the Crown offered to purchase the Te Whāiti Residue No 2 block from Ngāti Whare to preserve the forest. Landowners expressed distrust because of past Crown actions and did not want to sell their lands.

(62) In 1938 landowners accepted a Crown offer to exchange the Te Whāiti Residue B block for nearby Crown land that was suitable for farming but which was lying idle. Māori landowners wanted to proceed immediately. For 15 years the Crown promised to exchange the Te Whāiti Residue B block and neighbouring Māori blocks with Crown land, but this never transpired. Ngāti Whare finally sold cutting rights on the Te Whāiti Residue B in 1954.

The Forest Service and the Establishment of Minginui

(63) In the 1930s the State Forest Service, concerned about the destructive practices employed by private saw millers, decided to carry out its own logging using a system of selective logging to manage the forest on a sustained yield basis. The scheme began in 1938 in podocarp stands in the Whirinaki valley on the border of State Forest 58.

(64) The Forest Service established a model village at Minginui in 1948. By mid-1950, 69 houses had been built, and by 1980 there were a total of 94 houses at Minginui. Between 1951 and 1981 Minginui supported a population that fluctuated between 374 and 444 persons.

(65) The Forest Service contracted to supply timber to three privately-owned saw mills in 1946. The demand for timber continued after World War II and in 1950 the Forest Service completed a management plan. Endorsing the ongoing felling of podocarp timber, it aimed to retain the viability of forests and the communities that depended on them.

(66) The Forest Service administration of Minginui from the late 1940s to 1984 had a positive impact on Ngāti Whare's social and health conditions, with improved social and health services, good employment, better housing and new schools.

Te Whāiti-Nui-a-Toi Forest

(67) From the 1940s to the 1960s Ngāti Whare were keen to develop their remaining lands and sought to have them included in Crown operated development schemes for Māori owned

land. Because of the small amount of land left in Ngāti Whare ownership and the prioritisation of areas where greater levels of Māori land was retained, the Crown did not begin assisting Ngāti Whare in this way until the 1970s.

(68) The Crown began drafting plans to develop Te Whāiti lands from 1971. By this time the Crown considered that Ngāti Whare's remaining land would be more suited to forestry than pastoral farming. At this stage Ngāti Whare hoped to use exotic forestry to fund much needed repairs to their marae, promote tribal employment, protect their wāhi tapu and gain an income from the land. For its part, the Crown wanted to utilise underdeveloped Māori land, make a profit from the trees, provide a return for the owners and enhance the recreation and environmental value of the land.

(69) In January 1974, the Māori Land Court consolidated much of the remaining Ngāti Whare land in a new block, named Te Whāiti-Nui-a-Toi. The Court vested the 7,777 acre block in the Māori Trustee under section 438 of the Māori Affairs Act 1953. Out of this block, 4,983 acres were to be leased for forestry purposes. The remaining acres, unsuitable for forestry or farming due to their broken and steep nature, were to be used and managed or alienated at the discretion of the Māori Trustee.

(70) The Māori Trustee negotiated the forestry lease on behalf of the owners. Ngāti Whare needed revenue for their marae and could not wait until the trees were harvested 30 years later. Nor did they want to lose control over their lands for the usual period in forest leases of 99 years. Six of the beneficial owners were Advisory Trustees to the Māori Trustee, but they were not always kept informed of key developments.

(71) For most of the negotiations the draft lease included provisions for Ngāti Whare and the Crown to share profits from the harvest of the trees, while also providing some income for the owners in its early years. Without any explanation being made to the Advisory Trustees, profit sharing provisions were dropped from negotiations in August 1975. At that time New Zealand was facing rising and unprecedented inflation.

(72) The final 1976 lease was for 66 years, had no provision for profit sharing and paid the Ngāti Whare owners $8,100 per an-

num for the whole term of the lease adjusted annually by the Consumer Price Index (CPI). The lease did not contain a rental review clause. It was the only CPI adjusted rental lease entered into between the Crown and Māori. In August 1989 the Māori Land Court ordered the transfer of the Te Whāiti-Nui-a-Toi lease from the Māori Trustee to beneficial owner Trustees, establishing the Te Whāiti-Nui-a-Toi Trust in the process.

(73) From 1994 the rapid acceleration of land values, relative to consumer prices, meant that the Te Whāiti-Nui-a-Toi owners' return was significantly lower than that received by other forestry owners. As a result, the lease did not benefit the owners as much as anticipated. The Trustees were finally able to renegotiate an improved lease with the Crown in 2007.

The End of the Forest Service and the Handover of Minginui

(74) In 1984 the Whirinaki Conservation Park (commonly referred to as the Whirinaki Forest Park) was established and shortly thereafter the Crown stopped the felling of indigenous timber. From early 1985 the Forest Service was restructured, ultimately into three new organisations: the Ministry of Forestry, the New Zealand Forestry Corporation and the Department of Conservation. In 1987 most of the Whirinaki Conservation Park was transferred to the Department of Conservation to be preserved as an ecological reserve. The balance of the Park was allocated to ongoing commercial use under the Crown Forestry Licence regime set out in the Crown Forest Assets Act 1989.

(75) The New Zealand Forestry Corporation, established on 1 April 1987, did not wish to provide housing for their employees and support forestry communities such as Minginui. Minginui residents who had been employed by the Forest Service were no longer required. There were significant job losses as a result. Unemployment in Minginui was recorded at 51 percent in April 1987 and estimated at 95 percent in late 1988 after the last private mill closed. Many of those made redundant were Ngāti Whare.

(76) After four decades of relative prosperity, only a handful of Ngāti Whare were able to earn a living in their own rohe. Many left and those who chose to remain on their traditional lands became, and remain, largely dependent on benefits.

This, and a dramatic decline in services, had a significant impact on Ngāti Whare and the community, including greater poverty and poorer health conditions.

(77) In 1987, the Crown and Ngāti Whare began discussions on the future of Minginui Village. Ngāti Whare wanted to regain ownership of their ancestral land. They also wanted to protect the houses in the village and to administer it as a papakainga. The Crown sought to support Māori living on their tribal lands and avoid the considerable social costs of relocating the community. Minginui's infrastructure (roads, footpaths, sewerage system, stormwater, water supply and street lighting) was below government standards. The Whakatane District Council was reluctant to take over administration of the village if these deficiencies were not addressed. The Crown was aware that the cost of bringing the town's infrastructure up to standard was estimated at over a million dollars.

(78) In March 1988, the Te Whāiti-Nui-a-Toi Trust in conjunction with the Minginui Village Council sought to take over the running of the village. The Crown agreed. On 29 March 1989, the Māori Land Court vested Minginui in Wharepakau, the eponymous ancestor of Ngāti Whare. A new body—the Ngāti Whare Trust—was established to hold the land, with day to day operations being carried out by a subsidiary, Minginui Village Council Ltd.

(79) Minginui Village did not prosper after 1989. The Crown made a $100,000 contribution for the upgrading of infrastructure, but the Trust responsible for administering Minginui Village had few resources to meet infrastructure needs. Infrastructure problems identified in 1987 went largely unaddressed for twenty years. Ngāti Whare have sought for a number of years to engage with the Crown about the ongoing socio-economic and infrastructural needs of Minginui Village. The Crown and Ngāti Whare are currently working on resolving these issues.

Crown acknowledgements

137 Acknowledgements

(1) The Crown acknowledges that it has failed to address the long standing grievances of Ngāti Whare in an appropriate way and that recognition of these grievances is long overdue.

(2) The Crown acknowledges that Ngāti Whare did not sign the Treaty of Waitangi in 1840 and that by 1864, when Ngāti Whare were involved in fighting against the Crown alongside the Kingitanga, Ngāti Whare and the Crown had not established a relationship from which Ngāti Whare felt a meaningful duty of allegiance to the Crown could be derived.

(3) The Crown acknowledges that from 1868 war was brought to Te Urewera as the Crown sought to apprehend Te Kooti and Ngāti Whare chose to support Te Kooti, seeing him as a prophet and identifying with the injustice of his detention without trial by the Crown.

(4) The Crown's actions during and after its 1869 attack on Te Harema pā included:

- (a) the killing of elderly men who were trying to take the women and children to safety; and
- (b) the destruction of the pā and taonga and all the nearby cultivations; and
- (c) the failure to properly monitor and control the actions of its armed force; and
- (d) the handing over of women and children to traditional enemies of Ngāti Whare and their exile from their rohe, which facilitated the permanent dislocation of some members of that community; and
- (e) the failure to provide sufficiently for all those kept in exile at Te Pūtere; and
- (f) that Ngāti Whare were not compensated for the impacts of any excessive Crown actions.

(5) The Crown acknowledges that its actions during and after its 1869 attack on Te Harema pā as set out in **subsection (4)** had a destructive effect on the mana, social structure, and well-being of Ngāti Whare. The Crown acknowledges that its conduct showed reckless disregard for Ngāti Whare, went beyond what

was necessary or appropriate in these circumstances, and was in breach of the Treaty of Waitangi and its principles.

(6) The Crown acknowledges the sense of grievance suffered by Ngāti Whare and the distress to generations of Ngāti Whare who have carried the stigma of being labelled rebels by the Crown.

(7) The Crown acknowledges that—

(a) the native land laws introduced from the 1860s required iwi to participate in title investigations by the Native Land Court to protect their interests in lands; and

(b) Ngāti Whare, due to their allegiance to Te Whitu Tekau, consistently opposed the introduction and operation of the native land laws and did not participate in the Native Land Court processes as an iwi for lands in which they had mana/ahi kaa; and

(c) Ngāti Whare's non-participation resulted in their rights to these lands not being fully recognised; and

(d) Ngāti Whare's non-participation resulted in Ngāti Whare being deprived of access to their traditional sources of food and to resources that might have been developed in future years; and

(e) it failed to consider the impact of Ngāti Whare's non-participation in the Native Land Court processes on them and did not act to remedy the prejudicial effects on Ngāti Whare. In so doing the Crown failed to actively protect the interests of Ngāti Whare in land they wished to retain and this was a breach of the Treaty of Waitangi and its principles.

(8) The Crown acknowledges that its 1894–1895 discussions with Ngāti Whare and other Urewera Māori were conducted in good faith by both parties. The resulting Urewera District Native Reserve Act 1896 sought to promote tribal autonomy and good governance and to protect land ownership.

(9) The Crown acknowledges that, in implementing the Urewera District Native Reserve Act 1896, the Crown—

(a) failed to establish an effective system of local land administration and local governance; and

(b) made unilateral changes to key parts of the legislation without effective consultation with Ngāti Whare; and

(c) undermined the governance of the reserve and circumvented the protective mechanisms of communal decision making by commencing the purchase of individual interests within the Te Whāiti block between 1915 and 1921 without the collective control of its actions by the General Committee; and

(d) hindered Ngāti Whare from commercially exploiting the timber on their land or partitioning their interests from those of the Crown prior to the introduction of the Consolidation Scheme in 1921.

(10) The Crown acknowledges that the actions set out in **subsection (9)** undermined the Crown's relationship with Ngāti Whare and were a breach of the Treaty of Waitangi and its principles.

(11) The Crown acknowledges that its purchasing of individual interests in the Te Whāiti block left Ngāti Whare virtually landless and that their land holdings were further diminished as a result of the Urewera Consolidation Scheme when the Crown required those Ngāti Whare who managed to retain their lands to pay for survey and roading costs in land.

(12) The Crown acknowledges that the cumulative effect of its actions has alienated Ngāti Whare from their lands hindering their economic, social, and cultural development. The Crown acknowledges that its failure to ensure that Ngāti Whare retained sufficient land for their present and future needs was a breach of the Treaty of Waitangi and its principles.

(13) The Crown acknowledges that the people of New Zealand benefited from the milling of timber on lands alienated from Ngāti Whare and that, following the creation of Whirinaki Conservation Park in 1984, all of New Zealand has benefited from the preservation of the native forest and promotion of the conservation of those lands.

(14) The Crown acknowledges the generosity of spirit shown by Ngāti Whare in their desire to ensure ongoing public access and use of the Whirinaki Conservation Park.

(15) The Crown acknowledges that Ngāti Whare sought its assistance to develop their remaining land from the 1940s and that

the original Te Whāiti-Nui-a-Toi lease that was agreed in 1976 for this purpose did not benefit Ngāti Whare as anticipated.

(16) The Crown acknowledges that its cessation of indigenous logging in the Whirinaki Forest and its subsequent corporatisation of the New Zealand Forest Service resulted in high unemployment rates for Minginui Village, a significant decline in services, and an increase in poverty. This had a devastating and lasting impact on Minginui Village and the people of Ngāti Whare, which was compounded by the return of Minginui Village to Ngāti Whare without adequate resources or support.

Crown apology

138 Apology

(1) The Crown recognises that until now it has failed to address the longstanding grievances of Ngāti Whare in an appropriate way and that the Crown's recognition of these grievances is long overdue. Accordingly, the Crown makes the following apology to Ngāti Whare and to their ancestors and descendants.

(2) The Crown profoundly regrets and unreservedly apologises to Ngāti Whare for the breaches of the Treaty of Waitangi, and its principles, acknowledged above.

(3) The Crown deeply regrets the loss of lives, destruction, and harm inflicted on Ngāti Whare during and after its 1869 attack on Te Harema pā and unreservedly apologises to Ngāti Whare for its actions.

(4) The Crown regrets that Ngāti Whare have borne the stigma of being labelled rebels.

(5) The Crown profoundly regrets and apologises for the cumulative effect of its actions and omissions over generations which have resulted in the virtual landlessness of Ngāti Whare to the present day.

(6) The Crown apologises to Ngāti Whare for the detrimental effects of its actions on them, their access to customary resources and significant sites, their economic and social development, and their physical, cultural, and spiritual wellbeing.

(7) Through this apology the Crown seeks to atone for these past wrongs, restore its honour which has been tarnished by its ac-

tions, and begin the process of healing. The Crown looks forward to building a lasting relationship based on mutual trust and cooperation with Ngāti Whare.

Interpretation

139 Intention of Act generally

It is the intention of Parliament that the provisions of **this Part** are interpreted in a manner that best furthers the agreements expressed in the deed of settlement.

