

NGĀTI REHUA - NGĀTIWAI KI AOTEA
and
NGĀTI REHUA - NGĀTIWAI KI AOTEA SETTLEMENT TRUST
and
THE CROWN

DEED OF SETTLEMENT OF
HISTORICAL CLAIMS

19 December 2016

PURPOSE OF THIS DEED

This deed -

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

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RFR land

Draft settlement bill

DEED OF SETTLEMENT

THIS DEED is made between

NGĀTI REHUA - NGĀTIWAI KI AOTEA

and

NGĀTI REHUA - NGĀTIWAI KI AOTEA SETTLEMENT TRUST

and

THE CROWN

1 BACKGROUND

E MIHI NUI KI A KOUTOU

- 1.1. We acknowledge all those who have gone and passed before us, our beloved tupuna and our whanau who carved out a pathway for us to follow and inspired us towards a better and brighter future.
- 1.2. We acknowledge all the men and women who have diligently served as our trustees or as kaimahi for the Ngāti Rehua - Ngātiwai ki Aotea Settlement Trust board and have believed in the vision that we, Ngāti Rehua - Ngātiwai ki Aotea, are kaitiaki of our own future and our own outcomes.
- 1.3. We acknowledge our many whanau especially our hau kainga whanau; our taumata kaumatua, in particular Matua Rawiri Wharemate and Whaea Hope Munro, and our amazing rangatahi roopu for your belief in us, your inspiration and guidance throughout this journey.
- 1.4. Most of all we want to acknowledge our future generations and those to come; the struggle, the fight and the return is for you. We have done our best, and given all that we had. There have been many sleepless nights but, like a storm that passes, a new dawn will break and awaken the soul and lift the spirit.
- 1.5. This is our new day and our new dawn.



Figure 1 - Ngāti Rehua - Ngātiwai ki Aotea Settlement Trust

Back row: Trustee Catherine Munro and pepi Anahera, Trustee Kristan MacDonald, Trustee Rodney Ngawaka, Kaimahi Ngaire Pera.

Front row: Trustee Yvonne Wiki, Rangatahi roopu Lisa Fraider, Chair Nicola MacDonald, Kaimahi Te Waikohua Rata and Taumata kaumatua Hope Munro.

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Ko motu tohora i whakakohatu naia Te Tai Tonga

Ko nga Taratara o Toi te Huatahi Te Tai Tokerau

Ko motu Rangiahua Te Tai Hauauru

Ko Kaitoke kohatu Te Tai Rawhiti

Hirakimata te maunga tapu waenganui

Ko te Moananui o Toi te huatahi te moana

Ko Te Mauri; ko Tukaiaia; ko te tuatara nga kaitiaki

Ko Kawa; ko Motairehe; ko Whananaki; ko Matapouri nga marae

Ko Rehua; ko Ranginui; ko Te Awe nga tupuna

Ko Ngāti Rehua - Ngātiwai ki Aotea te iwi

Tihei mauri ora!

OUR HISTORY

- 1.6. This is our history as understood from our oral traditions.

NGA PUTAKE TE RAUPATUTANGA O AOTEA - The Conquest of Aotea

"As the mana whenua and mana moana held by Ngāti Rehua in relation to Aotea stems from take raupatu or right of conquest, all of our ancestral rights and obligations relating to Aotea and its environs stem from the raupatu of Aotea by our tupuna around the end of the seventeenth century. Our fires were lit on Aotea and its adjoining motu after this conquest, and we alone have maintained continuous occupation or ahi ka roa from that time to the present."

*Te Witi McMath
1995 Maori Land Court*

- 1.7. The conquest of Aotea took place in two phases around the end of the seventeenth century. The first phase of the conquest was led by our tupuna Rehua and his son Te Rangituangahuru from whom we of Ngāti Rehua trace descent. They were assisted by Te Whaiti and his son Te Awe. These tupuna who conquered Aotea were of Ngāti Manaia and Kawerau descent.
- 1.8. In the mid-1600s, the Kawerau Iwi occupied the eastern coastline of the mainland between Takapuna and Te Arai o Tahuhu; the headland standing at the northern end of Pakiri Beach. To their north were Ngai Tahuhu who were part of the powerful Iwi of Ngāti Manaia who then controlled much of Tai Tokerau. It is principally from Ngāti Manaia that we of Ngāti Rehua - Ngātiwai ki Aotea emerged.
- 1.9. In the late 1600s, Te Kawerau and Ngāti Manaia often met on the coastline between Te Arai and Whangarei. The two Iwi initially enjoyed friendly relations, although in time they

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fought a major battle in the Mahurangi area. This battle, and in particular the peacemaking that was to follow it had a number of important outcomes. Firstly it led to the emergence of the iwi that became known as Ngātiwai. It also led to the development of important links between Ngātiwai and Te Kawerau in the form of a series of ongoing peacemaking marriages.

- 1.10. One of these included the marriage of the leading Ngātiwai rangatira Rangihokaia of Mimiwhangata, Whananaki, to Tukituki a Kawerau woman from Mahurangi. Another important marriage was made between Rehua of Te Kawerau and Hinuere a rangatira woman of Ngāti Manaia. They settled at Mahurangi where their child Te Rangituangahuru was born.
- 1.11. At this time both Te Kawerau and Ngāti Manaia were making periodic journeys to Aotea to visit another iwi who were living there. The Kawerau people were friendly with the iwi residing on Aotea, as both were people of predominantly Tainui descent. Ngāti Manaia, particularly those who descended from Tahuhunui o rangi, also shared important genealogical links with the iwi on Aotea.
- 1.12. Tahuu potiki, a mokopuna of Tahuhunui o rangi, had married Reipae, the famous Tainui tupuna, who had migrated to Te Tai Tokerau with her sister Reitu. It is from Reipae that the name Whangarei, or Te Whanga a Reipae originates. It should also be pointed out that Ngāti Manaia also had more ancient links with Aotea through a people known as Ngāti Te Rauwawa who journeyed back and forth from Tai Tokerau to Aotea in ancient times under the leadership of a rangatira known as Pukehinau. They ultimately settled at Taheke in the Hokianga area.

Te Matenga o Te Koro

- 1.13. In the late 1600s, Ngāti Manaia rangatira Te Whaiti led an ope from Mimiwhangata, Whananaki on a visit to Aotea. At the Island they stayed as manuhiri of a hapū residing at Ahuriri, a pā on the north-western coastline. During this visit a rangatira of the local hapū developed a liking for Te Kura the daughter of Te Whaiti. The two were subsequently married. Te Kura was initially well received by the resident hapū. However after Ngāti Manaia returned to Mimiwhangata, she was mistreated and ultimately killed by her husband's people.
- 1.14. In time news of this kohuru reached Te Whaiti and his son Te Awe. They immediately began to assemble a Ngāti Manaia taua to travel to Aotea to seek utu for the death of this wahine rangatira. Te Whaiti also sent a ngakau to Rehua and Te Kawerau of Mahurangi. The reason for this was that Rehua through his marriage to Hinurere of Ngāti Manaia was a whanaunga of Te Whaiti, and a matua keke to this woman Te Kura.
- 1.15. Rehua and his son assembled a taua at Puhoi and immediately departed for Aotea. They stopped briefly on their journey at Hauturu, where they enlisted the help of their Ngāti Manuhiri whanaunga. The taua led by Rehua arrived at Aotea well in advance of the Ngāti Manaia taua under Te Whaiti, who had been delayed at Pokohinu by bad weather.

Te Kahukura o Te Rangituangahuru

- 1.16. On arrival at Aotea, Rehua and his taua immediately sought out the local hapū who were considered responsible for the death of Te Kura and engaged them in battle. The pā of

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Ahuriri at the northern entrance to Motairehe Whanga was taken by Rehua and his taua. Those who fled the battle were killed on the foreshore at Torehangina.

- 1.17. The next pā taken by Rehua and his taua was Tukari located between Motairehe and Kawa. Rehua was a kaumatua by this time, and it was his son Te Rangituangahuru who directed the fighting. This first phase of the conquest became known as 'Te Kahukura o Te Rangituangahuru' because of his prowess as a toa.