140 Interpretation

In **this Part**, unless the context otherwise requires,—

administering body has the meaning given to it in section 2(1) of the Reserves Act 1977

authorised person means—

(a) a person authorised by the Director-General, for the—
  (i) Okārea Pā site:
  (ii) Te Takanga-a-Wharepakau site:
  (iii) Te Tāpiri Pā site:

(b) a person authorised by the chief executive of LINZ, for the—
  (i) Hināmoki Pā site:
  (ii) Matuatahi Pā site:
  (iii) Otahi Kāinga:
  (iv) Otutakahiao site:
  (v) Te Pukemohoao Kāinga:
  (vi) Wekanui Kāinga:

(c) a person authorised by the Secretary for Justice, for all other cases

business day means the period of 9 am to 5 pm on any day of the week other than—

(a) Saturday and Sunday; and

(b) the days observed as the anniversaries of the provinces of Auckland and Wellington; and

(c) Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's Birthday, and Labour Day; and

(d) a day in the period starting on 25 December and ending with the close of 15 January in the following year

CNI forests sites means the following sites:

(a) Balance of the Regeneration Land:
(b) Mangamate Falls site:
(c) Mangamate Kāinga site:
(d) Pareranui site:
(e) Tauranga-o-Reti site:
(f) Te Rake Pā site:
(g) Te Teko site:
(h) Waimurupūhā site

Commissioner of Crown Lands means the Commissioner of Crown Lands appointed under section 24AA of the Land Act 1948

consent authority has the meaning given to it in section 2(1) of the Resource Management Act 1991

conservation accord—

(a) means the accord issued by the Minister of Conservation under **section 172(1)(a)**; and
(b) includes amendments to the accord under **section 172(1)(b)**

conservation accord area means the area subject to the conservation accord as shown on the map attached to the accord

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

Conservation Board has the meaning given to it in section 2(1) of the Conservation Act 1987

conservation document means—

(a) a conservation management plan as defined in section 2(1) of the Conservation Act 1987; or
(b) a conservation management strategy as defined in section 2(1) of the Conservation Act 1987; or
(c) a management plan as defined in section 2 of the National Parks Act 1980

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

Crown forestry licence means the Kaingaroa Forest/Whirinaki Block Crown forestry licence held in computer interest register SA 57A/60 (South Auckland Registry)

Crown minerals protocol—

(a) means the protocol issued by the Minister of Energy and Resources under **section 172(1)(a)**; and

(b) includes amendments to the protocol under **section 172(1)(b)**

Crown minerals protocol area means the area subject to the Crown minerals protocol as shown on the map attached to the protocol

Crown owned mineral means a mineral, as defined in section 2(1) of the Crown Minerals Act 1991, to which 1 of the following applies:

(a) it is the property of the Crown under section 10 or 11 of the Act; or

(b) the Crown has jurisdiction over it under the Continental Shelf Act 1964

cultural redress property means a site described as a cultural redress property in **Part 1 of Schedule 6**

deed of recognition means a deed of recognition entered into by the Crown and the trustees of Te Rūnanga o Ngāti Whare in accordance with **section 188**

deed of settlement—

(a) means the deed of settlement dated 8 December 2009 and signed by—

(i) the Minister for Treaty of Waitangi Negotiations, the Honourable Christopher Finlayson; and

(ii) James Carlson, David Bronco Carson, Kōhiti Kōhiti, Lena Brew, Pene Olsen, Robert Taylor, and Roberta Rickard

(b) includes—

(i) the schedules and attachments to the deed of settlement; and

(ii) any amendments to the deed of settlement, its schedules, and its attachments

Director-General has the meaning given to it in section 2(1) of the Conservation Act 1987

effective date means the date that is 6 months after the settlement date

encumbrance means a lease, tenancy, licence, licence to occupy, easement, covenant, or other right affecting a property

fisheries protocol—

(a) means the protocol issued by the Minister of Fisheries under **section 172(1)(a)**; and

(b) includes amendments to the protocol under **section 172(1)(b)**

fisheries protocol area means the area subject to the fisheries protocol as shown on the map attached to the protocol

former Crown forest land means each of the following sites:

(a) Pareranui site:

(b) Tauranga-o-Reti site:

(c) Te Teko site:

(d) Mangamate Kāinga site:

(e) Waimurupūhā site:

(f) Mangamate Falls site:

(g) Te Rake Pā site

historical claim has the meaning given to it in **section 142**

Historic Places Trust means the New Zealand Historic Places Trust continued by section 38 of the Historic Places Act 1993

jointly vested sites means the sites described in **sections 215 to 218**

licensee means the registered holder of a Crown forestry licence

LINZ means Land Information New Zealand

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

Ngāti Manawa has the meaning given to it in **section 11** of the **Ngāti Manawa Claims Settlement Act 2010**

Ngāti Whare has the meaning given to it in **section 141**

non-cultural redress property means a site described as a non-cultural redress property in **Part 2 of Schedule 6**

protected land means land in respect of which a direction has been made under **section 234(3)(a)**

protocol means a protocol issued under **section 172(1)(a)**, including any amendments made under **section 172(1)(b)**

regeneration land means together the following sites:

(a) Pareranui site; and
(b) Tauranga-o-Reti site; and
(c) Te Teko site; and
(d) Mangamate Kāinga site; and
(e) Wekanui Kāinga; and
(f) Otahi Kāinga; and
(g) Te Pukemohoao Kāinga; and
(h) Matuatahi Pā; and
(i) Balance of the Regeneration Land

Registrar-General means the Registrar-General of Land appointed under section 4 of the Land Transfer Act 1952

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

representative entity means—

(a) the trustees of Te Rūnanga o Ngāti Whare; and
(b) a person (including any trustees) acting for, or on behalf of,—
    (i) the collective group referred to in **section 141(1)(a)**; or
    (ii) 1 or more of the whānau, hapū, or groups that together form the collective group referred to in **section 141(1)(a)**; or
    (iii) 1 or more of the individuals referred to in **section 141(1)(b)**

reserve site means each of the following sites—

(a) Mangamate Falls site:
(b) Te Takanga-a-Wharepakau

resource consent has the meaning given to it in section 2(1) of the Resource Management Act 1991

responsible Minister means,—

(a) for the conservation accord, the Minister of Conservation:
(b) for the fisheries protocol, the Minister of Fisheries:
(c) for the taonga tūturu protocol, the Minister for Arts, Culture and Heritage:

(d) for any protocol, a Minister authorised by the Prime Minister to perform duties, and exercise powers and rights, in relation to it

responsible Ministry means,—

(a) for the conservation accord, the Department of Conservation:

(b) for the fisheries protocol, the Ministry of Fisheries:

(c) for the taonga tūturu protocol, the Ministry for Culture and Heritage:

(d) for any protocol, a department authorised by the Prime Minister to perform duties, and exercise powers and rights, in relation to it

return date has the meaning given to it in clause 16.7.3 of the Crown forestry licence

settlement date means the date that is 20 business days after the date on which **this Part** comes into force

settlement property means every cultural redress property, and non-cultural redress property

statement of association has the meaning given to it in **section 179(2)**

statutory acknowledgement means the acknowledgement made by the Crown in **section 179(1)** in respect of a statutory area, on the terms set out in **sections 180 to 184, 186, and 187**

statutory area means an area described in **Schedule 5**, the general location of which is indicated on the deed plan referred to in relation to that area in **Schedule 5** (but which does not establish the precise boundaries of the statutory area)

statutory plan—

(a) means a district plan, proposed plan, regional coastal plan, regional plan, or regional policy statement as defined in section 2(1) of the Resource Management Act 1991; and

(b) includes a proposed policy statement provided for in Schedule 1 of the Resource Management Act 1991

supplementary deed of settlement means the supplementary deed of settlement in relation to the Rangitaiki River between the Crown and Ngāti Whare

taonga tūturu has the meaning given to it in section 2(1) of the Protected Objects Act 1975

taonga tūturu protocol—

(a) means the protocol issued by the Minister for Arts, Culture and Heritage under **section 172(1)(a)**; and

(b) includes amendments to the protocol under **section 172(1)(b)**

taonga tūturu protocol area means the area subject to the taonga tūturu protocol as shown on the map attached to the protocol

Te Pua o Whirinaki Regeneration Trust means the trustees from time to time of the trust established by the Te Pua o Whirinaki Regeneration Trust Deed, in their capacity as such trustees; and, if the trustees have incorporated as a board under the Charitable Trusts Act 1957, means the Board so incorporated

Te Pua o Whirinaki Regeneration Trust Deed—

(a) means the deed of trust set out in Part 8 of the schedule of the deed of settlement; and

(b) includes the Wāhi Tapu Deed of Gift set out in Part 8 of the Schedule of the deed, for—

(i) Mangamate Kāinga site:

(ii) Matuatahi Pā:

(iii) Otahi Kāinga:

(iv) Pareranui site:

(v) Tauranga-o-Reti site:

(vi) Te Pukemohoao Kāinga:

(vii) Te Teko site:

(viii) Wekanui Kāinga

Te Rūnanga o Ngāti Manawa means the trust established by the Te Rūnanga o Ngāti Manawa trust deed

Te Rūnanga o Ngāti Manawa trust deed—

(a) means the deed of trust establishing Te Rūnanga o Ngāti Manawa dated 7 September 2002; and

(b) includes—

(i) the schedules to the deed of trust; and

(ii) any amendments to the deed of trust or its schedules

Te Rūnanga o Ngāti Whare means the trust established by the Te Rūnanga o Ngāti Whare trust deed

Te Rūnanga o Ngāti Whare trust deed—

(a) means the deed of trust establishing Te Rūnanga o Ngāti Whare dated 14 February 1999; and

(b) includes—

(i) the schedules to the deed of trust; and

(ii) any amendments to the deed of trust or its schedules

Te Whāiti-Nui-a-Toi Canyon means the area described by that name in **Schedule 4**

Trustees of Te Rūnanga o Ngāti Manawa means the trustees from time to time of Te Rūnanga o Ngāti Manawa

Trustees of Te Rūnanga o Ngāti Whare and **trustees** means the trustees from time to time of Te Rūnanga o Ngāti Whare

Tūwatawata means the area described by that name in **Schedule 4**

wāhi tapu site means each of the following sites:

(a) Otutakahiao:

(b) Waimurupūhā site:

(c) Mangamate Falls site:

(d) Te Takanga-a-Wharepakau

Whirinaki Te Pua-a-Tāne Conservation Park means the land held under the Conservation Act 1987 and known before 22 May 2009 as the Whirinaki Forest Park

Whirinaki Plan means a conservation management plan to which **sections 151 to 164** apply.

141 Meaning of Ngāti Whare

(1) In **this Part**, **Ngāti Whare**—

(a) means the collective group composed of individuals who—

(i) descend from the eponymous ancestor Wharepakau; and

(ii) are a member of any of the Ngāti Whare hapū including Ngāti Tuahiwi, Ngāi Te Au, Ngāti Whare ki Ngā Pōtiki, Ngāti Te Karaha, Ngāti Māhanga,

Ngāti Kohiwi, Ngāti Hāmua ki Te Whāiti, and Warahoe ki Te Whāiti; and

(b) means every individual referred to in **paragraph (a)**; and

(c) includes any whānau, hāpu, or group to the extent that it is composed of individuals referred to in **paragraph (a)**.

(2) For the purpose of **subsection (1)(a)**, a person is descended from another person if descended from the other person by any 1 or more of the following—

(a) birth:

(b) legal adoption:

(c) Māori customary adoption in accordance with Ngāti Whare tikanga.

142 Meaning of historical claim

(1) In **this Part**, **historical claim** has the meaning given to it in this section.

(2) **Historical claim** means every claim that—

(a) Ngāti Whare or a representative entity for Ngāti Whare had at any time before the settlement date or at the settlement date or may have at any time after the settlement date, whether or not the claim has arisen or been considered, researched, registered, notified, or made by or on the settlement date; and

(b) is, or is founded on, a right arising—

(i) from the Treaty of Waitangi or its principles; or

(ii) under legislation; or

(iii) at common law (including common law relating to aboriginal title or customary law); or

(iv) from a fiduciary duty; or

(v) otherwise; and

(c) 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) **Historical claim** includes—

(a) every claim to the Waitangi Tribunal to which **subsection (2)** applies and that relates exclusively to Ngāti

Whare or a representative entity for Ngāti Whare, including—

(i) Wai 66; and

(ii) Wai 1038; and

(b) every other claim to the Waitangi Tribunal to the extent to which it relates to Ngāti Whare, including—

(i) Wai 212; and

(ii) Wai 350; and

(iii) Wai 439; and

(iv) Wai 724; and

(v) Wai 725; and

(vi) Wai 791.

(4) **Historical claim** does not include—

(a) a claim that a member of Ngāti Whare, or a whānau, hapū, or group referred to in **section 141(1)(c)**, may have that is, or is founded on, a right arising as a result of being descended from an ancestor who is not a Ngāti Whare ancestor; or

(b) a claim that a representative entity for Ngāti Whare may have to the extent to which the claim is, or is based on, a claim referred to in **paragraph (a)**.

Settlement of historical claims

~~**143 Settlement of historical claims**~~

~~(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.~~

~~(3) Nothing in the deed of settlement or this Part—~~

~~(a) extinguishes or limits any aboriginal title, or any customary right, that Ngāti Whare may have:~~

~~(b) is, or implies, an acknowledgement by the Crown that any aboriginal title, or any customary right, exists:~~

~~(c) affects a right that Ngāti Whare or the Crown may have, including a right—~~

~~(i) according to tikanga or customary law:~~

~~(ii) arising from the Treaty of Waitangi or its principles.~~

~~(iii) arising under legislation:~~
~~(iv) arising at common law (including common law relating to aboriginal title or customary law):~~
~~(v) arising from a fiduciary duty:~~
~~(vi) arising in some other way.~~

~~(4) Despite any other enactment or rule of law, on and from the settlement date, the courts, the Waitangi Tribunal, and all other judicial bodies and tribunals do not have jurisdiction over—~~
~~(a) any or all of the historical claims; or~~
~~(b) the deed of settlement; or~~
~~(c) the redress provided under the deed of settlement or under **this Part**; or~~
~~(d) **this Part**.~~

~~(5) The proscription of jurisdiction includes the jurisdiction to inquire into or to make a finding or recommendation.~~

~~(6) The proscription of jurisdiction does not include the jurisdiction to interpret, implement, and enforce the deed of settlement, the redress defined in clause 13 of the deed of settlement, and **this Part**.~~

~~(7) The proscription of jurisdiction does not include the jurisdiction of the Waitangi Tribunal to complete its inquiries and report on the Te Urewera Inquiry (Wai 894).~~

143 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.

(3) **Subsections (1) and (2)** do not—
(a) limit the deed of settlement; or
(b) affect any rights that Ngāti Whare may have.

(4) The rights referred to in **subsection (3)(b)**—
(a) are rights that arise—
(i) from the Treaty of Waitangi or its principles; or
(ii) under legislation; or
(iii) at common law (including common law relating to aboriginal title or customary law); or
(iv) from a fiduciary duty; or

(v) otherwise; but

(b) are not rights that give rise to historical claims.