Te Rangi i whakaea

- 1.18. Rehua and his taua rested for a time at Motairehe. They then crossed to the other side of Aotea to the area known as Whangapoua. Here they took the major pā of Whiritoa which stands above the entrance to Whangapoua. At this stage they were joined by the Ngāti Manaia taua led by Te Whaiti. Together, they headed north to Waikaro and killed the remaining residents at Motu Pakainga and Rangihakaea. This latter place name has its origins in the name of the final battle of this the first phase of the conquest of Aotea. In full it is Te Rangi i whakaea te matenga o Te Kura 'The day that the death of Te Kura was avenged'.
- 1.19. The taua led by Rehua, Te Rangituangahuru, Te Whaiti and Te Awe had achieved their aim of avenging the death of Te Kura. They therefore set out to secure peace with another local hapū occupying the central and southern parts of Aotea. At Awana peace was made with the leading local rangatira. In order to secure the peace, Te Mata gifted his sister Waipahihi to Rehua. The taua then crossed to the west of the Island where peace was made with the only other hapū resident on Aotea at the time, at Motukaraka, a pā on Kaikoura Island. Here the local rangatira gifted his daughter Rangiarua to Te Rangituangahuru in order to secure peace with the powerful force lead by Rehua.
- 1.20. After the maungarongo the Ngāti Manaia force returned to Mimiwhangata, although Te Awe settled for a time on Aotea where he left descendants. Rehua and his people settled on the land that they had conquered in the north of Aotea. Rehua himself initially settled at Pukewhau near Motairehe. He decided to leave the western side of the conquered land for his son and he shifted to Whangapoua where he built a pā known as Kaikai. Te Rangituangahuru initially made his home on the shores of Motairehe Whanga where he occupied the famous pā of Tukari. He subsequently occupied pā and kainga throughout Aotea.

Te Karo ki Mahurangi

- 1.21. After a period of peace, trouble arose between Rehua and his people and the remaining hapū of the iwi originally resident on Aotea. The iwi resented Rehua and his people's occupation of the northern part of Aotea. One of the hapū murdered Rehua during a night raid on Rakitu Island. This led to the second and final phase of the conquest of Aotea.
- 1.22. Following the death of Rehua, his son Te Rangituangahuru immediately turned to his father's people at Mahurangi to avenge his death. They included the Kawerau hapū of Ngāti Kahu, Ngāti Raupo and Ngāti Manuhiri who occupied the coastline between Whangaparaoa and Pakiri. A ngakau was also sent to his mother's people of Ngāti Manaia. A large taua was assembled at Mahurangi. It was led by Te Korotai of Ngāti Rongo, Te Ha and Turoa of Ngāti Manuhiri. They were joined by a Ngāti Manaia taua that included Hikihiki the then youthful son of Rangihokaia. The taua arrived at Aotea and joined Te Rangituangahuru and his people. Together this large combined force led

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by Te Rangituangahuru inflicted a series of crushing defeats on the remaining hapū who occupied Aotea. This second phase of the conquest was known as Te Karo ki Mahurangi, or 'the protection that came from Mahurangi'.

1.23. In this phase of the conquest the resident hapū were first defeated at Mohunga (Nagle Cove). This place was in fact named after the battle which was known as 'Nga Roro Mohunga'. They were then defeated in battles at Whangaparapara, Awana and Waitematuku which is located at the southern end of Oruawharo or Medlands Beach. Te Rangituangahuru and his force secured their final victories at Rangitawhiri tuturu (Shoal Bay) and Te Wharangi (Sandy Bay).

1.24. Remaining persons from the resident iwi were driven completely from Aotea.

Nga Hua o Te Raupatutanga

1.25. The aftermath of the conquest of Aotea, Te Rangituangahuru and his allies held Aotea by right of take raupatu. Soon after the conquest the allies of Te Rangituangahuru left Aotea and returned home to their kainga on the mainland. They were however to retain links with Ngāti Rehua and Aotea that were to be important in the subsequent history of the Island.

1.26. After the death of Rehua, his descendants, by both his first wife Hinurere of Ngātiwai and his second wife Waipahihi of the iwi that had formerly inhabited Aotea, took the tribal name of 'Ngāti Rehua'. In time, Ngāti Rehua developed their own identity on Aotea, although they retained and consolidated links with Ngāti Manuhiri of the Pakiri area; and in particular with Ngātiwai as the older tribal grouping of Ngāti Manaia had become known.

1.27. In the first generation after the conquest two hapū developed within Ngāti Rehua. They were Te Uri Whakapiko and Ngāti Kahu. Te Uri Papa hapū was to emerge several generations later, known as 'Okahuroa'.

1.28. 'Te Uri Whakapiko' was the name given to the descendants of Te Ikamimirua the child of Rehua and Waipahihi. This unusual name arose from events surrounding the death of Rehua on Rakitu Island. 'Ngāti Kahu' was the name applied to the descendants of Kahurangi the wife of Te Aonui the eldest child of Te Ikamimirua and Kahaerueru. The descendants of Te Rangituangahuru and Rangiarua were known simply as 'Ngāti Rehua'.

1.29. Ngāti Rehua grew in numbers, while retaining their own identity and mana. Ngāti Rehua settled in all parts of Aotea from Te Puehu and Rangiwakaaea in the north; to Rangitawhiri, Te Wharangi (Sandy Bay), and Waihi (Rosalie Bay) in the south and maintained a relationship with every part of the papatupu.

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Nga Kainga maha o Ngāti Rehua - Ngātiwai ki Aotea

"O tiaki ana au, i nga taima katoa, kei te motu, kei uta, me koe ano hoki"

*Taratara Te Mariri
1870 Rakitu investigation*

"Ko Aotea whakahirahira, ko Aotea taonga maha, ko Aotea utanga nui"

*Te Whetumarama McGregor
1995 Maori Land Court*

- 1.30. Ngāti Rehua - Ngātiwai ki Aotea traditionally had pā in the far north-west of Aotea and the stretch of coast known as Te Whakarae and numerous pā and kainga around Motairehe Whanga. On the west coast south of Motairehe Whanga, Ngāti Rehua - Ngātiwai ki Aotea occupied kainga and pā at Mohunga, Owhiti, Waikaraka, Te Kotuku, Rarohara, Akapoua, Kaiaraara, Kiwiriki, Wairahi and Oneura. They also occupied many islands in the area on a seasonal basis. The island of Kaikoura was occupied permanently. Here pā were maintained at Motukaraka, Kohatutitore and Pahaugahou.
- 1.31. To the south of Kaikoura seasonal kainga were occupied on the Kairaumati coastline at Oki ore, Parahake and Mangaiti. The island of Rangiahua was permanently occupied, and the resources of the surrounding motu were harvested seasonally for manu oi and korora.
- 1.32. Several kainga were occupied at Whangaparapara where our main pā was Pukerangiora. At Okupe, now incorrectly referred to as Okupu, a kainga known as Kawa was occupied at Blind Bay. The main Ngāti Rehua - Ngātiwai ki Aotea pā in this area was Te O a Kupe. It protected access to the obsidian sources of Te Ahumata, and also the Okupe-Kaitoke portage.
- 1.33. At Rangitawhiri (Tryphena), Ngāti Rehua - Ngātiwai ki Aotea maintained kainga and cultivations at Waikirikiri and Rangitawhiri tuturu, and pā including Putuwhera, Otaimanawa, Te Atamira, Taupakihi and Matarehu (Cape Barrier). To the south of Rangitawhiri our people had kainga at Te Wharangi (Sandy Bay) and Waihi (Rosalie Bay). On the eastern coastline of Aotea our tupuna had pā and kainga at Whangaiti, Oruawharo, Pitokuku, Kaitoke, Matahoroa, Otaihua, Awana, Matawhero, Harataonga, Whangawahia, Waipapa and Komahunga.
- 1.34. At Whangapoua kainga were maintained at Ohineuru, Orehua, Okiwi and Waikato. Pā occupied by our people in this area included: Te Tahawai, Kaikai, Whiritoa and Te Kawau at Raugiwhakaea. Ngāti Rehua - Ngātiwai ki Aotea also lived on the island of Rakitu occupying pā and kainga at Moturoa, Ngawhakauruuru, Te Pau, Puketoitoi and Pao Rehua.