(5) Despite any other enactment or rule of law, on and from the settlement date, the courts, the Waitangi Tribunal, or any other judicial bodies or tribunals do not have jurisdiction (including the jurisdiction to inquire into, or make a finding or recommendation) in respect of—

(a) any or all of the historical claims; or

(b) the deed of settlement; or

(c) the redress provided under the deed of settlement or under **this Part**; or

(d) **this Part**.

(6) **Subsection (5)** does not exclude the jurisdiction of the courts, the Waitangi Tribunal, or any other judicial bodies and tribunals in respect of the interpretation or implementation of the deed of settlement or **this Part**.

(7) Despite **subsection (5)(a)**, the Waitangi Tribunal—

(a) may complete its inquiry into, and make findings on, Te Urewera claims (Wai 894), including claims settled by **this Part**; but

(b) must not make recommendations in relation to any of the claims settled by **this Part**.

144 Amendment to Treaty of Waitangi Act 1975

(1) This section amends the Treaty of Waitangi Act 1975.

(2) Schedule 3 is amended by inserting the following item in its appropriate alphabetical order: "**Ngāti Whare Claims Settlement Act 2010, section 143(3) to (6)**".

145 Certain enactments do not apply

(1) Nothing in the enactments listed in **subsection (2)** applies—

(a) to a cultural redress property; or

(b) for the benefit of Ngāti Whare or a representative entity for Ngāti Whare.

(2) The enactments are—

(a) sections 8A to 8HJ of the Treaty of Waitangi Act 1975:

(b) sections 27A to 27C of the State-Owned Enterprises Act 1986:

(c) sections 211 to 213 of the Education Act 1989:
(d) Part 3 of the Crown Forest Assets Act 1989:
(e) Part 3 of the New Zealand Railways Corporation Restructuring Act 1990.

146 Removal of memorials

(1) The chief executive of LINZ must issue to the Registrar-General a certificate that identifies (by reference to the relevant legal description, certificate of title, or computer register) each allotment that is—
(a) all, or part of, a cultural redress property; and
(b) contained in a certificate of title or computer register that has a memorial entered under any enactment referred to in **section 145(2)**.

(2) The chief executive of LINZ must issue a certificate under **subsection (1)** as soon as is reasonably practicable after the settlement date.

(3) Each certificate must state that is it issued under this section.

(4) The Registrar-General must, as soon as is reasonably practicable after receiving a certificate issued under **subsection (1)**,—
(a) register the certificate against each certificate of title or computer register identified in the certificate; and
(b) cancel, in respect of each allotment identified in the certificate, each memorial that is entered (in accordance with any enactment referred to in **section 145(2)**) on a certificate of title or computer register identified in the certificate.

Miscellaneous matters

147 Rule against perpetuities does not apply

(1) Neither the rule against perpetuities nor the Perpetuities Act 1964 prescribes or restricts the period during which—
(a) the trust established by the Te Rūnanga o Ngāti Whare trust deed may exist in law; or
(b) the trustees of Te Rūnanga o Ngāti Whare, in their capacity as trustees, may hold or deal with property or income from property.

(2) Neither the rule against perpetuities nor the Perpetuities Act 1964 applies to a document entered into to give effect to the deed of settlement if the application of the rule or the Act would make the document invalid or ineffective or a right conferred by the document invalid or ineffective.

(3) However, if the trust established by the Te Rūnanga o Ngāti Whare trust deed is or becomes a charitable trust, whether and how the rule against perpetuities or the Perpetuities Act 1964 applies must be determined under the general law.

148 Timing of actions or matters

(1) Actions or matters occurring under **this Part** occur or take effect on and from the settlement date.

(2) However, if a provision of **this Part** requires an action or matter to occur or take effect on a date other than the settlement date, that action or matter occurs or takes effect on and from that other date.

149 Access to deed of settlement

On and from the settlement date, the chief executive of the Ministry of Justice must make copies of the deed of settlement available in the following ways:

(a) free of charge on an Internet site maintained by or on behalf of the Ministry of Justice; and

(b) at the head office of the Ministry of Justice in Wellington on a business day—

(i) for reading free of charge; and

(ii) for purchase at a reasonable price.

Cultural redress

Whirinaki Te Pua-a-Tāne Conservation Park

150 Crown acknowledgement

The Crown acknowledges the significance of the Whirinaki Te Pua-a-Tāne Conservation Park to Ngāti Whare as the kaitiaki of the park.

151 Whirinaki conservation management plan to be prepared
A conservation management plan for the Whirinaki Te Pua-a-Tāne Conservation Park must be prepared and approved using the process in **sections 152 to 161**.

152 Preparation of draft plan
Within 6 months of the settlement date, the Director-General must commence the preparation of a draft Whirinaki Plan in consultation with trustees of Te Rūnanga o Ngāti Whare, the Conservation Board, and any other persons or organisations that the Director-General considers practicable and appropriate.

153 Notification of draft plan
(1) No later than 6 months after the commencement of the preparation of the draft plan under **section 152**, the Director-General must—
  (a) notify the draft plan by publishing a notice in accordance with section 49(1) of the Conservation Act 1987 as if the Director-General were the Minister of Conservation for the purposes of that section; and
  (b) give the notice to—
    (i) the appropriate iwi authorities; and
    (ii) the appropriate regional councils and territorial authorities.

(2) The notice must—
  (a) state that the draft plan is available for inspection at the places and times specified in the notice; and
  (b) invite submissions on the draft plan to the Director-General at the place specified in the notice and before a date specified in the notice that must be at least 2 months after the date of the notice.

(3) After consulting the trustees of Te Rūnanga o Ngāti Whare, and the Conservation Board, the Director-General may obtain opinion from any other person or organisation on the draft plan by any other means.

154 Availability of draft plan

From the date of the notice under **section 153**, the Director-General must make the draft plan available for reading by the public during normal office hours in the places, and in the quantities, that are likely to encourage public participation in the development of the draft plan.

155 Hearing of submissions on draft plan

(1) Any person may make a written submission on the draft plan to the Director-General at the place and before the date specified in the notice under **section 153(2)**.

(2) A submission must include a statement as to whether the person wishes to be heard in support of the submission.

(3) The Director-General must give persons who ask to be heard in support of a submission a reasonable opportunity of appearing before a meeting of representatives of the Director-General, the trustees of Te Rūnanga o Ngāti Whare, and the Conservation Board.

(4) Representatives of the Director-General, the trustees of Te Rūnanga o Ngāti Whare, and the Conservation Board may also hear submissions from any other persons or organisations that have been consulted on the draft plan under **section 153(3)**.

(5) The Director-General, the trustees of Te Rūnanga o Ngāti Whare and the Conservation Board shall determine the procedures at any hearing under this section.

(6) The hearing of submissions must be concluded no later than 2 months after the date specified in the notice under **section 153(2)**.

156 Revision of draft plan

(1) No later than 1 month after the hearing of submissions has concluded, the Director-General must—

(a) prepare a summary of the submissions received on the draft plan and any opinion expressed by any other persons or organisations under **section 153(3)**; and

(b) provide the summary to the trustees of Te Rūnanga o Ngāti Whare and the Conservation Board.

(2) After considering the submissions and any opinion expressed by any other persons or organisations under **section 153(3)**, the Director-General must revise the draft plan in consultation with the trustees of the Te Rūnanga o Ngāti Whare, and the Conservation Board who heard the submissions.

(3) No later than 4 months after the hearing of submissions has concluded, the Director-General must provide the revised draft plan to trustees of the Te Rūnanga o Ngāti Whare and the Conservation Board.

(4) When the trustees of Te Rūnanga o Ngāti Whare and the Conservation Board receive the revised draft plan, they—

(a) must consider it together with the summary of submissions and other opinions; and

(b) may, no later than 4 months after receiving it, request the Director-General to revise the draft plan further.

(5) No later than 2 months after receiving a request to do so, the Director-General must revise the draft plan further and send the further revised draft plan to the trustees of Te Rūnanga o Ngāti Whare and the Conservation Board.

(6) In **sections 157 to 160**, references to the draft plan mean the revised draft (see **subsection (2)**) or the further revised draft (see **subsection (5)**), depending on which draft trustees of Te Rūnanga o Ngāti Whare and the Conservation Board decide to proceed with.

157 Referral of draft plan to Conservation Authority and Minister

(1) The trustees of Te Rūnanga o Ngāti Whare and the Conservation Board must send the draft plan and the summary of submissions and other opinions to—

(a) the Conservation Authority for comments on matters relating to the national public conservation interest in the Whirinaki Te Pua-a-Tāne Conservation Park; and

(b) the Minister of Conservation for his or her comments.

(2) No later than 4 months after receiving the draft plan and summary, the Conservation Authority and the Minister must provide any comments they have on the draft plan to the trustees of Te Rūnanga o Ngāti Whare and the Conservation Board.

158 Approval of draft plan

After considering the comments on the draft plan from the Conservation Authority and the Minister of Conservation, the trustees of Te Rūnanga o Ngāti Whare and the Conservation Board may, no later than 2 months after receiving such comments,—

(a) approve the draft plan; or

(b) send the Conservation Authority a written notice—

(i) stating that they disagree about a matter in the draft plan; and

(ii) identifying the matter about which they disagree and the reasons for their disagreement.

159 Conservation Authority to make recommendation on disagreement

(1) No later than 3 months after the Conservation Authority receives a notice under **section 158(b)**, it must—

(a) make a recommendation on the matter of disagreement; and

(b) send the recommendation to the trustees of Te Rūnanga o Ngāti Whare and the Conservation Board.

(2) The trustees of Te Rūnanga o Ngāti Whare and the Conservation Board must try to resolve the matter of disagreement, taking the recommendation into account.

160 Approval of draft plan following recommendation

(1) This section applies if the trustees of Te Rūnanga o Ngāti Whare and the Conservation Board have received a recommendation from the Conservation Authority under **section 159**.

(2) If the trustees of Te Rūnanga o Ngāti Whare and the Conservation Board have not resolved the matter of disagreement within 2 months of receiving the recommendation, the recommendation becomes binding on them.

(3) The trustees of Te Rūnanga o Ngāti Whare and the Conservation Board must approve the draft plan no later than 4 months after receiving the recommendation.

161 Mediation

(1) No later than 3 months after the settlement date, the trustees of Te Rūnanga o Ngāti Whare, the Conservation Board, and the Director-General—

(a) must agree on a mediator to be used if a disagreement is referred to mediation under this section; and

(b) may subsequently agree to change the mediator.

(2) If a disagreement arises between any of the trustees of Te Rūnanga o Ngāti Whare, the Conservation Board, and the Director-General during the process set out in **sections 152 to 160**, the parties to the disagreement must seek to resolve the matter in a co-operative, open-minded, and timely manner before resorting to mediation under this section.

(3) If the parties remain unable to resolve the disagreement, any of the trustees of Te Rūnanga o Ngāti Whare, the Conservation Board, and the Director-General may refer the disagreement to mediation.

(4) The party who refers the disagreement to mediation must give written notice to the mediator and the other parties.

(5) All parties must—

(a) participate in the mediation in a co-operative, open-minded, and timely manner; and

(b) have particular regard to—

(i) the purpose of the conservation management plan redress provided under **this Part**; and

(ii) the conservation purpose for which the Whirinaki Te Pua-a-Tāne Conservation Park is held.

(6) The mediation must be completed no later than 3 months after the date of the notice given under **subsection (4)**.

(7) The 3–month period for mediation referred to in **subsection (6)** is not counted for the purposes of the timeframes in **sections 152 to 160 and subsection (1)**.

(8) While mediation is occurring, the parties must use their best endeavours to continue with the process for the preparation and approval of the Whirinaki Plan.

(9) The parties to the mediation must—

(a) bear their own costs for the resolution of a matter of disagreement; and

(b) share the costs of the mediator and associated costs equally.

162 Reviews of Whirinaki Plan

(1) The trustees of Te Rūnanga o Ngāti Whare or the Conservation Board may request the Director-General to initiate a review of the Whirinaki Plan or any part of it.

(2) The Director-General may initiate a review of the Whirinaki Plan or any part of it after receiving a request under **subsection (1)** or after consulting the trustees of Te Rūnanga o Ngāti Whare and the Conservation Board.

(3) The Director-General must review the Whirinaki Plan as a whole no later than—

(a) 10 years after the date of its last approval; or

(b) a later date set by the Minister of Conservation after consultation with the trustees of Te Rūnanga o Ngāti Whare and the Conservation Board.

(4) A review of the Whirinaki Plan must be carried out in accordance with **sections 152 to 160**, with any necessary modifications.

163 Amendments to Whirinaki Plan

(1) The Director-General may initiate an amendment of the Whirinaki Plan or any part of it, after consulting the trustees of Te Rūnanga o Ngāti Whare and the Conservation Board.

(2) An amendment of the Whirinaki Plan must be carried out in accordance with **sections 152 to 160**, with any necessary modifications.

(3) However, the Director-General may, instead of complying with **subsection (2)**, send the proposed amendment to the trustees of Te Rūnanga o Ngāti Whare and the Conservation Board for approval, if the Director-General, the trustees of Te Rūnanga o Ngāti Whare, and the Conservation Board consider that the proposed amendment is of such a nature that it would not materially affect the objectives or policies expressed in the Whirinaki Plan or the public interest in the area concerned.

164 Application of Conservation Act 1987

(1) The Whirinaki Plan is a management plan for the purposes of section 17D(8) of the Conservation Act 1987.

(2) **This Part** is an Act for the purposes of section 17D(4)(a) of the Conservation Act 1987.

(3) The Conservation Act 1987 applies to the Whirinaki Plan as if it were a conservation management plan under the Act's provisions, except for sections 17F, 17G, 17H, 17I, 49(2), and 49(3).

(4) If a conservation management strategy is prepared under section 17F of the Conservation Act 1987, the Director-General, Conservation Authority, Conservation Board, and Minister of Conservation must have regard to the cultural, historical, and spiritual significance of the Whirinaki Te Pua-a-Tāne Conservation park to Ngāti Whare.

165 Areas added

(1) This section applies to the following areas, as shown on the Department of Conservation Whirinaki Te Pua-a-Tāne Conservation Park plan set out in Part 7 of the schedule of the deed of settlement:

(a) Kakarahonui conservation area (does not include section 1 SO 432443):

(b) Minginui conservation area:

(c) Old Te Whāiti Road conservation area:

(d) Otohi conservation area:

(e) Whirinaki conservation area.

(2) The areas are included in and form part of the Whirinaki Te Pua-a-Tāne Conservation Park.

(3) As soon as reasonably practicable after the settlement date, the Minister of Conservation must set out the areas added to the Whirinaki Te Pua-a-Tāne Conservation Park in a notice in the *Gazette*.

Te Whāiti-Nui-a-Toi Canyon and Tūwatawata specially protected areas

166 Crown acknowledgement

The Crown acknowledges—

(a) the significance of Te Whāiti-Nui-a-Toi Canyon and Tūwatawata to Ngāti Whare; and
(b) the generosity of Ngāti Whare in forgoing the return of Te Whāiti-Nui-a-Toi Canyon and Tūwatawata as part of the settlement of the historical claims.

167 Te Whāiti-Nui-a-Toi Canyon

Te Whāiti-Nui-a-Toi Canyon is deemed to be a specially protected area under section 18 of the Conservation Act 1987 for the purposes of—

(a) recognising and protecting the cultural, historical, and spiritual significance of Te Whāiti-Nui-a-Toi Canyon to the iwi of Ngāti Whare; and
(b) enabling the management of Te Whāiti-Nui-a-Toi Canyon as part of the Whirinaki Te Pua-a-Tāne Conservation Park in accordance with conservation values and the tikanga and values of the iwi of Ngāti Whare; and
(c) acknowledging the contribution of the iwi of Ngāti Whare to the Whirinaki Te Pua-a-Tāne Conservation Park and more generally to conservation and all New Zealand in forgoing the return of that part of the Whirinaki River comprising Te Whāiti-Nui-a-Toi Canyon, including its banks, bed, riparian lands, and waters, as part of the settlement of the historical claims.

168 Tūwatawata

Tūwatawata is deemed to be a specially protected area under section 18 of the Conservation Act 1987 for the purposes of—

(a) recognising and protecting the cultural, historical, and spiritual significance of Tūwatawata to the iwi of Ngāti Whare; and
(b) enabling the management of Tūwatawata as part of the Whirinaki Te Pua-a-Tāne Conservation Park in accordance with conservation values and the tikanga and values of the iwi of Ngāti Whare; and
(c) acknowledging the contribution of the iwi of Ngāti Whare to the Whirinaki Te Pua-a-Tāne Conservation Park and more generally to conservation and all New

Zealand in forgoing the return of Tūwatawata as part of the settlement of the historical claims.

169 Restrictions on activities

(1) With the agreement of the trustees of Te Rūnanga o Ngāti Whare, the Minister of Conservation may impose restrictions on activities in the Te Whāiti-Nui-a-Toi Canyon and Tūwatawata specially protected areas.

(2) The Minister must impose the restrictions by notice in the *Gazette*.

170 Application of Conservation Act 1987

Nothing in **this Part** affects—

(a) the status of Te Whāiti-Nui-a-Toi Canyon or Tūwatawata as part of the Whirinaki Te Pua-a-Tāne Conservation Park; or

(b) the status of the park as a specially protected area under the Conservation Act 1987; or

(c) the application of the Conservation Act 1987 to the park; or

(d) the administration of the park by the Department of Conservation.

Whirinaki regeneration project

171 Te Pua o Whirinaki Regeneration Trust

The Te Pua o Whirinaki Regeneration Trust holds and administers the regeneration land for the purposes set out in the Te Pua o Whirinaki Regeneration Trust Deed.

Protocols and accord

172 Authority to issue, amend, or cancel accord or protocols

(1) The responsible Minister—

(a) must issue a conservation accord or protocol to the trustees of Te Rūnanga o Ngāti Whare in the form set out in Part 1 of the Schedule of the deed of settlement; and

(b) may amend or cancel a protocol; and

(c) may vary the conservation accord.

(2) A protocol may be amended or cancelled under **subsection (1)** at the initiative of either—

(a) the trustees of Te Rūnanga o Ngāti Whare; or

(b) the responsible Minister.

(3) The responsible Minister may amend or cancel a protocol only after consulting with, and having particular regard to the views of, the trustees of Te Rūnanga o Ngāti Whare.

(4) The conservation accord may be varied by agreement between the trustees of Te Rūnanga o Ngāti Whare and the responsible Minister.

173 Accord and protocols subject to rights, functions, and obligations

The conservation accord and protocols do not restrict—

(a) the ability of the Crown to exercise its powers and perform its functions and duties in accordance with the law and government policy, which includes (without limitation) the ability to—

(i) introduce legislation and change government policy; and

(ii) interact or consult with a person the Crown considers appropriate, including (without limitation) any iwi, hapū, marae, whānau, or other representative of tangata whenua; or

(b) the responsibilities of a responsible Minister or a responsible department; or

(c) the legal rights of the trustees of Te Rūnanga o Ngāti Whare or a representative entity.

174 Enforceability of conservation accord and protocols

(1) The Crown must comply with the conservation accord or a protocol while it is in force.

(2) If the Crown fails, without good cause, to comply with the accord or a protocol, the trustees of Te Rūnanga o Ngāti Whare may, subject to the Crown Proceedings Act 1950, enforce the accord or protocol.

(3) Despite **subsection (2)**, damages or any form of monetary compensation are not available as a remedy for a failure by the Crown to comply with the accord or a protocol.

(4) To avoid doubt,—

(a) **subsections (1) and (2)** do not apply to guidelines developed for the implementation of the accord or a protocol; and

(b) **subsection (3)** does not affect the ability of a court to award costs incurred by the trustees of Te Rūnanga o Ngāti Whare in enforcing the accord or a protocol under **subsection (2)**.

175 Conservation accord

(1) A summary of the terms of the conservation accord must be noted in the conservation documents affecting the conservation accord area.

(2) The noting of the conservation accord is—

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

(b) not an amendment to the conservation documents for the purposes of section 171 of the Conservation Act 1987 or section 46 of the National Parks Act 1980.

(3) The conservation accord does not have the effect of creating, granting, or providing evidence of an estate or interest in, or rights relating to, land held, managed, or administered, or flora or fauna managed or administered, under the—

(a) Conservation Act 1987; or

(b) other statutes listed in Schedule 1 of that Act.

176 Fisheries protocol

(1) A summary of the terms of the fisheries protocol must be noted in fisheries plans affecting the fisheries protocol area.

(2) The noting of the fisheries protocol is—

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

(b) not an amendment to the fisheries plans for the purposes of section 11A of the Fisheries Act 1996.

(3) In this section, **fisheries plan** means a plan approved or amended under section 11A of the Fisheries Act 1996.

(4) The fisheries protocol does not have the effect of granting, creating, or providing evidence of an estate or interest in, or rights relating to, assets or other property rights (including in respect of fish, aquatic life, and seaweed) held, managed, or administered under any of the following enactments:
- (a) the Fisheries Act 1996:
- (b) the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992:
- (c) the Maori Commercial Aquaculture Claims Settlement Act 2004:
- (d) the Maori Fisheries Act 2004.

177 Taonga tūturu protocol

The taonga tūturu protocol does not have the effect of creating, granting, or providing evidence of—
- (a) an estate or interest in taonga tūturu; or
- (b) rights relating to taonga tūturu.

178 Crown minerals protocol

(1) A summary of the terms of the Crown minerals protocol must be noted—
- (a) in a register of protocols maintained by the chief executive of the Ministry of Economic Development; and
- (b) in the minerals programmes affecting the Crown minerals protocol area when those programmes are replaced.

(2) The noting of the Crown minerals protocol is—
- (a) for the purpose of public notice only; and
- (b) not an amendment to the minerals programme for the purposes of the Crown Minerals Act 1991.

(3) The Crown minerals protocol does not have the effect of creating, granting, or providing evidence of an estate or interest in, or rights relating to, any Crown owned mineral.

(4) In this section, **minerals programme** has the meaning given to it in section 2(1) of the Crown Minerals Act 1991.

Statutory acknowledgement

179 Statutory acknowledgement by the Crown

(1) The Crown acknowledges the statements of association.

(2) In **this Part**, **statements of association** means the statements—

(a) made by Ngāti Whare of their particular cultural, spiritual, historical, and traditional association with each statutory area; and

(b) that are in the form set out in Part 3 of the Schedule of the deed of settlement at the settlement date.

180 Purposes of statutory acknowledgement

(1) The only purposes of the statutory acknowledgements are to—

(a) require relevant consent authorities, the Environment Court, and the Historic Places Trust to have regard to the statutory acknowledgement, as provided for in **sections 181 to 183**; and

(b) require relevant consent authorities to forward summaries of resource consent applications to the trustees of Te Rūnanga o Ngāti Whare, as provided for in **section 185**; and

(c) enable the trustees of Te Rūnanga o Ngāti Whare and any member of Ngāti Whare to cite the statutory acknowledgement as evidence of the association of Ngāti Whare with the relevant statutory areas, as provided for in **section 186**.

(2) This section does not limit **sections 189 to 191**.

181 Relevant consent authorities to have regard to statutory acknowledgement

(1) On and from the effective date, a relevant consent authority must have regard to the statutory acknowledgement relating to a statutory area in deciding, under section 95E of the Resource Management Act 1991, if the trustees of Te Rūnanga o Ngāti Whare are affected persons in relation to an activity within, adjacent to, or directly affecting the statutory area for which an application for a resource consent has been made.

(2) **Subsection (1)** does not limit the obligations of a relevant consent authority under the Resource Management Act 1991.

182 Environment Court to have regard to statutory acknowledgement

(1) On and from the effective date, the Environment Court must have regard to the statutory acknowledgement relating to a statutory area in deciding, under section 274 of the Resource Management Act 1991, if the trustees of Te Rūnanga o Ngāti Whare are persons who have an interest in proceedings that is greater than the interest the general public has in respect of an application for a resource consent for activities within, adjacent to, or directly affecting the statutory area.

(2) **Subsection (1)** does not limit the obligations of the Environment Court under the Resource Management Act 1991.

183 Historic Places Trust and Environment Court to have regard to statutory acknowledgement

(1) This section applies if, on or after the effective date, an application is made under section 11 or 12 of the Historic Places Act 1993 for an authority to destroy, damage, or modify an archaeological site within a statutory area.

(2) The Historic Places Trust must have regard to the statutory acknowledgement relating to a statutory area in exercising its powers under section 14 of the Historic Places Act 1993 in relation to the application referred to in **subsection (1)**.

(3) The Environment Court must have regard to the statutory acknowledgement relating to a statutory area in determining under section 20 of the Historic Places Act 1993 any appeal from a decision of the Historic Places Trust in relation to the application referred to in **subsection (1)**, including in determining whether the trustees of Te Rūnanga o Ngāti Whare are persons directly affected by the decision.

(4) In this section, **archaeological site** has the meaning given to it in section 2 of the Historic Places Act 1993.

184 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.

(2) The information attached to a statutory plan must include the relevant provisions of **sections 180 to 183** in full, the descriptions of the statutory areas, and the statements of association.

(3) The attachment of information to a statutory plan under this section is for the purpose of public information only, and the information is not—

(a) part of the statutory plan, unless adopted by the relevant consent authority; or

(b) subject to the provisions of Schedule 1 of the Resource Management Act 1991, unless adopted as part of the statutory plan.

185 Distribution of resource consent applications to trustees of Te Rūnanga o Ngāti Whare

(1) Each relevant consent authority must, for a period of 20 years from the effective date, forward to the trustees of Te Rūnanga o Ngāti Whare, in the following form, a summary of resource consent applications received by that consent authority for activities within, adjacent to, or directly affecting a statutory area:

(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.

(2) The information provided under **subsection (1)(a)** must be—

(a) 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 of Te Rūnanga o Ngāti Whare and the relevant consent authority; and

(b) provided as soon as is reasonably practicable after the application is received and before the relevant consent

authority decides, under section 95 of that Act, whether to notify the application.

(3) The trustees of Te Rūnanga o Ngāti Whare may, by notice in writing to a relevant consent authority,—
  (a) waive their rights to be notified under this section; and
  (b) state the scope of that waiver and the period it applies for.

(4) A copy of a notice of an application must be provided under **subsection (1)(b)** no later than 10 business days after the day on which the consent authority receives the notice.

(5) This section does not affect a relevant consent authority's obligation to decide—
  (a) under section 95 of the Resource Management Act 1991, whether to notify an application:
  (b) under section 95E of that Act, if the trustees of Te Rūnanga o Ngāti Whare are affected persons in relation to an activity.

186 Use of statutory acknowledgement

(1) The trustees of Te Rūnanga o Ngāti Whare and any members of Ngāti Whare may, as evidence of the association of Ngāti Whare with a statutory area, cite the statutory acknowledgement that relates to that area in submissions to, and in proceedings before, a relevant consent authority, the Environmental Protection Authority or a board of inquiry under Part 6AA of the Resource Management Act 1991, the Environment Court, or the Historic Places Trust concerning activities within, adjacent to, or directly affecting the statutory area.

(2) The content of a statement of association is not, by virtue of the statutory acknowledgement, binding as fact on—
  (a) relevant consent authorities:
  (b) the Environmental Protection Authority or a board of inquiry under Part 6AA of the Resource Management Act 1991:
  (c) the Environment Court:
  (d) the Historic Places Trust:
  (e) parties to proceedings before those bodies:
  (f) any other person who is entitled to participate in those proceedings.

(3) Despite **subsection (2)**, the statutory acknowledgement may be taken into account by the bodies and persons specified in that subsection.

(4) To avoid doubt,—

(a) neither the trustees of Te Rūnanga o Ngāti Whare nor members of Ngāti Whare are precluded from stating that Ngāti Whare has an association with a statutory area that is not described in the statutory acknowledgement; and

(b) the content and existence of the statutory acknowledgement do not limit any statement made.

187 Meaning of river in statutory acknowledgements and deeds of recognition

If a statutory acknowledgement or deed of recognition relates to a river, the **river**—

(a) means—

(i) a continuously or intermittently flowing body of fresh water, including a stream or a modified watercourse; and

(ii) the bed of the river; but

(b) does not include—

(i) in the case of a statutory acknowledgement, a part of the bed of the river that is not owned by the Crown; or

(ii) in the case of a deed of recognition, a part of the bed of the river that is not owned and managed by the Crown; or

(iii) land that the waters of the river do not cover at its fullest flow without overlapping its banks; or

(iv) an artificial watercourse; or

(v) a tributary flowing into the river, unless the statutory acknowledgement or deed of recognition provides otherwise.

Deeds of recognition

188 Authorisation to enter into and amend deeds of recognition

(1) The Commissioner of Crown Lands must enter into a deed of recognition with the trustees of Te Rūnanga o Ngāti Whare in respect of the Whirinaki River and tributaries statutory area.

(2) The Minister of Conservation and the Director-General must enter into a deed of recognition with the trustees of Te Rūnanga o Ngāti Whare in respect of the following statutory areas:
- (a) specified areas of Te Urewera National Park; and
- (b) Whirinaki River and tributaries.

(3) The deeds referred to in **subsections (1) and (2)** may be amended by the parties entering into a deed to amend the original deed.

(4) In this section, **deed of recognition** means a deed—
- (a) entered into in accordance with clauses 5.37 to 5.44 of the deed of settlement; and
- (b) in the form set out in Part 5 of the Schedule of the deed of settlement.