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1: BACKGROUND

- 1.35. Te Hauturu o Toi, Little Barrier is likened in our traditions to a massive whai or stingray, as it stands guard over the seas that lie between Aotea and the lands of the Ngāti Manuhiri at Omaha and Pakiri. The many motu that lie in Te Moana nui o Toi are referred to as Nga Poito o te Kupeuga o Toi te huatahi - 'the floats of the fishing net of Toi te huatahi'. This ancient name is referred to in the waiata oriori that was recited by tupuna, Hone Puumare Paama, at the Hauturu investigation over a century ago.

Me piki taua ki te tihi

O Hauturu muia ao

ki nga poito o te kupenga

O Toi te huatahi.

E tama tangi kine e

E tama tangi kine e

E tama tangi kine e.

NEGOTIATIONS

- 1.36. Ngāti Rehua - Ngātiwai ki Aotea gave the mandated body (Ngāti Rehua - Ngātiwai ki Aotea Trust) a mandate to negotiate a deed of settlement with the Crown in September 2009 and submitted a deed of mandate to the Crown.
- 1.37. The Crown recognised the mandate on 16 December 2009.
- 1.38. The mandated negotiators and the Crown -
- 1.38.1. by terms of negotiation agreed in 2009, agreed the scope, objectives, and general procedures for the negotiations; and
 - 1.38.2. by agreement dated 18 June 2011, agreed, in principle, that Ngāti Rehua - Ngātiwai ki Aotea and the Crown were willing to enter into a deed of settlement on the basis set out in the agreement; and
 - 1.38.3. since the agreement in principle, have -
 - (a) had extensive negotiations conducted in good faith; and
 - (b) negotiated and initialled a deed of settlement.

RATIFICATION AND APPROVALS

- 1.39. Ngāti Rehua - Ngātiwai ki Aotea have, since the initialling of the deed of settlement, by a majority of -
- 1.39.1. [percentage]%, ratified this deed; and

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- 1.39.2. [percentage]%, approved its signing on their behalf by [the governance entity][a minimum of [number] of] the mandated signatories]; and
- 1.39.3. [percentage]%, approved the governance entity receiving the redress.
- 1.40. Each majority referred to in clause 1.39 is of valid votes cast in a ballot by eligible members of Ngāti Rehua - Ngātiwai ki Aotea.
- 1.41. The governance entity approved entering into, and complying with, this deed by [process (resolution of trustees etc)] on [date].
- 1.42. The Crown is satisfied -
 - 1.42.1. with the ratification and approvals of Ngāti Rehua - Ngātiwai ki Aotea referred to in clause 1.39; and
 - 1.42.2. with the governance entity's approval referred to in clause 1.41; and
 - 1.42.3. the governance entity is appropriate to receive the redress.

AGREEMENT

- 1.43. Therefore, the parties -
 - 1.43.1. in a spirit of co-operation and compromise wish to enter, in good faith, into this deed settling the historical claims; and
 - 1.43.2. agree and acknowledge as provided in this deed.

2 HISTORICAL ACCOUNT

- 2.1. The Crown's acknowledgement and apology to Ngāti Rehua - Ngātiwai ki Aotea in part 3 are based on this historical account.



DEED OF SETTLEMENT

2: HISTORICAL ACCOUNT

INTRODUCTION

- 2.2. In the early nineteenth century Ngāti Rehua - Ngātiwai ki Aotea occupied their papatupu at Aotea, Hauturu-o-Toi, and the Mokohinau Islands.
- 2.3. When Captain James Cook visited east coast of the North Island in 1769 he did not visit the rohe of Ngāti Rehua - Ngātiwai ki Aotea. However, it was Captain Cook who introduced the names 'Great Barrier' and 'Little Barrier', which have almost superseded the traditional names of these motu.
- 2.4. In 1796 the *Mermaid*, an American whaling ship, visited Aotea. From this time Ngāti Rehua - Ngātiwai ki Aotea came into increasing contact with Pākehā, their trade goods, and their epidemic diseases.

PRE-TREATY TRANSACTIONS

- 2.5. In 1838, Ngāti Rehua - Ngātiwai ki Aotea rangatira Tara Te Mariri (Rehua), Pakau (likely the tupuna Takaau), and Te Heru Matuku (Ranginui) were involved in a pre-Treaty transaction concerning lands on Aotea.
- 2.6. In a deed dated 20 March 1838 and signed at Coromandel Harbour, a settler and nineteen Māori entered into a land transaction for 'All that Island called Autea [sic] or Big Barrier' for goods valued at £1,140. According to a New Zealand Gazette notice, the 1838 deed was 'alleged to have been purchased from three hundred of the principal chiefs of the Thames'. At the time Aotea was estimated to be 20,000 acres, although a later survey showed it to be 71,800 acres. The settler was later found to have only paid £580.15.0 in goods and cash.
- 2.7. Of the nineteen Māori signatories to the deed, three were Ngāti Rehua - Ngātiwai ki Aotea and the remaining sixteen were of other iwi. The settler bought the land on Aotea on behalf of himself and two business partners in Australia. Ngāti Rehua - Ngātiwai ki Aotea maintain that the 1838 Aotea transaction was not a sale. Instead, they assert that the deed was for the settler's right to mine copper ore, harvest kauri, and live upon the land transacted for, while Ngāti Rehua - Ngātiwai ki Aotea continued to reside on the island.
- 2.8. Despite being named on the deed, Ngāti Rehua - Ngātiwai ki Aotea maintains that Te Marire later stated that he never signed a deed conveying any of the Aotea lands.
- 2.9. After the signing of te Tiriti o Waitangi, the validity of the 1838 transaction was considered by the Land Claims Commission.

TE TIRITI O WAITANGI

- 2.10. Ngāti Rehua - Ngātiwai ki Aotea were not signatories to te Tiriti o Waitangi. However, Ngāti Rehua - Ngātiwai ki Aotea came to understand the Crown's presence, position, and impact over time as the process of colonisation altered the relationship of Ngāti Rehua - Ngātiwai ki Aotea with their traditional whenua and taonga.
- 2.11. Ngāti Rehua - Ngātiwai ki Aotea tradition record that they utilised resources from around Aotea until the time that Crown-derived titles to land restricted them to a reserve in the north-west of Aotea at Katherine Bay. In 1840, as well as having settlements in the north of Aotea, Ngāti Rehua - Ngātiwai ki Aotea oral tradition records that they had settlements

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2: HISTORICAL ACCOUNT

THE LAND CLAIMS COMMISSION

- 2.14. The Treaty provided for Crown pre-emption over land purchasing in New Zealand. However, the Crown agreed to recognise pre-Treaty land purchases where it was satisfied that these purchases were valid. In 1841, the Crown issued an ordinance which established a Land Claims Commission to investigate pre-Treaty land transactions between Pākehā and Māori. If the Crown considered the land was validly purchased, it would make a grant of the land to the settler claimant. If the land the Crown considered to have been validly purchased was greater than the area the Crown was willing to grant to settlers, Crown policy was to retain the balance of the land in Crown ownership as 'surplus land' on the basis that the Crown considered the original transaction had extinguished Māori customary title.
- 2.15. The Crown's 'surplus land' policy has long been a source of grievance for Ngāti Rehua - Ngātiwai ki Aotea.

Aotea Northern, 1844

- 2.16. In May 1844, the Land Claims Commission investigated the pre-Treaty transaction concerning Aotea at Coromandel Harbour. It is unclear whether Māori residing on Aotea were notified of the hearings; Ngāti Rehua - Ngātiwai ki Aotea were not mentioned in the record of the proceedings. Some Māori from other iwi opposed the claim, indicating that their interests in the southern portion of Aotea had not been included in the transaction. In light of this opposition, the Pākehā claimants asserted that, while some unidentified Māori had made claims to the south-eastern part of Aotea, the 'northern end, upon which mining operations have been commenced, has never been contested'. The Commissioner found that the land claimed by the Pākehā comprised a substantial part of the island.
- 2.17. In June 1844, the Commission concluded that the settlers had legitimately purchased land in the northern third of Aotea: from Akatarere Point in the west, along the Wairahi River, up to Hirakimata - Mount Hobson - and then down to the sea at Whangapoua on the east coast. The Commissioner noted that the transaction excluded certain land belonging to a particular individual and 'all the cultivations and settlements of resident [Māori]'. The locations and extent of these cultivations and settlements were not defined in the Commissioner's report. Although it considered the claims to Aotea to be well-founded, the Commission recommended no award be made to these settlers as they had already received the statutory maximum of 2,560 acres allowed to individuals, imposed by the 1841 ordinance, through other claims made to land elsewhere in New Zealand.
- 2.18. After the conclusion of the first Commission, Governor Robert FitzRoy considered that some of the Pākehā claimants suffered 'extreme hardship' due to the statutory maximum award. FitzRoy also considered that the settlers' proposed mining operations on Aotea would be beneficial to the colony, and therefore proposed that larger areas ought to be awarded in certain circumstances. The original ordinance was amended by the Land Claims Amendment Ordinance 1844, which vested the power to consider land claims in a new single Land Claims Commissioner. Governor Fitzroy directed the second Commission to reassess the Aotea pre-Treaty transaction and recommended the extension of a grant. Later, in 1844, the Commission recommended the Pākehā claimants be awarded a grant totalling 24,269 acres in the northern third of the island, within the boundaries originally defined in the first inquiry into the claim.
- 2.19. The Crown did not assess the amount of land retained by Ngāti Rehua - Ngātiwai ki Aotea following the recommendations of the Commission and before issuing the grant.

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2: HISTORICAL ACCOUNT

In 1850, Tara Te Mariri resisted efforts to survey this award, disputing the extent of the grant.

PRE-EMPTION WAIVER PURCHASES

- 2.20. Between 1844 and 1845 the Crown in many instances waived its Treaty-right to pre-emptive purchasing to allow settlers to purchase land directly from Māori. On 26 March 1844, the Crown committed to have ten per cent of the land (or 'tenths') from each sale conveyed by the purchaser to the Crown to use for public purposes, especially for the future benefit of all Māori.
- 2.21. The Crown required that purchases conducted under pre-emption waivers were subsequently investigated by the Land Claims Commission, and, as with pre-Treaty transactions, the Crown retained any 'surplus' land it found to have been validly purchased, but not awarded to claimants.

Aotea Central, 1844

- 2.22. In November 1844, the Crown issued a pre-emption waiver certificate to a settler which allowed him to purchase 1,500 acres on Aotea. In the same month, the Chief Protector of Aborigines concluded that the named vendors seemed to be the 'right owners of the land applied for' and therefore did not object to the transaction proceeding. In December 1844, the Crown issued a pre-emption waiver certificate to another settler which authorised him to purchase 2,000 acres on Aotea. On 12 December 1844, the settlers together attempted to purchase an area of land of unspecified acreage in central Aotea.
- 2.23. This land was purchased by a deed signed in 1844 without Ngāti Rehua - Ngātiwai ki Aotea consent. Ngāti Rehua - Ngātiwai ki Aotea assert that none of their people actually resident on Aotea were consulted about this transaction. Of the signatories to the deed, only one was Ngāti Rehua - Ngātiwai ki Aotea. The remainder of the signatories were of other iwi.
- 2.24. In 1871, although he did not sign the deed, and Ngāti Rehua - Ngātiwai ki Aotea state that he was not aware of the transaction at the time it occurred, Tara Te Mariri stated that he received one hundred pounds sterling from the proceeds of the transaction.
- 2.25. In 1845, the Crown ceased issuing pre-emption waiver certificates and the Land Claims Commission was directed to investigate the pre-emption waiver transactions. In November 1846, the Crown issued an ordinance which reneged on its commitment to reserve tenths.
- 2.26. In 1848, the Land Claims Commissioner, who initially investigated the 1844 Aotea transaction, rejected the settlers' claims as they had failed to submit their claim details and a survey of the land transacted within the stipulated time period.
- 2.27. In 1861, a Land Claims Commissioner re-examined the two pre-emption waiver claims to land in central Aotea under the Land Claims Settlement Act 1856. Although the original pre-emption waiver applications and certificates referred to two blocks of 1,500 acres and 2,000 acres respectively, an 1861 survey revealed the land claimed by the two settlers contained 28,608 acres. The Commissioner found that, within the claimed area, two blocks totalling 6,763 acres had been purchased by the Crown in the intervening period between the issue of the waiver and the investigation in 1861 (discussed below). Of the remaining land, one of the settlers was granted 1,000 acres in 1864, while the

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other settler received three grants totalling 5,463 acres. The Crown retained the remaining 15,382 acres as surplus land.

- 2.28. The retention of this 15,382 acres of Aotea land, which remains in Crown ownership, has long been a source of grievance for Ngāti Rehua - Ngātiwai ki Aotea, who consider the surplus land taking ignored the legitimate interests of resident Ngāti Rehua - Ngātiwai ki Aotea people. The Crown did not require ten percent of the land involved in this transaction to be conveyed to the Crown, and it did not assess the adequacy of lands remaining in Ngāti Rehua - Ngātiwai ki Aotea possession.
- 2.29. Ngāti Rehua - Ngātiwai ki Aotea tradition records that these surplus lands included Te Ahumata, an area of deep spiritual, cultural and historical significance to Ngāti Rehua - Ngātiwai ki Aotea, containing the Kaitoke Hot Springs and the Wai Te Puia thermal mineral pools, as well as pā sites, wāhi tapu and urupā. The alienation from these lands had a detrimental impact on Ngāti Rehua - Ngātiwai ki Aotea customary practices including traditional ways of gathering kai.
- 2.30. In 1948, a Royal Commission investigating surplus lands recommended that the former Māori owners of surplus land on Aotea be compensated by the Crown. In 1953, the Crown paid £4,735.10.0 compensation to two iwi for the purported loss of the lands. Although one of the iwi recipients of this money was related to Ngāti Rehua - Ngātiwai ki Aotea, Ngāti Rehua - Ngātiwai ki Aotea were not involved in the distribution of these monies, and this became a source of longstanding and ongoing tension with the related iwi.

Mokohinau Islands

- 2.31. The Mokohinau Islands are situated north-north-east of Aotea. The island group is comprised of four larger islands - Pokohinu (Burgess Island), Motukino (Fanal Island), Hokoromea, and Atihau - as well as many smaller islands, islets, and rock outcrops.
- 2.32. Ngāti Rehua - Ngātiwai ki Aotea tradition records that they historically exercised ahi kā and they have upheld their tikanga and customary rights to gather manu ōi (mutton birds) on the Mokohinau Islands. They continue these practices to the present day.
- 2.33. In a deed dated 10 February 1845, a settler entered into a pre-emption waiver transaction with an iwi other than Ngāti Rehua - Ngātiwai ki Aotea for the purchase of the 'Pokohinu or Fanals'. The Mokohinau lands alienated by this transaction included Ngāti Rehua - Ngātiwai ki Aotea urupā. No reserves were set aside and no tenths were conveyed to the Crown. The exact extent of what land was subject to the transaction remains unclear, although later events suggest the Crown thought it covered all of the Mokohinau lands.
- 2.34. In 1848, the Land Claims Commissioner initially investigating the settler's claim over Mokohinau lands refused to recommend any grants as he considered the extinction of 'native title' was incomplete. A subsequent claim was also disallowed because certain Māori disputed that their interests had been acquired by the purchaser. By this time the original purchaser claimant had transferred his interests to another settler, who the Commissioner directed to secure outstanding interests in the lands before seeking a recommendation for a grant.
- 2.35. On 30 August 1864 the settler who had bought the original purchaser's interests on the Mokohinau islands was granted 207 acres in those islands after a Land Claims Commission that year recommended that native title had been extinguished.