General provisions

189 Exercise of powers and performance of duties and functions

(1) Except as expressly provided in **this Part**,—
- (a) the statutory acknowledgement and the deed of recognition do not affect, and may not be taken into account by, a person exercising a power or performing a function or duty under legislation or a bylaw; and
- (b) no person, in considering a matter or making a decision or recommendation under legislation or a bylaw, may give greater or lesser weight to the association of Ngāti Whare with a statutory area (as described in a statement of association) than that person would give under the relevant legislation or bylaw if no statutory acknowledgement or deed of recognition existed in respect of the statutory area.

(2) **Subsection (1)(b)** does not affect the operation of **subsection (1)(a)**.

190 Rights not affected

Except as expressly provided in **this Part**, the statutory acknowledgement and the deed of recognition do not affect the lawful rights or interests of any person who is not a party to the deed of settlement.

191 Limitations of rights

Except as expressly provided in **this Part**, the statutory acknowledgement and the deed of recognition do not have the effect of granting, creating, or providing evidence of an estate or interest in, or rights relating to, a statutory area.

Amendment to Resource Management Act 1991

192 Amendment to Resource Management Act 1991

(1) This section amends the Resource Management Act 1991.

(2) Schedule 11 is amended by inserting the following item in its appropriate alphabetical order: "**Ngāti Whare Claims Settlement Act 2010**".

Advisory committees

193 Fisheries advisory committee

(1) The Minister of Fisheries must appoint from the settlement date the trustees of Te Rūnanga o Ngāti Whare as an advisory committee under section 21 of the Ministry of Agriculture and Fisheries (Restructuring) Act 1995.

(2) The Minister must consider the advice of the committee on all matters concerning the utilisation, while ensuring the sustainability, of aquatic life, fish, and seaweed administered by the Ministry of Fisheries under the Fisheries Act 1996 within the fisheries protocol area.

(3) In considering the advice, the Minister must recognise and provide for the customary non-commercial interests of Ngāti Whare in all matters concerning the utilisation, while ensuring the sustainability, of aquatic life, fish, and seaweed administered by the Ministry of Fisheries under the Fisheries Act 1996 within the fisheries protocol area.

194 Fisheries (conservation) advisory committee

(1) The Minister of Conservation must appoint the trustees of Te Rūnanga o Ngāti Whare as an advisory committee from the settlement date under section 56 of the Conservation Act 1987.

(2) The Minister must consider the advice of the committee on all matters concerning the conservation and management by the Department of Conservation of freshwater species in the conservation accord area to the extent that the species are under the department's jurisdiction.

Geographic names

195 Interpretation

In **sections 196 to 199**,—

new official geographic name—

(a) means the name to which the existing official geographic name is altered under **section 196(1)**; and

(b) includes any alteration to the new official geographic name under **section 198**.

196 New official geographic name

(1) The existing official geographic name specified in the first column of the table set out in Part 6 of the Schedule of the deed of settlement (at the settlement date) is altered to the new official geographic name specified in the second column of that table.

(2) The alteration made under **subsection (1)** is to be treated as having been made by the New Zealand Geographic Board in accordance with the New Zealand Geographic Board (Ngā Pou Taunaha o Aotearoa) Act 2008.

197 Publication of new official geographic name

The New Zealand Geographic Board must, as soon as practicable after the settlement date, comply with section 21(2) and (3) of the New Zealand Geographic Board (Ngā Pou Taunaha o Aotearoa) Act 2008 (which relate to public notice) as if the alteration under **section 196** of **this Part** were a determination referred to in section 21(1) of that Act.

198 Alteration of new official geographic name

(1) Despite the New Zealand Geographic Board (Ngā Pou Taunaha o Aotearoa) Act 2008, the New Zealand Geographic Board may, with the consent of the trustees of Te Rūnanga o Ngāti Whare, alter any new official geographic name or its location.

(2) **Section 197** applies, with any necessary modifications, to an alteration made under **subsection (1)**.

199 When new official geographic name takes effect

Place names altered under **section 196 or 198** take effect on the date the *Gazette* notice is published under **section 197**.

Crown may provide other similar redress

200 Crown may provide other similar redress

(1) The provision of the specified cultural redress does not prevent the Crown from doing anything that is consistent with that cultural redress, including—

(a) providing the same or similar redress to a person other than Ngāti Whare or the trustees of Te Rūnanga o Ngāti Whare; or

(b) disposing of land.

(2) However, **subsection (1)** is not an acknowledgement by the Crown or Ngāti Whare that any other iwi or group has interests in relation to land or an area to which any of the specified cultural redress relates.

(3) In this section, **specified cultural redress** means the conservation accord, the protocols, the statutory acknowledgements, and the deeds of recognition.

Vesting of properties

Sites that vest in fee simple

Regeneration land

201 Pareranui site

(1) The fee simple estate in the Pareranui site vests in the trustees of Te Rūnanga o Ngāti Whare.

(2) **Subsection (1)** is subject to **section 231(3)**.

202 Tauranga-o-Reti site

(1) The fee simple estate in the Tauranga-o-Reti site vests in the trustees of Te Rūnanga o Ngāti Whare.

(2) **Subsection (1)** is subject to **section 231(3)**.

203 Te Teko site

(1) The fee simple estate in the Te Teko site vests in the trustees of Te Rūnanga o Ngāti Whare.

(2) **Subsection (1)** is subject to **section 231(3)**.

204 Mangamate Kāinga site

(1) The fee simple estate in the Mangamate Kāinga site vests in the trustees of Te Rūnanga o Ngāti Whare.

(2) **Subsection (1)** is subject to **section 231(3)**.

205 Wekanui Kāinga

The fee simple estate in Wekanui Kāinga vests in the trustees of Te Rūnanga o Ngāti Whare.

206 Otahi Kāinga

The fee simple estate in Otahi Kāinga vests in the trustees of Te Rūnanga o Ngāti Whare.

207 Te Pukemohoao Kāinga

The fee simple estate in Te Pukemohoao Kāinga vests in the trustees of Te Rūnanga o Ngāti Whare.

208 Matuatahi Pā

The fee simple estate in Matuatahi Pā vests in the trustees of Te Rūnanga o Ngāti Whare.

209 Balance of Regeneration Land

(1) The fee simple estate in the Balance of the Regeneration Land vests in the trustees of Te Rūnanga o Ngāti Whare.

(2) **Subsection (1)** is subject to—

(a) the trustees of Te Rūnanga o Ngāti Whare providing the Crown with a registrable right of way easement in gross in favour of the Minister of Conservation over the area marked "A" on SO 432338, in the form set out Part 10 of the schedule of the deed of settlement; and

(b) **section 231(3)**.

210 Subsequent vesting of regeneration land

(1) Immediately upon the fee simple estates in the regeneration land being vested in the trustees of Te Rūnanga o Ngāti Whare, the trustees of Te Rūnanga o Ngāti Whare will be deemed to have gifted the regeneration land to Te Pua o Whirinaki Regeneration Trust.

(2) The fee simple estates in the regeneration land will vest in Te Pua o Whirinaki Regeneration Trust accordingly.

(3) Subject to **subsection (4)**, Te Pua o Whirinaki Regeneration Trust is the manager of all the marginal strip areas extending along and abutting the regeneration land as if appointed under section 24H of the Conservation Act 1987.

(4) **Subsection (3)** does not apply to those marginal strip areas extending along and abutting areas of the regeneration land subject to the Crown forestry licence until the return date in respect of such areas, and until that time the rights and obligations of the licensee of the Crown forestry licence under section 24H of the Conservation Act 1987 are preserved.

Wāhi tapu sites

211 Otutakahiao site

The fee simple estate in the Otutakahiao site vests in the trustees of Te Rūnanga o Ngāti Whare.

212 Waimurupūhā site

(1) The fee simple estate in the Waimurupūhā site vests in the trustees of Te Rūnanga o Ngāti Whare.

(2) **Subsection (1)** is subject to **section 231(3)**.

213 Mangamate Falls site

(1) The part of the Mangamate Falls site that is a marginal strip under the Conservation Act 1987 ceases to be a marginal strip.

(2) The fee simple estate in the Mangamate Falls site vests in the trustees of Te Rūnanga o Ngāti Whare.

(3) The Mangamate Falls site is declared a reserve and classified as a recreation reserve subject to section 17 of the Reserves Act 1977.

(4) Despite section 16(10) of the Reserves Act 1977, the name of the reserve created under **subsection (3)** is Mangamate Falls Recreation Reserve.

(5) **Subsections (1) to (4)** are subject to **section 231(3)**.

(6) **Subsections (1) to (4)** take effect on the later of the settlement date or the return date for the part of the Mangamate Falls site subject to the Crown forestry licence.

214 Te Takanga-a-Wharepakau site

(1) The parts of the Te Takanga-a-Wharepakau site that are marginal strips under the Conservation Act 1987 cease to be marginal strips.

(2) The part of the Te Takanga-a-Wharepakau site that is a conservation area ceases to be a conservation area under the Conservation Act 1987.

(3) The fee simple estate in the Te Takanga-a-Wharepakau site vests in the trustees of Te Rūnanga o Ngāti Whare.

(4) Section 3 SO 432338 is declared a reserve and classified as an historic reserve subject to section 18 of the Reserves Act 1977.

(5) Despite section 16(10) of the Reserves Act 1977, the name of the reserve created under **subsection (4)** is Te Takanga-a-Wharepakau Historic Reserve.

(6) Section 6 SO 432338 is declared a reserve and classified as a recreation reserve subject to section 17 of the Reserves Act 1977.

(7) Despite section 16(10) of the Reserves Act 1977 the name of the reserve created under **subsection (6)** is Te Takanga-a-Wharepakau Recreation Reserve.

(8) **Subsections (1) and (3)** as they relate to the part of the Te Takanga-a-Wharepakau site that is Section 3 SO 432338 and **subsections (4) and (5)** take effect on the date the licensee under the Crown forestry licence provides written notice to the Crown and the trustees of Te Rūnanga o Ngāti Whare stating that the licensee's rights under section 24H(6) of the Conservation Act 1987—

(a) no longer apply; or

(b) are waived.

Jointly vested sites

215 Hināmoki Pā site

An undivided half share of the fee simple estate in the Hināmoki Pā site vests in the trustees of Te Rūnanga o Ngāti Whare as a tenant in common.

216 Okārea Pā site

(1) The Okārea Pā site ceases to be part of the Oriuwaka ecological area.

(2) The Okārea Pā site ceases to be a conservation area under the Conservation Act 1987.

(3) An undivided half share of the fee simple estate in the Okārea Pā site vests in the trustees of Te Rūnanga o Ngāti Whare as a tenant in common.

(4) **Subsections (1) to (3)** are subject to the trustees of Te Rūnanga o Ngāti Whare and the trustees of Te Rūnanga o Ngāti Manawa providing the Crown with a registrable covenant in relation to the site in the form set out in Part 11 of the Schedule of the deed of settlement (the **Okārea Pā site covenant**).

(5) The Okārea Pā site covenant is to be treated as a conservation covenant for the purposes of section 77 of the Reserves Act 1977.

217 Te Rake Pā site

(1) An undivided half share of the fee simple estate in the Te Rake Pā site vests in the trustees of Te Rūnanga o Ngāti Whare as a tenant in common.

(2) **Subsection (1)** is subject to **section 231(3)**.

218 Te Tāpiri Pā site

(1) The Te Tāpiri Pā site ceases to be a conservation area under the Conservation Act 1987.

(2) An undivided half share of the fee simple estate in the Te Tāpiri Pā site vests in the trustees of Te Rūnanga o Ngāti Whare as a tenant in common.

(3) **Subsections (1) and (2)** are subject to the trustees of Te Rūnanga o Ngāti Whare and the trustees of Te Rūnanga o Ngāti Manawa providing the Crown with a registrable covenant in relation to the site in the form set out in Part 11 of the Schedule of the deed of settlement (the **Te Tāpiri Pā site covenant**).

(4) The Te Tāpiri Pā site covenant is to be treated as a conservation covenant for the purposes of—

(a) section 77 of the Reserves Act 1977; and

(b) section 27 of the Conservation Act 1987.

219 Māori reservation

(1) The jointly vested sites are set apart as 1 Māori reservation as a wāhi tapu and place of cultural and historical interest as if the sites were set apart under section 338(1) of Te Ture Whenua Maori Act 1993.

(2) The Māori reservation is held on trust by the trustees of Te Rūnanga o Ngāti Whare and the trustees of Te Rūnanga o Ngāti Manawa for the benefit of Ngāti Manawa and Ngāti Whare.

(3) The Māori reservation is held on the following terms as if the Māori Land Court had set out the terms of the trust under section 338(8) of Te Ture Whenua Maori Act 1993:

(a) the jointly vested sites are inalienable; and

(b) the conservation values of the Okārea Pā site must be maintained; and

(c) the conservation covenant registered over the Okārea Pā site must not be varied without the consent of the Minister of Conservation; and

(d) the conservation values of the Te Tāpiri Pā site must be maintained; and

(e) public access to the Te Tāpiri Pā site must be maintained; and

(f) the conservation covenant registered over the Te Tāpiri Pā site must not be varied without the consent of the Minister of Conservation; and

(g) in relation to the Te Rake Pā site and until the return date in respect of that site, nothing in **sections 219 and 220** affects the rights and obligations of the licensee under the Crown forestry licence; and

(h) any other terms relating to the governance and management of the Māori reservation that the trustees of Te Rūnanga o Ngāti Whare and the trustees of Te Rūnanga o Ngāti Manawa agree on.

(4) The Māori Land Court has jurisdiction under section 338(8) of Te Ture Whenua Maori Act 1993 to amend the terms of the trust of the Māori reservation on a joint application from the trustees of Te Rūnanga o Ngāti Whare and the trustees of Te Rūnanga o Ngāti Manawa, but must not amend or derogate from the terms in **subsection (3)**.

(5) No other provision of Part 17 of Te Ture Whenua Maori Act 1993 or regulations made under section 338(15) of the Te Ture Whenua Maori Act 1993 applies to the Māori reservation.

220 How various Acts affect jointly vested sites

(1) In relation to the Local Government (Rating) Act 2002, the jointly vested sites are rateable only under section 9 of the Act.

(2) In relation to the Public Works Act 1981, the jointly vested sites may not be acquired or taken under the Act without the consent of the Minister of Conservation.

(3) In relation to the Resource Management Act 1991, section 108(9) applies to the jointly vested sites as if the land were Māori land within the meaning of Te Ture Whenua Maori Act 1993.

(4) In relation to Te Ture Whenua Maori Act 1993, sections 18(1)(c) and (d), 19(1)(a), 20, 24, 26, 194, and 342 apply to the jointly vested sites as if the land were Māori freehold land.