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- 2.36. In September 1882, the Mokohinau Islands were put up for auction. The Crown purchased the lands at auction from the private vendor. There was no assessment of Ngāti Rehua - Ngātiwai ki Aotea rights prior to the Crown's acquisition of the land.
- 2.37. In April 1883, the Mokohinau Islands were gazetted under the Public Reserves Act 1881 as reserved for lighthouse purposes. Even though a lighthouse was constructed at Pokohinu (Burgess Island) in 1882-1883 Ngāti Rehua - Ngātiwai ki Aotea continued to harvest mutton birds annually from Motukino (Fanal Island) in early summer. The Pokohinu Lighthouse visitors' book shows that Ngāti Rehua - Ngātiwai ki Aotea continued visiting the islands from 1885 until at least 1909. In 1923 the Crown gazetted Motukino as a wildlife reserve.
- 2.38. In October 1924, Mita Wepiha and Hone Paama petitioned the Crown stating that the original sale of 1844 was invalid and asking that Motukino be re-vested in Ngāti Rehua - Ngātiwai ki Aotea. The petition, which applied only to the island of Motukino, stated:
- "We have an ancestral right to it being owned principally by our ancestors. They lived on the land, had cultivated there and mutton birds being one of their principal food[s] at that time, and we their children still go there for them."*
- 2.39. In 1925, the Crown ordered an inquiry into the sale of the land under the Native Land Amendment and Native Land Claims Adjustment Act 1925. The Court's report was confined to Motukino Island rather than to the group of islands as a whole. The Court found that that the island had always been used by Māori from Aotea for catching birds and cultivating crops and that the Māori properly entitled to ownership of the island had never signed the deed of sale to the settler. However, the Court went on to comment that it considered the island was not 'of any great material or sentimental value' to the former owners and did not recommend its return, although it did recommend that Māori from Aotea continue to be allowed to use it for seasonal bird-catching and fishing. On the basis of the Court's recommendation of 1929, Ngāti Rehua - Ngātiwai ki Aotea have continued to harvest mutton birds on Motukino.
- 2.40. In 1941, the Crown gazetted the Mokohinau Islands a prohibited area under the Defence Emergency Regulations Act 1939. In 1958, the Crown declared Motukino to be a wildlife refuge under section 14 of the Wildlife Act 1953. In 1961, the Crown gazetted the Mokohinau Islands (excepting Pokohinu, which had the lighthouse and was administered by maritime authorities) a wildlife refuge subject to the rights of 'members of the Aotea Tribe' under permits to be able to catch mutton birds.
- 2.41. The lighthouse on Pokohinu was automated in 1980. In March 1981, the Crown proposed that a large part of Pokohinu be declared surplus to need and made a reserve under the Reserves Act 1977. The land was not offered back to Ngāti Rehua - Ngātiwai ki Aotea at this time. The Mokohinau Islands are now part of the Hauraki Gulf Maritime Park and are administered by the Department of Conservation. Ngāti Rehua - Ngātiwai ki Aotea still have the right to catch mutton birds on these islands. Pokohinu is the only one of the Mokohinau Islands which has public access. The other islands are nature reserves and protected wildlife sanctuaries, and landing is only allowed with a permit granted by the Department of Conservation.

The Poor Knights (Tawhiti Rahi) and 'Fanal and Chickens' Islands

- 2.42. Ngāti Rehua - Ngātiwai ki Aotea tradition records that these islands had been used for seasonal food gathering, as a stop-off during transit to the mainland, and as a place of refuge by their people in particular times of inter-tribal warfare. These islands were

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purportedly purchased by a settler under the same pre-emption waiver purchase as the Mokohinau islands in 1845. Ngāti Rehua - Ngātiwai ki Aotea were not party to the transaction, and their interests were not initially considered.

- 2.43. In 1864 an official interpreter testified that there were still claimants whose interests had not been addressed in any of the previous settler and Crown transactions. Giving evidence before the Land Claims Court during an enquiry into the 'Poor Knights - Fanal & Chickens' islands, the interpreter referred specifically to Te Mariri and Taiawa as the 'principal men' on Aotea retaining an interest in the islands, and considered their claims could be settled through the payment of £10.

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KATHERINE BAY NATIVE RESERVE

- 2.44. On 17 September 1853, the Crown set aside 3,510 acres as a 'native reserve' for 'Te Maire' at Motairehe (Katherine Bay), comprised of 'surplus land' from the 1838 pre-Treaty transaction on Aotea. It is likely that 'Te Maire' was Te Mariri; the Ngāti Rehua - Ngātiwai ki Aotea rangatira who signed the 1838 deed. This was the only reserve for Māori established on Aotea. The Katherine Bay Native Reserve makes up less than five per cent of the total land area of Aotea. Ngāti Rehua - Ngātiwai ki Aotea were marginalised and dispossessed by their confinement to the reserve, formerly having had more extensive rights across Aotea.
- 2.45. Ngāti Rehua - Ngātiwai ki Aotea also dispute the boundaries of the Katherine Bay Native Reserve, and assert that the reserve should include Totarawhakaanga, located between Tataweka and Te Ahuriri. Totarawhakaanga was included by Tara Te Mariri in his 1853 kōrero describing the reserve boundaries following what was perceived as an attempt by settlers to encroach upon Ngāti Rehua - Ngātiwai ki Aotea land.

CROWN PURCHASING, 1854-1856

- 2.46. Following the retention of surplus lands, and the creation of the Katherine Bay reserve, the Crown attempted to acquire the remaining Māori interests in Aotea. The process of acquiring what the Crown perceived as modest unextinguished Māori interests on Aotea began in the mid-1850s. In the 1850s, the Crown purchased Māori land at a low price and sold it to settlers at a much higher price. Colonial expansion and development was to be funded by the substantial difference between the price the Crown paid for Māori land and the price for which the Crown then on-sold it to settlers.

Rangitawhiri Block, 1854

- 2.47. On 26 August 1854, the Crown purchased the Rangitawhiri block in the rohe of Ngāti Rehua - Ngātiwai ki Aotea on Aotea. The transaction involved approximately 15,000 acres for which the Crown paid £220 to ten Māori who were not Ngāti Rehua - Ngātiwai ki Aotea and were not resident on Aotea. The deed described the boundary of the block as commencing at Tokakuku on the east coast of Aotea and running through Tokakuku Stream to Te Wharau, from there to Te Karamu and on the summit of Te Ahumata, descending to Raihoa on the west coast and then following the coastline until it reached Tokakuku. However, a later map of Aotea shows the Rangitawhiri block as comprising of all the land south of the boundary running in a straight line from Raihoa on the west coast to the northern end of Oruawharo Bay on the east coast.
- 2.48. The purchase deed acknowledged that the Crown payment was intended to cover outstanding payments for the pre-Treaty transaction in the north of Aotea, as well as the purchase of additional land over which customary title had not yet been extinguished. In 1857 the Governor issued a proclamation declaring that Māori title to the Rangitawhiri block was extinguished. Although Ngāti Rehua - Ngātiwai ki Aotea had customary interests in this area, their interests were not considered before the Crown finalised the purchase from another iwi.
- 2.49. Ngāti Rehua - Ngātiwai ki Aotea assert and maintain that those who sold the Rangitawhiri block to the Crown did not have the right to do so.