(5) Section 51 of the Crown Minerals Act 1991 is amended by adding the following subsections:

"(7) No person may, for the purpose of carrying out a minimum impact activity, enter on any land without the consent of the trustees of Te Rūanga o Ngāti Whare and the trustees of Te Rūnanga o Ngāti Manawa (as those terms are defined in **section 140** of the **Ngāti Whare Claims Settlement Act 2010** and **section 10** of the **Ngāti Manawa Claims Settlement Act 2010**), if the land is registered in the names of Wharepakau and Tangiharuru as tenants in common.

"(8) Subsection (1)(b) applies in relation to land registered in the names of Wharepakau and Tangiharuru as tenants in common under **section 234** of the **Ngāti Whare Claims Settlement Act 2010** and **section 88** of the **Ngāti Manawa Claims Settlement Act 2010** as if that land were Māori land and as if the trustees of Te Rūnanga o Ngāti Whare and the trustees of Te Rūnanga o Ngāti Manawa (as those terms are defined in **section 140** of the **Ngāti Whare Claims Settlement Act 2010** and **section 10** of the **Ngāti Manawa Claims Settlement Act 2010**) were jointly the local iwi authority of that land."

221 Title to jointly vested sites

(1) For a jointly vested site, the Registrar-General must, in accordance with a written application by an authorised person,—

(a) create a separate computer freehold register for the undivided half share vested under whichever of **sections 215, 216, 217, and 218** applies; and

(b) enter Wharepakau, not the trustees of Te Rūnanga o Ngāti Whare, on the register as the registered proprietor; and

(c) enter on the register encumbrances that are registered, notified, or notifiable and described in the application; and

(d) make a notation on the register that the land—

(i) is a Māori reservation created under **section 219**; and
(ii) is subject to **section 220**.

(2) **Subsection (1)** applies subject to the completion of any survey necessary to create the computer freehold register.

(3) Despite the jointly vested sites being registered in the name of Wharepakau—
(a) the trustees of Te Rūnanga o Ngāti Whare have all the duties, powers, and rights of a registered proprietor of the land as a tenant in common; and
(b) the trustees of Te Rūnanga o Ngāti Whare perform the duties, and exercise the powers and rights, as a tenant in common in their own names and not in the name of Wharepakau; and
(c) the Registrar-General must have regard to the matters in **paragraphs (a) and (b)**.

(4) A computer freehold register must be created under this section—
(a) as soon as is reasonably practicable after the settlement date; and
(b) no later than—
(i) 24 months after the settlement date; or
(ii) a later date that may be agreed in writing by the Crown and the trustees of Te Rūnanga o Ngāti Whare.

General provisions relating to vesting of properties

222 Properties vest subject to, or together with, encumbrances
Each cultural redress property vests under **this Part** subject to, or together with, any encumbrances listed in relation to the property in **Schedule 6**.

223 Registration of ownership

(1) This section applies to the fee simple estate in a cultural redress property (other than a jointly vested property) vested in the trustees of Te Rūnanga o Ngāti Whare under **this Part**.

(2) The Registrar-General must, on written application by an authorised person, comply with **subsections (3) and (4)**.

(3) To the extent that a cultural redress property (other than the regeneration land) is all of the land contained in a computer freehold register, the Registrar-General must—

(a) register the trustees of Te Rūnanga o Ngāti Whare as the proprietors of the fee simple estate in the land; and

(b) make any entries in the register and do all other things that are necessary to give effect to **this Part** and to Part 6 of the deed of settlement.

(4) To the extent that a cultural redress property (other than the regeneration land) is not all of the land contained in a computer freehold register, or there is no computer freehold register for all or part of the property, the Registrar-General must, in accordance with an application received from an authorised person,—

(a) create 1 or more computer freehold registers for the fee simple estate in the property in the names of the trustees of Te Rūnanga o Ngāti Whare; and

(b) enter on the register any encumbrances that are registrable, notified, or notifiable and that are described in the application.

(5) For the regeneration land, the Registrar-General must, in accordance with a written application by an authorised person,—

(a) create a computer freehold register for the fee simple estate in the land in the names of the trustees of Te Rūnanga o Ngāti Whare; and

(b) enter on the register any encumbrances that are registrable, notified, or notifiable and that are described in the application; and

(c) as soon as practicable, register Te Pua o Whirinaki Regeneration Trust as the proprietor of the fee simple estate in the land.

(6) **Subsections (4) and (5)** apply subject to the completion of any survey necessary to create the 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—

(a) 24 months after the settlement date; or

(b) any later date that may be agreed in writing by the trustees of Te Rūnanga o Ngāti Whare and the Crown.

224 Application of Part 4A of Conservation Act 1987

(1) The vesting of the fee simple estate (or a share of the fee simple estate) in a cultural redress property under **this Part** 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.

(2) Despite **subsection (1)**, the rest of section 24 of the Conservation Act 1987 does not apply to the vesting of a reserve site under **this Part**.

(3) If the reservation under **this Part** of a reserve site is revoked in relation to all or part of the site, then the vesting of the site is no longer exempt from the rest of section 24 of the Conservation Act 1987 in relation to all or that part of the site, as the case may be.

225 Recording application of Part 4A of Conservation Act 1987 and sections of this Part

(1) The Registrar-General must record on the computer freehold register for—

(a) a reserve site—

(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 224(3) and 230** of **this Part**; and

(b) any other cultural redress property that the land is subject to Part 4A of the Conservation Act 1987.

(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.

(3) If the reservation under **this Part** of a reserve site is revoked in relation to—

(a) all of the site, then the Director-General must apply in writing to the Registrar-General to remove from the

computer freehold register for the site the notifications that—

(i) section 24 of the Conservation Act 1987 does not apply to the site; and

(ii) the site is subject to **sections 224(3) and 230** of **this Part**; or

(b) part of the site, then the Registrar-General must ensure that the notifications referred to in **paragraph (a)** remain on the computer freehold register only for the part of the site that remains a reserve.

(4) The Registrar-General must comply with an application received in accordance with **subsection (3)(a)**.

226 Application of other enactments

(1) Section 11 and Part 10 of the Resource Management Act 1991 do not apply to—

(a) the vesting of the fee simple estate (or a share of the fee simple estate) in a cultural redress property under **this Part**; or

(b) any matter incidental to, or required for the purpose of, the vesting.

(2) The vesting of the fee simple estate (or a share of the fee simple estate) in a cultural redress property under **this Part** does not—

(a) limit section 10 or 11 of the Crown Minerals Act 1991; or

(b) affect other rights to subsurface minerals.

(3) 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 the settlement in relation to a cultural redress property.

(4) **Subsection (5)** applies if immediately before the vesting of a site under **sections 201 to 218** —

(a) the site comprised the whole of a reserve or conservation area; and

(b) an official geographic name had been assigned to that site under the New Zealand Geographic Board (Ngā Pou Taunaha o Aotearoa) Act 2008.

(5) That official geographic name is discontinued and the New Zealand Geographic Board Ngā Pou Taunaha o Aotearoa must ensure that, as soon as is reasonably practicable, that official geographic name is removed from the Gazetteer.

(6) However, if a site vested under **sections 201 to 218** comprised only part of a reserve or conservation area to which an official geographic name had been assigned,—

(a) the official geographic name is discontinued only in respect of the part of the site that is vested under **sections 201 to 218**; and

(b) the New Zealand Geographic Board Ngā Pou Taunaha o Aotearoa must amend the Gazetteer so that the official geographic name applies only to the part of the reserve or conservation area that is not vested under **sections 201 to 218**.

(7) If a site is vested under **sections 201 to 218**, and reserved and classified as a historic reserve under those sections, the historic reserve does not become a Crown protected area within the meaning of the New Zealand Geographic Board (Ngā Pou Taunaha o Aotearoa) Act 2008.

(8) In this section, **Gazetteer** has the meaning given in section 4 of the New Zealand Geographic Board (Ngā Pou Taunaha o Aotearoa) Act 2008.

227 Provisions of other Acts that have same effect for jointly vested sites

If a provision in **this Part** has the same effect for a jointly vested site as a provision in the **Ngāti Manawa Claims Settlement Act 2010**, the provisions must be given effect to only once as if they were 1 provision.

228 Non-cultural redress properties

Sections 145, 146, 222, 223, 224(1), 225(1)(b) and (2), and 226 apply to the non-cultural redress properties as if each site were a cultural redress property.

Provisions relating to reserve sites

229 Application of Reserves Act 1977 to reserve sites

(1) The trustees of Te Rūnanga o Ngāti Whare are the administering body of a reserve site for the purposes of the Reserves Act 1977.

(2) Despite sections 48A(6), 114(5), and 115(6) of the Reserves Act 1977, sections 48A, 114, and 115 of that Act apply to a reserve site.

(3) Sections 78(1)(a), 79 to 81, and 88 of the Reserves Act 1977 do not apply in relation to a reserve site.

(4) If the reservation under **this Part** of a reserve site is revoked under section 24 of the Reserves Act 1977 in relation to all or part of the site, section 25 of the Act, except subsection (2) of that provision, does not apply to the revocation.

230 Subsequent transfer of reserve land

(1) **Subsections (2) to (7)** apply to all, or the part, of a reserve site that, at any time after vesting in the trustees of Te Rūnanga o Ngāti Whare, remains a reserve under the Reserves Act 1977 (the **reserve land**).

(2) The fee simple estate in the reserve land may be transferred to any other person only in accordance with **subsections (3) to (7)**, despite any other enactment or rule of law.

(3) The Minister of Conservation must give written consent to the transfer of the fee simple estate in the reserve land to another person or persons (the **new owners**) if, on written application, the registered proprietors of the reserve land satisfy the Minister of Conservation that the new owners are able to—

(a) comply with the requirements of the Reserves Act 1977; and

(b) perform the duties of an administering body under the Reserves Act 1977.

(4) The Registrar-General must, upon receiving the documents specified in **subsection (5)**, register the new owners as the proprietors of the fee simple estate in the reserve land.

(5) The documents are—

(a) a transfer instrument to transfer the fee simple estate in the reserve land to the new owners, including a notifi-

cation that the new owners are to hold the reserve land for the same reserve purposes as it was held by the administering body immediately before the transfer; and

(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.

(6) The new owners, from the time of registration under **subsection (4)**,—

(a) are the administering body of the reserve land for the purposes of the Reserves Act 1977; and

(b) hold the reserve land for the same reserve purposes as it was held by the administering body immediately before the transfer.

(7) Despite **subsections (1) and (2)**, **subsections (3) to (6)** do not apply to the transfer of the fee simple estate in the reserve land if—

(a) the transferors of the reserve land are or were 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

(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.

Provisions relating to forest sites

231 CNI forests sites

(1) The CNI forests sites were vested in CNI Iwi Holdings Limited under the Central North Island Forests Land Collective Settlement Act 2008.

(2) The vesting of the CNI forests sites under **this Part** is deemed to be a transfer from CNI Iwi Holdings Limited to the trustees of Te Rūnanga o Ngāti Whare under paragraph 10 of Schedule 3 of the deed of trust, as defined in section 4 of the Central North Island Forests Land Collective Settlement Act 2008.

(3) The vesting of the CNI forest sites under **this Part** is subject to the trustees of Te Rūnanga o Ngāti Whare, and in relation to the Te Rake Pā site the trustees of Te Rūnanga o Ngāti Whare and the trustees of Te Rūnanga o Ngāti Manawa, entering into a deed of covenant (or deeds of covenant as applicable), in the form set out in Part 9 of the Schedule to the deed of settlement, under which, in assuming the owner's interest in those sites, they agree in favour of the other parties to the Kaingaroa Forest Road Network deed dated 3 June 2009 and the deed in relation to reciprocal access over Bonisch Road and the Kaingaroa Forest Road Network dated 26 June 2009 (or any amended or replacement deeds) to be bound by the terms of those deeds, while those deeds each remain in force and to the extent applicable to those sites.

(4) Upon the vesting of the former Crown forest land in the trustees of Te Rūnanga o Ngāti Whare,—

(a) section 10 of the Central North Island Forests Land Collective Settlement Act 2008 ceases to apply; and

(b) the public right of way easement is extinguished.

232 Removal of easement from former Crown forest land

(1) This section applies to the former Crown forest land.

(2) The Registrar-General must, in accordance with a written application from an authorised person record, the extinguishment of the public right of way easement over the former Crown forest land pursuant to **section 231**, on—

(a) whichever relevant computer freehold register or registers exist at the time the application is made for that area of land known as the Kaingaroa Whirinaki Block currently contained in computer freehold register 507554; and

(b) the relevant computer register for the public right of way easement.

(3) The authorised person must make the written application to the Registrar-General under **subsection (2)**—

(a) as soon as practicable after the vesting of the former Crown forest land in the trustees of Te Rūnanga o Ngāti Whare under **this Part**; and

(b) before any written application is made under **section 221** or **223**.

233 Removal of Crown forestry licence memorial

(1) **Subsection (2)** applies if the registered proprietor of a CNI forests site makes a written application to the Registrar-General—

(a) confirming that all of the land contained in the computer freehold register or registers for the site was returned on the return date; and

(b) containing a statement from the relevant licensee under the Crown forestry licence endorsing **paragraph (a)**.

(2) The Registrar-General must remove the Crown forestry licence memorial from the computer freehold register or registers for the site.

Wharepakau title

234 Registration of land in name of Wharepakau

(1) This section does not apply to the jointly vested sites.

(2) Despite anything in the Land Transfer Act 1952, or any other enactment or rule of law, the trustees of Te Rūnanga o Ngāti Whare may give the Registrar-General a written notice requiring that the fee simple estate in land that is registrable or registered under the Land Transfer Act 1952 in the names of the trustees of Te Rūnanga o Ngāti Whare—

(a) be registered in the name of Wharepakau, rather than in the names of the trustees of Te Rūnanga o Ngāti Whare; or

(b) be no longer registered in the name of Wharepakau, and instead be registered in the names of the trustees of Te Rūnanga o Ngāti Whare.

(3) In relation to the wāhi tapu sites,—

(a) the trustees of Te Rūnanga o Ngāti Whare may include in a notice under **subsection (2)(a)** a direction that the land be protected land:

(b) the trustees of Te Rūnanga o Ngāti Whare may give the Registrar-General a written notice that land that is protected land no longer be protected land.

(4) If the Registrar-General receives a notice under **subsection (2)(a)**, the Registrar-General must comply with it by—
  (a) registering the computer freehold register to the land in the name of Wharepakau; and
  (b) entering a notation on the computer freehold register to the land that the land is subject to this section; and
  (c) if the notice includes a direction that the land be protected land, entering a notation on the computer freehold register to the land that the land is protected land.

(5) If the Registrar-General receives a notice under **subsection (2)(b)**, the Registrar-General must comply with it by—
  (a) registering the computer freehold register to the land in the names of the trustees of Te Rūnanga o Ngāti Whare; and
  (b) cancelling the notation entered under **subsection (4)(b)**; and
  (c) cancelling the notation entered under **subsection (4)(c)**.

(6) If the Registrar-General receives a notice under **subsection (3)(b)**, the Registrar-General must give effect to it by cancelling the notation made under **subsection (4)(c)**.

(7) In the absence of evidence to the contrary, it is sufficient evidence that the notice has been properly given to the Registrar-General under **subsection (2)(a) or (b) or (3)(a) or (b)** if the notice—
  (a) is executed or purports to be executed by the trustees of Te Rūnanga o Ngāti Whare; and
  (b) in the case of a notice given under **subsection (2)**, relates to the land registrable or registered in the names of the trustees of Te Rūnanga o Ngāti Whare; and
  (c) in the case of a notice given under **subsection (3)**, relates to a wāhi tapu site.

(8) If the fee simple estate in land is registered in the name of Wharepakau,—
  (a) the trustees of Te Rūnanga o Ngāti Whare have all the duties, powers, and rights of the registered proprietor of the land; and

(b) the trustees of Te Rūnanga o Ngāti Whare must perform all the duties, and exercise the powers and rights, in their own names and not in the name of the Wharepakau; and

(c) the Registrar-General shall have regard to **paragraphs (a) and (b)**.

(9) Despite this section, the rights and obligations of the licensee under the Crown Forestry Licence are preserved in respect of the Waimurupūhā site.

235 How various Acts affect protected land

(1) This section applies to protected land for so long as it is registered in the name of Wharepakau.

(2) In relation to the Local Government (Rating) Act 2002, protected land is rateable only under section 9 of the Act.

(3) In relation to the Public Works Act 1981, protected land may not be acquired or taken under the Act without the consent of the Minister of Conservation.

(4) In relation to the Resource Management Act 1991, section 108(9) applies to protected land as if it were Māori land within the meaning of Te Ture Whenua Maori Act 1993.

(5) In relation to Te Ture Whenua Maori Act 1993, sections 18(1)(c) and (d), 19(1)(a), 20, 24, 26, 194, and 342 apply to protected land as if it were Māori freehold land.

(6) Section 51 of the Crown Minerals Act 1991 is amended by adding the following subsections:

"(9) No person may, for the purpose of carrying out a minimum impact activity enter on any land without the consent of the trustees of Te Runanga o Ngāti Whare (as defined in **section 140** of the **Ngāti Whare Claims Settlement Act 2010**), if the land is—

"(a) registered in the name of Wharepakau as protected land under **section 234** of that Act; and

"(b) regarded as wāhi tapu by the trustees.

"(10) Subsection (1)(b) applies in relation to land registered in the name of Wharepakau as protected land under **section 234** of the **Ngāti Whare Claims Settlement Act 2010** as if that land were Māori land and as if the trustees were the local iwi authority of that land."

Rangitaiki River Management Framework

236 Definitions for sections 237 to 263

In **sections 237 to 263**,—

catchment means the area shown on OTS-095–024

Rangitaiki River means the Rangitaiki River and its catchment, including—

(a) the Rangitaiki River; and
(b) the Whirinaki River; and
(c) the Wheao River; and
(d) the Horomanga River.

237 Acknowledgements

Crown acknowledges—

(a) the historical and enduring relationship between Ngāti Whare and the Rangitaiki River; and
(b) the importance of the health and wellbeing of the Rangitaiki River to Ngāti Whare; and
(c) the commitment of Ngāti Whare to—
  (i) protecting and enhancing the health and wellbeing of the Rangitaiki River; and
  (ii) restoring and protecting its relationship with the Rangitaiki River in accordance with Ngāti Whare tikanga.

Rangitaiki River Forum

238 Establishment and purpose of Forum

(1) A statutory body called the Rangitaiki River Forum is established.

(2) The purpose of the Forum is the protection and enhancement of the environmental, cultural, and spiritual health and wellbeing of the Rangitaiki River and its resources for the benefit of present and future generations.

(3) Despite the composition of the Forum as described in **section 242**, the Forum is a joint committee of the Bay of Plenty Regional Council and the Whakatane District Council within the meaning of clause 30(1)(b) of Schedule 7 of the Local Government Act 2002.

(4) Despite Schedule 7 of the Local Government Act 2002, the Forum—
  (a) is a permanent committee; and
  (b) must not be discharged unless all appointers agree to the Forum being discharged.

(5) The members of the Forum must act in a manner so as to achieve the purpose of the Forum.

239 Functions of Forum

(1) The principal function of the Forum is to achieve its purpose.

(2) The other functions of the Forum are to—
  (a) prepare and approve the Rangitaiki River Document in accordance with **section 251**; and
  (b) promote the integrated and co-ordinated management of the Rangitaiki River; and
  (c) engage with and provide advice to—
    (i) local authorities on statutory and non-statutory processes that affect the Rangitaiki River, including under the Resource Management Act 1991; and
    (ii) Crown agencies that exercise functions in relation to the Rangitaiki River; and
  (d) monitor the extent to which the purpose of the Rangitaiki River Forum is being achieved including the implementation and effectiveness of the Rangitaiki River Document; and
  (e) gather information, disseminate information, and hold meetings; and
  (f) take any other action that is related to achieving the purpose of the Forum.

(3) To avoid doubt, except as provided for in **subsection (2)(a)**, the Forum has discretion to determine in any particular circumstances—
  (a) whether to exercise any function identified in **subsection (2)**; and
  (b) how, and to what extent, any function identified in **subsection (2)** is exercised.

240 Capacity

The Forum has full capacity to carry out its functions.

241 Procedures of Forum

The provisions of the Local Government Act 2002, Local Government Official Information and Meetings Act 1987, and Local ~~Government (Members' Interests)~~ Authorities (Members' Interests) Act 1968 apply to the Forum—

(a) to the extent relevant to the purpose and functions of the Forum; and

(b) except as otherwise provided for in **sections 236 to 249**.

242 Members of Forum

(1) As at the settlement date, the Forum consists of 8 members as follows (each organisation being an appointer):

(a) 1 member appointed by Te Rūnanga o Ngāti Whare; and

(b) 1 member appointed by Te Rūnanga o Ngāti Manawa; and

(c) 1 member appointed by Te Rūnanga o Ngāti Awa; and

(d) 1 member appointed by Ngāti Tuwharetoa (Bay of Plenty) Settlement Trust; and

(e) 3 members appointed by the Bay of Plenty Regional Council (such members to be a current chairperson or councillor of that council); and

(f) 1 member appointed by the Whakatane District Council (such member to be a current Mayor or councillor of that council).

(2) In appointing members to the Forum, appointers—

(a) must be satisfied that the person has the skills, knowledge, or experience to—

(i) participate effectively in the Forum; and

(ii) contribute to the achievement of the purpose of the Forum; and

(b) must have regard to any members already appointed to the Forum to ensure that the membership reflects a balanced mix of knowledge and experience in relation to the Rangitaiki River.

(3) A member may be discharged by that member's appointer.

(4) A member appointed by an iwi may resign by giving written notice to that person's appointer.

(5) Where there is a vacancy on the Forum, the relevant appointer must fill that vacancy as soon as is reasonably practicable.

(6) Clause 31(1) of Schedule 7 of the Local Government Act 2002 applies only to the appointment and discharge of the members appointed by the local authorities.

(7) Clauses 30(2), (3), (5), (7) and 31(2) to 31(6) of Schedule 7 of the Local Government Act 2002 do not apply to the Forum.

(8) To avoid doubt, members of the Forum who are appointed by iwi are not, by virtue of that membership, members of a local authority.

243 Chair and deputy chair

(1) The Forum must appoint a chair at its first meeting.

(2) The chair's appointment is for a term of 3 years, unless the chair resigns or is removed by the Forum during that term.

(3) The chair of the Forum may be reappointed or removed by the Forum.

(4) The Forum may appoint a deputy chair, and if so, that appointment is subject to the same conditions as set out in **subsections (1) to (3)**.

(5) The Forum may appoint subcommittees that the Forum considers appropriate, and clause 30(4) of Schedule 7 of the Local Government Act 2002 applies except that a reference to a committee in that clause is to be read as a reference to the Forum.

(6) Clauses 26(3) and (4) of Schedule 7 of the Local Government Act 2002 do not apply to the Forum.

244 Standing orders

(1) The Forum must at its first meeting adopt a set of standing orders for the operation of the Forum.

(2) The standing orders of the Forum must not contravene this Act, the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987, or any other Act.

(3) A member of the Forum must comply with the standing orders of the Forum.

(4) Clause 27 of Schedule 7 of the Local Government Act 2002 does not apply to the Forum.

245 Meetings of Forum

(1) Clauses 19, 20, and 22 of Schedule 7 of the Local Government Act 2002 apply to the Forum subject to—
- (a) all references to a local authority being references to the Forum; and
- (b) the reference in clause 19(5) to the chief executive being a reference to the Chair of the Forum.

(2) The quorum for a meeting of the Forum is—
- (a) 3 members appointed by the iwi appointers; and
- (b) 3 members appointed by the local authority appointers.

(3) Clauses 23(3)(b) and 30(9)(b) of Schedule 7 of the Local Government Act 2002 do not apply to the Forum.

246 Decision making

(1) The decisions of the Forum must be made by vote at a meeting.

(2) A decision of the Forum may only be made by a 75% majority of those members present at a meeting of the Forum.

(3) The chair of the Forum may vote on any matter but does not have a casting vote.

(4) Clause 24 of Schedule 7 of the Local Government Act 2002 does not apply to the Forum.

(5) The members of the Forum must approach decision making in a manner that—
- (a) is consistent with, and reflects, the purpose of the Forum; and
- (b) acknowledges as appropriate the interests of iwi in particular parts of the Rangitaiki River and its catchment.

247 Conflict of interest

A member of the Forum is not precluded by the Local Authorities (Members' Interests) Act 1968 from discussing or voting on a matter—
- (a) merely because the member is a member of an iwi or a hapū; or

(b) merely because the economic, social, cultural, and spiritual values of any iwi or hapū and their relationships with the Forum are advanced by or reflected in—

(i) the subject matter under consideration; or

(ii) any decision by or recommendation of the Forum; or

(iii) participation in the matter by the member.

248 Application of other statutory provisions

Despite clause 19(2) of Schedule 7 of the Local Government Act 2002, the members of the Forum appointed by iwi—

(a) have the right to attend any meeting of the Forum; but

(b) do not have the right to attend meetings of the local authorities by reason merely of their membership of the Forum.

249 Forum to be open and inclusive

The Forum must operate in an open manner that is inclusive of those iwi with interests in the Rangitaiki River that are not represented on the Forum.

250 Administrative and technical support of Forum

(1) The Bay of Plenty Regional Council is responsible for the administrative support of the Forum.

(2) The administrative support referred to in **subsection (1)** includes the provision of those services required for the Forum to carry out its functions, including under the settlement legislation, the Local Government Act 2002, or any other Act that applies to the conduct of the Forum.

(3) The Bay of Plenty Regional Council must provide technical support to the Forum from existing work programmes, and must endeavour to accommodate unbudgeted resource requests from the Forum where possible.

Rangitaiki River Document

251 Preparation and approval of Rangitaiki River Document

(1) The Forum must prepare and approve the Rangitaiki River Document in accordance with the process set out in **sections 255 to 258**.

(2) The Forum must—

(a) commence the preparation of the Rangitaiki River Document no later than 2 months after the settlement date; and

(b) approve the Rangitaiki River Document no later than 12 months after the settlement date.

(3) The Forum may decide to alter any of the timeframes set out in **subsection (2)**.

(4) In preparing the Rangitaiki River Document, the Forum must—

(a) consider the interests in the area covered by the Rangitaiki River Document; and

(b) consider, and document the potential alternatives to, and the potential benefits and costs of, the matters provided for in the Rangitaiki River Document.

(5) The obligation under **subsection (4)** applies only to the extent that is relative to the nature and contents of the Rangitaiki River Document.

252 Contents of Rangitaiki River Document

The Rangitaiki River Document may contain—

(a) a vision for the Rangitaiki River; and

(b) objectives for the Rangitaiki River; and

(c) desired outcomes for the Rangitaiki River.

253 Effect on Resource Management Act 1991 planning documents

(1) In preparing or changing the Bay of Plenty regional policy statement, the Bay of Plenty Regional Council must recognise and provide for any vision, objectives, and desired outcomes contained in the Rangitaiki River Document.

(2) The Bay of Plenty Regional Council must comply with **subsection (1)** each time that it prepares or changes the Bay of Plenty regional policy statement.

(3) Until such time as the obligation under **subsection (1)** is complied with, where a local authority is preparing or changing a regional plan or district plan, that authority must have particular regard to the Rangitaiki River Document.

(4) The obligations under **subsections (1) to (3)** apply only to the extent that—

(a) the vision, objectives, and desired outcomes contained in the Rangitaiki River Document relate to the resource management issues of the region or district; and

(b) recognising and providing for the vision, objectives, and desired outcomes contained in the Rangitaiki River Document under **subsection (1)** is consistent with the purpose of the Resource Management Act 1991; and

(c) having particular regard to the Rangitaiki River Document under **subsection (3)** is consistent with the purpose of the Resource Management Act 1991.

(5) **Subsection (6)** applies where—

(a) the Bay of Plenty Regional Council notifies a proposed Bay of Plenty regional policy statement before the Rangitaiki River Document is approved; and

(b) the Forum approves the Rangitaiki River Document before the Bay of Plenty regional policy statement is declared operative under clause 20 of Schedule 1 of the Resource Management Act 1991.

(6) Where **subsection (5)** applies, the Bay of Plenty Regional Council—

(a) must, within 6 months after the approval of the Rangitaiki River Document by the Forum, notify a variation to the proposed Bay of Plenty regional policy statement, for the purpose of recognising and providing for the Rangitaiki River Document as provided for in **subsection (1)**; and

(b) must not declare the Bay of Plenty regional policy statement operative under clause 20 of Schedule 1 of the Resource Management Act 1991 before a variation has been notified in accordance with **subsection (6)(a)**.

(7) The obligation under **subsection (6)** applies only on the first occasion on which the Forum approves the Rangitaiki River Document.

254 Effect on conservation planning documents

(1) In approving a conservation management strategy that is relevant to the Rangitaiki River, the New Zealand Conservation Authority must have particular regard to any vision, objectives, and desired outcomes contained in the Rangitaiki River Document.

(2) The New Zealand Conservation Authority must comply with **subsection (1)** each time that it approves a conservation management strategy that is relevant to the Rangitaiki River.

(3) Until such time as the obligation under **subsection (1)** is complied with, where a person is reviewing, preparing, or changing a relevant conservation management plan, that person must have particular regard to any vision, objectives, or desired outcomes contained in the Rangitaiki River Document.