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Harataonga Triangle, 1856

- 2.50. The Crown purported to extinguish the last remaining Māori interests on Aotea, outside of the Katherine Bay Native Reserve through, a deed dated 27 December 1856 for an area traditionally known as Harataonga. The Crown paid £300 to another iwi for the land. Only one signee had any affiliations with Ngāti Rehua - Ngātiwai ki Aotea.
- 2.51. Ngāti Rehua - Ngātiwai ki Aotea assert that they were not consulted about this sale, which was made by members of other iwi who were not resident on Aotea. Ngāti Rehua - Ngātiwai ki Aotea assert and maintain that those who sold the Harataonga land to the Crown did not have the right to do so. Although Ngāti Rehua - Ngātiwai ki Aotea had interests in this area, their interests were not considered before the Crown finalised the purchase from another iwi.
- 2.52. By the end of 1864 all of the rohe of Ngāti Rehua - Ngātiwai ki Aotea, with the exception of Katherine Bay, Hauturu-o-Toi and a few small islands, had been permanently alienated.
- 2.53. From the at least the 1860s through to the 1990s, Te Mariri, Hone Paama and various descendants of Ngāti Rehua - Ngātiwai ki Aotea have raised claims about Ngāti Rehua - Ngātiwai ki Aotea interests within the areas of pre-Treaty transaction, pre-emption waiver purchases and Crown purchases.

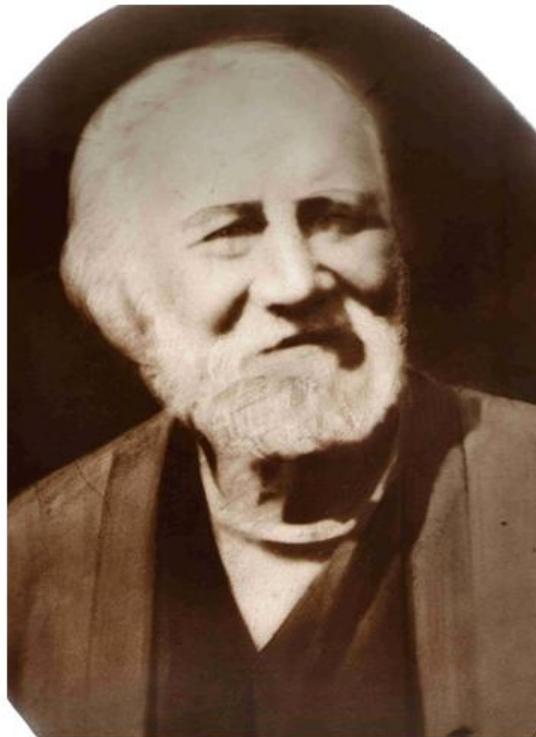


Figure 3: Hone Puumare Paama, 1871, Rakitu. Courtesy of the Hone Papita Paama whanau.

THE NATIVE LAND COURT

- 2.54. The Crown established the Native Land Court under the Native Lands Acts of 1862 and 1865. The role of the Court included facilitating the opening up of Māori customary lands to Pākehā settlement, and providing a means by which disputes over the ownership of land could be settled. The preamble to the 1865 Act described one of the principle

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purposes of the legislation as being 'to encourage the extinction of [Māori] propriety customs'.

- 2.55. The Acts which established the Native Land Court set aside the Crown's Article Two Treaty-right of pre-emption. Once title had been awarded, individual Māori listed in the title could alienate interests in the land by lease or sale to private parties or the Crown.
- 2.56. Any Māori individual could initiate a title investigation by submitting an application to the Native Land Court. When the Court heard an application, all of those with customary interests in the land under consideration needed to participate in the hearing if they wished to be included in the Crown-derived title, regardless of whether they wanted a Crown title or not.
- 2.57. Customary land tenure was complex and facilitated multiple forms of land-use through shared relationships with the land. Under customary Māori title, land was held communally. The new land laws required those rights to be fixed within a surveyed boundary, and Crown-derived title to lands did not necessarily record all those with a customary interest in the land.

Rakitu

- 2.58. Rakitu (Arid Island) is a 682-acre island off the north-east coast of Aotea. Rakitu was home to the eponymous tupuna Rehua and is an island of deep spiritual and cultural significance to Ngāti Rehua - Ngātiwai ki Aotea.
- 2.59. In December 1870, Tara Te Mariri, Hone Paama and Raihi Miraka felt compelled to stop surveyors from surveying the island and applied to the Native Land Court for title to Rakitu. In January 1871, the Court awarded title of Rakitu to Hone Paama, Wiremu Turipona, and Raihi Miraka of Ngāti Rehua - Ngātiwai ki Aotea. Survey costs of £46 and 19 shillings were charged against the award.

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Figure 4: Raihi Miraka Ngawaka 1926 Motairehe. Courtesy of the Ngāti Rehua - Ngātiwai ki Aotea Trust Board"

- 2.60. A dispute arose over the cost of the surveying Rakitu and the Katherine Bay Native Reserve, as was required by the Crown. A Pākehā surveyor told Te Mariri and Hone Paama 'if you do not survey your lands it will all be taken away by the Government'. The rangatira replied that they could not afford survey costs, to which the surveyor told them 'we are not in a hurry for payment'. In 1871 Te Mariri and Hone Paama received summons to the Supreme Court over outstanding survey costs. In 1881 Ngāti Rehua - Ngātiwai ki Aotea sold Rakitu. Ngāti Rehua - Ngātiwai ki Aotea oral tradition records that Rakitu had to be sold because of the burdensome surveying costs Ngāti Rehua - Ngātiwai ki Aotea had incurred in relation to various lands within their rohe.

Aotea - Harataonga

- 2.61. On 10 January 1871, Ngāti Rehua - Ngātiwai ki Aotea applied to the Native Land Court to have the title of the Harataonga block investigated. The Crown applied to have the case dismissed on the grounds that the Crown considered it had already purchased the land. The Court dismissed the case after the Crown presented evidence that Māori title to Harataonga had been extinguished.

Hauturu-o-Toi (Little Barrier Island)

- 2.62. Between 1878 and 1886 the Native Land Court held a number of protracted hearings with the purpose of determining title to the 6,960 acre Hauturu-o-Toi. Arguments over

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ownership of the land, and the ability to alienate it dated back to the early 1860s, and there were many hearings, and re-hearings to determine ownership. Ngāti Rehua - Ngātiwai ki Aotea assert that these long and repeated hearings encumbered them with significant debts.

- 2.63. During the prolonged title-determination process, amid attempts by another iwi to sell Hauturu-o-Toi to the Crown, Ngāti Rehua - Ngātiwai ki Aotea wrote to the Crown asking it not to buy the island. The first application to the Native Land Court for title to Hauturu-o-Toi for which documentary evidence survives (there may have been earlier applications) was made in May 1878. More applications were subsequently filed in January, April, November 1879, January 1880 and February 1884. After parliamentary intervention, a final hearing took place from 5-15 October 1886.
- 2.64. Negotiations for the Crown purchase of the island began around 1881, after an initial award by the Native Land Court to owners who were not Ngāti Rehua - Ngātiwai ki Aotea. The Crown considered that the island would be a good location for defence fortifications, and shortly thereafter that it would be an ideal location for a bird sanctuary. On 28 July 1881, the Crown gazetted a formal notice of the Crown Proclamation that it was negotiating interests in the land under the Government Native Land Purchases Act 1877. This meant that all forms of private alienation of the land were prohibited.
- 2.65. The purchase negotiations between the Crown and Māori were delayed by a series of disputes and applications for re-hearings of the title determination in the Native Land Court, and disputes between some of the owners and the Crown. In 1886, the Native Land Court ruled that members of Ngāti Rehua - Ngātiwai ki Aotea and another iwi were the owners of Hauturu-o-Toi. The Crown did not re-enter negotiations for purchase of the island until the late 1880s.
- 2.66. In 1891, the Crown signed a formal agreement with Tenetahi, Kino Rewiti and Wi Taiawa, three owners who belonged to Ngāti Rehua - Ngātiwai ki Aotea and another related iwi, agreeing to purchase Hauturu-o-Toi for £3,000 conditional upon the agreement of all owners, until which point no money would be paid. The agreement of all owners was not secured as disputes between officials and the owners continued over various issues. In October 1891, the Crown cancelled the agreement on the basis that the terms were not fulfilled, and retracted the offer.
- 2.67. The cancellation of the 1891 agreement prompted one of the owners, Tenetahi, to sign a contract with a timber trader for the removal of kauri from Hauturu-o-Toi in April 1892. On 27 October 1892, the Crown replaced the former notification of their intention to purchase with a notice under the Native Land Purchases Act 1892. In response to Tenetahi's attempts to undertake commercial tree-felling on the island, the Crown published a warning against tree felling and a trespass order. The Crown based the order on sections 16 and 18 of the Native Land Purchases Act 1892, which secured the Crown exclusive rights to negotiate the purchase of the land and the power to remove trespassers.

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Figure 5: Tenetahi Te Riringa, 1896, Hauturu-o-Toi. Courtesy of the Mook Hohneck whanau.

- 2.68. In late 1892, when Tenetahi began tree-felling on his own, the Crown filed an injunction with the Supreme Court against this action on the basis that felling should not be undertaken until the relative shares of the various owners had been determined by the Native Land Court. At this time the Crown also posted a ranger on the island to enforce the injunction and protect the flora and fauna, even though it had not yet acquired ownership of the island.
- 2.69. In 1893, the Crown reinstated the 1891 agreement, continued to collect owner signatures, and began to pay individual owners for their interests (although this was contrary to the terms of the original agreement which required consensus amongst owners before payment). Tenetahi, and possibly others who had signed the original agreement, opposed the sale at this time, and considered the 1891 agreement had been repudiated by the Crown.
- 2.70. The Crown purchased undivided shares rather than specific portions of land. Nevertheless, by 1893, the Crown noted (in a schedule of lands purchased, leased or under negotiation) that it had purchased 4,524 acres on Hauturu-o-Toi between 1 April 1892 and 31 March 1893.

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- 2.71. That same year Tenetahi petitioned the Crown seeking either the separation of his interests in the island from those already purchased by the Crown, so he could remain on the island and sell timber, or that adequate compensation be paid for his 'share and interest' in Hauturu-o-Toi; he considered the Crown offer too low given the value of timber on the land. Although Tenetahi, Kino Rewiti, and Wi Taiawa continued to oppose sale, their original signatures from the 1891 agreement were used as proof that they had agreed to sell their interests.
- 2.72. All the owners except Rahui Te Kiri and Ngapeka signed the agreement, although some of these 'signatories' continued to oppose the sale. The Crown, under mounting pressure by conservationists to acquire the land from Māori, promoted the Little Barrier Island Purchase Act which was passed by Parliament in 1894. This Act forced the completion of the sale on the terms originally agreed in 1891 - even though this agreement had been cancelled by the Crown. The owners who had signed the original agreement were forced by the legislation to sell all of their interests in the island to the Crown for a proportionate share of £3,000 to be paid to the Public Trust. The two owners who had never signed the agreement were also forced to sell their interests under the legislation and have the value of their interests determined in the same way as determinations of compensation for the taking of lands for public works.
- 2.73. In May 1895, the Surveyor-General instructed the Commissioner of Crown Lands to notify Māori on Hauturu-o-Toi that they had to vacate the island and, in September 1895, the Crown gazetted Hauturu-o-Toi a nature reserve under Crown ownership.
- 2.74. Tenetahi and his whānau remained in residence upon Hauturu-o-Toi and did not withdraw their share of the purchase money which the Crown had paid to the Public Trustee. On 17 June 1895, the Crown issued a notice requesting the removal of all persons from Hauturu-o-Toi before 31 July 1895 under threat of prosecution. Tenetahi refused, explaining that he did not consider the purchase to have been completed, and that neither he nor his wife had sold their shares in the island. A Crown agent replied that Tenetahi's shares had been compulsorily acquired. On 20 January 1896, a bailiff and soldiers took formal possession of Hauturu-o-Toi, forcibly removing the remaining inhabitants, including Tenetahi and his whānau.
- 2.75. In March 1896, when Tenetahi and three other Māori had returned to Hauturu-o-Toi to protect cultivations and remove livestock left on the island, the Crown dispatched a second military force in to arrest them. The defendants were briefly imprisoned but all charges against them were dismissed after the judge found that they had been instructed by Hauturu-o-Toi's caretaker to remove the animals.
- 2.76. In 1910, Tenetahi sent the Crown a petition regarding Hauturu-o-Toi. He sought compensation for his land on Hauturu-o-Toi, stock and cultivations he claimed the Crown had taken on the island, his evictions from Hauturu-o-Toi and the 'expense and suffering' he had had undergone. The Native Affairs Committee recommended the petition for consideration.
- 2.77. In June 1911, having exhausted all options to get his land on Hauturu returned, Tenetahi accepted £500 compensation from the Crown in settlement of all his claims against it, as outlined in Tenetahi's 1910 petition.
- 2.78. In December 1911, Rahui Te Kiri requested that the Public Trust arrange payment of £158.10.0, which was her share of the Hauturu-o-Toi purchase funds held by the Public Trust. In January 1912, Rahui Te Kiri's daughter, Ngapeka Tenetahi, also requested that the Public Trust pay her share of the Hauturu-o-Toi purchase money.

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SOCIO-ECONOMIC CIRCUMSTANCES AND TE REO MĀORI

- 2.79. By 1894, Ngāti Rehua - Ngātiwai ki Aotea were virtually landless. The loss of approximately 74,000 acres of land, which represents approximately ninety-five per cent of the traditional Ngāti Rehua - Ngātiwai ki Aotea rohe, eroded the spiritual, cultural and economic wellbeing of Ngāti Rehua - Ngātiwai ki Aotea.
- 2.80. The loss of Ngāti Rehua - Ngātiwai ki Aotea lands and resources has had serious emotional, social, and economic impacts on the Ngāti Rehua - Ngātiwai ki Aotea people. The rangatiratanga, kaitiakitanga, manaakitanga, and kotahitanga of Ngāti Rehua - Ngātiwai ki Aotea has been greatly diminished by the alienation of their lands and natural resources. The loss of lands and resources by Ngāti Rehua - Ngātiwai ki Aotea has contributed to economic deprivation and the migration of many Ngāti Rehua - Ngātiwai ki Aotea individuals and whānau from their rohe.
- 2.81. Migrations from Aotea to the mainland, particularly during the late 1800s and early 1900s, led to the fragmentation of Ngāti Rehua - Ngātiwai ki Aotea which led to the loss of traditional knowledge and customs, loss of relationships and ties with one another, loss of connection to Aotea and loss of identity.
- 2.82. Prior to 1840 Ngāti Rehua - Ngātiwai ki Aotea spoke te reo Māori. At the end of the nineteenth century, many Māori were bilingual, but most spoke te reo Māori as their primary means of communication.
- 2.83. The Crown perceived the education system in part as a means of assimilating Ngāti Rehua - Ngātiwai ki Aotea and other Māori children into Pākehā culture. Ngāti Rehua - Ngātiwai ki Aotea children were discouraged from speaking their own language in Crown-run schools for decades.
- 2.84. Schooling became compulsory for Māori in 1894. The first public school in the north of Aotea opened in 1909 at Katherine Bay. Through the 20th century secondary education became more common and desirable. However, with no secondary school on Aotea, Ngāti Rehua - Ngātiwai ki Aotea parents have faced the emotional and financial difficulty of having to send their tamariki to the mainland for Pākehā education.
- 2.85. By 1975, five per cent of Māori children could kōrero Māori. Crown education policies, along with the fragmentation of traditional tribal structures and migration from ancestral lands, contributed to the decline of te reo Māori within Ngāti Rehua - Ngātiwai ki Aotea. The decline of Ngāti Rehua - Ngātiwai ki Aotea iwi structures and the loss of te reo Māori contributed to a loss of Ngāti Rehua - Ngātiwai ki Aotea mātauranga Māori.
- 2.86. In the twentieth century, Ngāti Rehua - Ngātiwai ki Aotea, like other Māori, generally experienced poorer health, including lower life expectancy and higher infant mortality rates, than Pākehā.
- 2.87. Ngāti Rehua - Ngātiwai ki Aotea have also experienced higher unemployment and lower mean annual income rates than the general Aotearoa/New Zealand population during the twentieth century.