(4) The obligations under **subsections (1) to (3)** apply only to the extent that—

(a) the vision, objectives, and desired outcomes contained in the Rangitaiki River Document relate to the conservation issues of the area; and

(b) having particular regard to the vision, objectives, and desired outcomes contained in the Rangitaiki River Document is consistent with the purpose of the Conservation Act 1987.

Process for preparation and approval of Rangitaiki River Document

255 Preparation of draft River Document

The following process applies to the preparation of a draft of the River Document:

(a) the Forum must meet to discuss and commence the preparation of the draft River Document; and

(b) the Forum may consult and seek comment from appropriate persons and organisations on the preparation of the draft River Document.

256 Notification and submissions on draft River Document

(1) When the Forum has prepared the draft River Document, it—
- (a) must notify it by giving public notice; and
- (b) may notify it by any other means that the Forum thinks appropriate; and
- (c) must ensure that the draft River Document is available for public inspection.

(2) The public notice must—
- (a) state that the draft River Document is available for inspection at the places and times specified in the notice; and
- (b) state that interested persons or organisations may lodge submissions on the draft River Document—
  - (i) with the Forum; and
  - (ii) at the place specified in the notice; and
  - (iii) before the date specified in the notice; and
- (c) set a date for the lodging of submissions that is at least 20 business days after the date of the publication of the notice.

(3) Any person or organisation may make a written or electronic submission on the draft River Document in the manner described in the public notice.

257 Approval of River Document

(1) The Forum must consider submissions made under **section 256(3)**, to the extent that those submissions are consistent with the purpose of the River Document.

(2) The Forum may then approve the River Document.

(3) The Forum—
- (a) must notify the River Document by giving public notice; and
- (b) may notify the River Document by any other means that the Forum thinks appropriate.

(4) The public notice must—
- (a) state where the River Document is available for public inspection; and
- (b) state when the River Document comes into force.

(5) The River Document—

(a) must be available for public inspection at the local offices of the relevant local authorities and appropriate agencies; and

(b) comes into force on the date specified in the public notice.

258 Review of and amendments to River Document

(1) The Forum may at any time review and, if necessary, amend the River Document or any component of the River Document.

(2) The Forum must start a review of the River Document no later than 10 years after the later of—

(a) the first time that the River Document is approved; or

(b) the completion of the previous review of the River Document.

(3) In undertaking a review under **subsections (1) and (2)** the Forum must apply **section 255**, modified as necessary, to the review.

(4) If the Forum considers as a result of the review that the River Document should be amended in a material way, the amendment must be prepared and approved in accordance with **sections 255 to 257**.

(5) If the Forum considers the River Document should be amended in a way that is not material, the amendment may be approved under **section 257(2)**, and the Forum must comply with **section 257(3) to (5)**.

Recognition of tuna

259 Recognition of habitat of tuna

All persons exercising functions and powers under the Resource Management Act 1991 that affect the Rangitaiki River must have particular regard to the habitat of tuna (*anguilla dieffenbachia* and *anguilla australis*) in that river.

Joint management agreements

260 Duty to make joint management agreement

(1) Where Ngāti Whare provide notice in writing to a local authority referred to in **subsection (2)** that a joint management

agreement is to be entered into, such joint management agreement must be in force between that local authority and Ngāti no later than—

(a) 18 months after the date of that notice; or

(b) a later date that they agree on electronically or in writing.

(2) The reference to a local authority in **subsection (1)** is a reference to—

(a) the Bay of Plenty Regional Council; or

(b) the Whakatane District Council.

261 Scope of joint management agreements

A joint management agreement referred to in **section 260** may, subject to the agreement of the local authority and Ngāti Whare, cover any ~~functions~~ function, power, or duty of the local authority under the Resource Management Act 1991 that affect the Rangitaiki River.

262 Legal framework

(1) Sections 36C and 36D of the Resource Management Act 1991 apply to a joint management agreement entered into under **section 260**.

(2) Sections 36B and 36E of the Resource Management Act 1991 do not apply to a joint management agreement entered into under **section 260**.

(3) Neither party has the right to terminate a joint management agreement without the agreement of the other party.

263 Horomanga Wash local purpose reserve

The joint management agreement with the Bay of Plenty Regional Council must include a section providing for the role of Ngāti Whare in the management by that Council under relevant statutory frameworks of the Horomanga Wash local purpose reserve (which is vested in the Bay of Plenty Regional Council and described by *Gazette* notice dated 8 April 2008).

. . . . .

Schedule 4

s 140

Specially protected areas

Specially protected areas	Location	Legal description
Te Whāiti-Nui-a-Toi Canyon	As shown on SO 436037.	*South Auckland Land District: Whakatane District* Part Urewera A. Part *Gazette* 1944 page 627.
Tūwatawata	As shown on SO 436038.	*South Auckland Land District: Whakatane District* Part Urewera A. Part *Gazette* 1944 page 627.

Schedule 5
Statutory areas

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Statutory area	Location
Whirinaki Te Pua-a-Tāne Conservation Park	As shown on OTS-095-009.
Whirinaki River and its tributaries	As shown on OTS-095-010.
Specified areas of Te Urewera National Park	As shown on OTS-095-022.

Schedule 6
s 140

Cultural and non-cultural redress properties

Part 1
Cultural redress properties

Sites that vest in fee simple

Name of site	Description	Encumbrances
Pareranui site	*South Auckland Land District - Whakatane District* 4.9998 hectares, more or less, being Section 3 SO 433101. Part computer freehold register 507554.	Subject to the Crown forestry licence (B263238.2) held in computer interest register SA57A/60 (varied by B371196.52, B371196.53, B371196.55 and B558475.41). Subject to the protective covenant certificate (B263238.3) held in computer interest register SA57A/61. Together with the right of way created by easement instrument 8212199.1 and held in computer interest register 482467. Together with the right of way created by easement instrument 8241609.1. Together with the right of way created by easement instrument 8208936.1 and held in computer interest register 484186. Together with the right of way created by easement instrument 8208944.1. Together with the right of way created by easement instrument 8208942.1 and held in computer interest register 486616. Together with the right of way easement to be created - Bonisch Road.

Part 1—*continued*

Name of site	Description	Encumbrances
Tauranga-o-Reti site	*South Auckland Land District - Whakatane District* ~~4.997~~ 4.9997 hectares, more or less, being Section 2 SO 433101. Part computer freehold register 507554.	Subject to the Crown forestry licence (B263238.2) held in computer interest register SA57A/60 (varied by B371196.52, B371196.53, B371196.55 and B558475.41). Subject to the protective covenant certificate (B263238.3) held in computer interest register SA57A/61. Subject to the public access easement marked C on DPS 55243 (B263238.4) held in computer interest register SA57A/62. Together with the right of way created by easement instrument 8212199.1 and held in computer interest register 482467. Together with the right of way created by easement instrument 8241609.1. Together with the right of way created by easement instrument 8208936.1 and held in computer interest register 484186. Together with the right of way created by easement instrument 8208944.1. Together with the right of way created by easement instrument 8208942.1 and held in computer interest register 486616. Together with the right of way easement to be created - Bonisch Road.

Part 1—*continued*

Name of site	Description	Encumbrances
Te Teko site	*South Auckland Land District - Whakatane District* 4.9998 hectares, more or less, being Section 1 SO 433101. Part computer freehold register 507554.	Subject to the Crown forestry licence (B263238.2) held in computer interest register SA57A/60 (varied by B371196.52, B371196.53, B371196.55 and B558475.41). Subject to the protective covenant certificate (B263238.3) held in computer interest register SA57A/61. Together with the right of way created by easement instrument 8212199.1 and held in computer interest register 482467. Together with the right of way created by easement instrument 8241609.1. Together with the right of way created by easement instrument 8208936.1 and held in computer interest register 484186. Together with the right of way created by easement instrument 8208944.1. Together with the right of way created by easement instrument 8208942.1 and held in computer interest register 486616. Together with the right of way easement to be created - Bonisch Road.

Part 1—*continued*

Name of site	Description	Encumbrances
Mangamate Kāinga site	*South Auckland Land District - Whakatane District* 4.9991 hectares, more or less, being Section 1 SO 431517. Part computer freehold register 507554.	Subject to the Crown forestry licence (B263238.2 held in computer interest register SA57A/60 (varied by B371196.52, B371196.53, B371196.55 and B558475.41). Subject to the protective covenant certificate (B263238.3) held in computer interest register SA57A/61. Together with the right of way created by easement instrument 8212199.1 and held in computer interest register 482467. Together with the right of way created by easement instrument 8241609.1. Together with the right of way easement to be created - Bonisch Road.
Balance of Regeneration Land	*South Auckland Land District - Whakatane District* 608.0686 hectares, more or less, being Section 2 SO 431517, Section 2 SO 432338, Sections 4 and 7 SO 433101. Part computer freehold register 507554.	Subject to the Crown forestry licence (B263238.2) held in computer interest register SA57A/60 (varied by B371196.52, B371196.53, B371196.55 and B558475.41). Subject to the protective covenant certificate (B263238.3) held in computer interest register SA57A/61. Subject to the public access easement marked B, C and D on DPS 55243 (B263238.4) held in computer interest register SA57A/62.

Part 1—*continued*

Name of site	Description	Encumbrances
		Subject to section 10 of the Central North Island Forests Land Collective Settlement Act 2008. Subject to the right of way marked A, B and C on DPS 53893 created by easement instrument 8208950.1 and held in computer interest register 485148. Subject to the right of way marked A , B, C and E on SO 431517 to be created under CNI. Subject to the right of way in gross referred to in **section 209(2)(a)**. Together with the right of way created by easement instrument 8212199.1 and held in computer interest register 482467. Together with the right of way created by easement instrument 8241609.1. Together with the right of way created by easement instrument 8208936.1 and held in computer interest register 484186. Together with the right of way created by easement instrument 8208944.1. Together with the right of way created by easement instrument 8208942.1 and held in computer interest register 486616. Together with the right of way easement to be created - Bonisch Road.

Part 1—*continued*

Name of site	Description	Encumbrances
Waimurupūhā site	*South Auckland Land District - Whakatane District* 4.9997 hectares, more or less, being Section 6 SO 433101. Part computer freehold register 507554.	Subject to the Crown forestry licence (B263238.2) held in computer interest register SA57A/60 (varied by B371196.52, B371196.53, B371196.55 and B558475.41). Subject to the protective covenant certificate (B263238.3) held in computer interest register SA57A/61. Together with the right of way created by easement instrument 8212199.1 and held in computer interest register 482467. Together with the right of way created by easement instrument 8241609.1. Together with the right of way created by easement instrument 8208936.1 and held in computer interest register 484186. Together with the right of way created by easement instrument 8208944.1. Together with the right of way created by easement instrument 8208942.1 and held in computer interest register 486616. Together with the right of way easement to created - Bonisch Road.

Part 1—*continued*

Name of site	Description	Encumbrances
Mangamate Falls site	*South Auckland Land District -Whakatane District* 5.6000 hectares, more or less, being Section 1 SO 432338. Part computer freehold register 507554.	To be administered as a recreation reserve subject to section 17 of the Reserves Act 1977. Subject to the protective covenant certificate (B263238.3) held in computer interest register SA57A/61. Together with the right of way created by easement instrument 8212199.1 and held in computer interest register 482467. Together with the right of way created by easement instrument 8241609.1 Together with the right of way easement to be created - Bonisch Road.
Te Takanga-a-Wharepakau Historic Reserve site	*South Auckland Land District - Whakatane District* 1.3327 hectares, more or less, being Section 3 SO 432338. (Part formerly part of the marginal strip retained by the Crown on the disposition of Lot 1 DPS 63738. Part computer freehold register 507554.) 4.2670 hectares, more or less, being Section 6 SO 432338.	To be administered as an historic reserve subject to section 18 of the Reserves Act 1977 (affects Section 3 SO 432338). To be administered as a recreation reserve subject to section 17 of the Reserves Act 1977 (affects Section 6 SO 432338).
Okārea Pā site	*South Auckland Land District - Whakatane District* 4.9999 hectares, more or less, being Section 1 SO 431558. Part *Gazette* 1983 page 2029.	Subject to the conservation covenant referred to in **section 216(4)**.

Part 1—*continued*

Name of site	Description	Encumbrances
Te Rake Pā site	*South Auckland Land District: Whakatane District* 4.9997 hectares, more or less, being Section 5 SO 433101. Part computer freehold register 507554.	Subject to the Crown forestry licence (B263238.2) held in computer interest register SA57A/60 (varied by B371196.52, B371196.53, B371196.55 and B558475.41). Subject to the protective covenant certificate (B263238.3) held in computer interest register SA57A/61. Together with the right of way created by easement instrument 8212199.1 and held in computer interest register 482467. Together with the right of way created by easement instrument 8208936.1 and held in computer interest register 484186. Together with the right of way created by easement instrument 8241609.1. Together with the right of way created by easement instrument 8208944.1. Together with the right of way created by easement instrument 8208942.1 and held in computer interest register 486616. Together with the right of way easement to be created - Bonisch Road.
Te Tāpiri Pā site	*South Auckland Land District - Taupo District* 1.2219 hectares, more or less, being Section 1 SO 433064. Part *Gazette* 1976 page 2865 and part computer freehold register SA86/152.	Subject to the conservation covenant referred to in **section 218(3)**.

Part 2
Non-cultural redress properties
Sites that vest in fee simple

Name of site	Description	Encumbrances
Hinamoki Pā	*South Auckland Land District: Whakatane District* 1.0882 hectares, more or less, being Section 1 SO 428393. Part *Gazette* 1984 page 643.	
Otutakahiao	*South Auckland Land District: Whakatane District* 0.2171 hectares, more or less, being Section 1 SO 428392. Part *Gazette* 1984 page 643.	
Wekanui Kāinga	*South Auckland Land District: Whakatane District* 5.8468 hectares, more or less, being Section 1 SO 428388. Part GN S372705.	
Otahi Kāinga	*South Auckland Land District: Whakatane District* 2.1535 hectares, more or less, being Section 1 SO 428391. Part GN S372705.	

Part 2—*continued*

Name of site	Description	Encumbrances
Te Pukemohoao Kāinga	*South Auckland Land District: Whakatane District* 1.1751 hectares, more or less, being Section 1 SO 428390. Part GN S372705.	
Matuatahi Pā	*South Auckland Land District: Whakatane District* 0.8778 hectares, more or less, being Section 1 SO 428389. Part GN S372705.	

Legislative history

8 March 2012	Divided from Ngāti Manawa and Ngāti Whare Claims Settlement Bill (Bill 225–2) by committee of the whole House as Bill 225–3B

Wellington, New Zealand:
Published under the authority of the House of Representatives—2012