3 ACKNOWLEDGEMENT AND APOLOGY

ACKNOWLEDGEMENT

- 3.1. The Crown acknowledges that, before granting more than 24,000 acres on Aotea to settlers as a result of a pre-Treaty land transaction, it -
- 3.1.1. failed to adequately consider the customary rights and interests of Ngāti Rehua - Ngātiwai ki Aotea in these lands; and
 - 3.1.2. failed to assess the impact of the alienation of these lands on Ngāti Rehua - Ngātiwai ki Aotea; and
 - 3.1.3. failed to survey these lands.

The Crown acknowledges that these failures breached te Tiriti o Waitangi/the Treaty of Waitangi and its principles.

- 3.2. The Crown acknowledges that when considering pre-emption waiver purchases made by settlers on central Aotea land and the Mokohinau islands, it -
- 3.2.1. failed to adequately consider the interests of Ngāti Rehua - Ngātiwai ki Aotea before approving these transactions; and
 - 3.2.2. applied a policy of taking surplus lands from the transactions on Aotea without assessing the adequacy of lands that Ngāti Rehua - Ngātiwai ki Aotea held; and
 - 3.2.3. did not return Motukino island to Ngāti Rehua - Ngātiwai ki Aotea after 1928 despite the Crown knowing that they had interests on the island and had not been parties to its sale and continued to make customary use of the island.

These acts and omissions of the Crown each constitute a breach of te Tiriti o Waitangi/Treaty of Waitangi and its principles.

- 3.3. The Crown acknowledges that when it granted lands in central Aotea to two settlers, as a result of pre-emption waiver transactions, it failed to honour its previous commitment to reserve one tenth of the purchased land for public purposes, especially for the future benefit of Māori including Ngāti Rehua - Ngātiwai ki Aotea, and this was a breach of the te Tiriti o Waitangi/Treaty of Waitangi and its principles.
- 3.4. The Crown acknowledges that it purchased land on Aotea in 1854 and 1856 without adequately investigating Ngāti Rehua - Ngātiwai ki Aotea's customary interests. The Crown further acknowledges that, despite being aware of the interests of Ngāti Rehua - Ngātiwai ki Aotea by 1871, the Crown failed to reconsider its purchase, or to pay compensation for the loss of land. These failures to actively protect Ngāti Rehua - Ngātiwai ki Aotea interests in their land breached te Tiriti o Waitangi/the Treaty of Waitangi and its principles.
- 3.5. The Crown acknowledges that the cumulative effect of its acts and omissions, including the approval of pre-Treaty and pre-emption waiver transactions, and Crown purchases, left Ngāti Rehua - Ngātiwai ki Aotea virtually landless by 1894. The Crown's failure to

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3: ACKNOWLEDGEMENT AND APOLOGY

ensure that Ngāti Rehua - Ngātiwai ki Aotea retained sufficient land for their present and future needs was a breach of te Tiriti o Waitangi/the Treaty of Waitangi and its principles.

- 3.6. The Crown further acknowledges that its failure to ensure Ngāti Rehua - Ngātiwai ki Aotea retained sufficient lands for their needs contributed to the hindrance of their economic, social, and cultural development. This inhibited Ngāti Rehua - Ngātiwai ki Aotea's ability to manage some of their taonga and wahi tapu, maintain spiritual connections with certain lands, and fulfil traditional kaitiaki responsibilities and manākitanga within their traditional rohe, and this has long been a source of grievance for Ngāti Rehua - Ngātiwai ki Aotea.
- 3.7. The Crown acknowledges that -
 - 3.7.1. it introduced the native land laws without consulting Ngāti Rehua - Ngātiwai ki Aotea; and
 - 3.7.2. the individualisation of title imposed by the native land laws was inconsistent with Ngāti Rehua - Ngātiwai ki Aotea tikanga; and
 - 3.7.3. Native Land Court Hearings imposed a considerable inconvenience on Ngāti Rehua - Ngātiwai ki Aotea as Ngāti Rehua - Ngātiwai ki Aotea was always required to travel to the mainland whenever it needed to protect its interests in land; and
 - 3.7.4. the operation and impact of the native land laws, in particular the awarding of land titles to individual Ngāti Rehua - Ngātiwai ki Aotea rather than to the iwi or hapū, made those lands more susceptible to partition, fragmentation and alienation. This contributed to the erosion of the traditional tribal structures of Ngāti Rehua - Ngātiwai ki Aotea. The Crown failed to take adequate steps to protect those structures and this was a breach of te Tiriti o Waitangi/the Treaty of Waitangi and its principles.
- 3.8. The Crown acknowledges that in acquiring Te Hauturu-o-Toi / Little Barrier Island it -
 - 3.8.1. used monopoly powers to prevent the owners from generating revenue from the timber on their land and to prevent private purchasers from competing against the Crown for the purchase of the land and resources; and
 - 3.8.2. broke an 1891 agreement to negotiate a consensus decision amongst owners to sell the land, and instead purchased shares from individual owners; and
 - 3.8.3. promoted special legislation, the Little Barrier Island Purchase Act 1894, and used it to compulsorily acquire the shares of those individuals who refused to sell; and
 - 3.8.4. showed blatant disregard for those Ngāti Rehua - Ngātiwai ki Aotea resident on the island, including persons who had refused to accept compensation for their shares taken under the Act, by forcibly evicting them in 1896.

The Crown acknowledges that it acted in an unreasonable and unfair manner to secure the ownership of Te Hauturu-o-Toi / Little Barrier Island and this conduct was in breach of te Tiriti o Waitangi/the Treaty of Waitangi and its principles.

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3.9. The Crown also acknowledges -

3.9.1. the title investigation process for Te Hauturu-o-Toi / Little Barrier Island damaged relationships within Ngāti Rehua - Ngātiwai ki Aotea and between them and their tribal neighbours; and

3.9.2. the loss of ownership of, and access to, Te Hauturu-o-Toi / Little Barrier Island has remained a source of ongoing grievance and sorrow for Ngāti Rehua - Ngātiwai ki Aotea.

3.10. The Crown acknowledges that Ngāti Rehua - Ngātiwai ki Aotea formerly enjoyed residence across Aotea, but by the end of the nineteenth century were confined to a reserve at Katherine Bay in north-west Aotea. The Crown further acknowledges the importance of Aotea to Ngāti Rehua - Ngātiwai ki Aotea's mana and identity, and the deep cultural impact felt by the loss of access to this land.

3.11. The Crown acknowledges the harm endured by many Ngāti Rehua - Ngātiwai ki Aotea tamariki from decades of Crown policies that strongly discouraged the use of Te Reo Māori in schools. The Crown also acknowledges the detrimental effects of these policies on Māori language proficiency and fluency, and the impact on the inter-generational transmission of te Reo Māori and knowledge of mātauranga Māori practices.

APOLOGY

3.12. The Crown makes the following sincere apology to Ngāti Rehua - Ngātiwai ki Aotea, to your tūpuna, and to your mokopuna

3.13. The Crown is deeply sorry for failing to adequately recognise Ngāti Rehua - Ngātiwai ki Aotea rights to land and resources on Aotea/Great Barrier Island and its surrounding islands. The Crown apologises for its past failures to acknowledge the rangatiratanga and mana of Ngāti Rehua - Ngātiwai ki Aotea. The cumulative effect of the Crown's actions left Ngāti Rehua - Ngātiwai ki Aotea virtually landless and confined them to a small parcel of land of marginal quality. The Crown profoundly regrets that its actions and omissions led to the loss of Ngāti Rehua - Ngātiwai ki Aotea customary knowledge and traditional tribal structures and severely diminished your ability to exercise customary rights and responsibilities throughout your traditional rohe.

3.14. The Crown unreservedly apologises for not having honoured its obligations to Ngāti Rehua - Ngātiwai ki Aotea under te Tiriti o Waitangi/the Treaty of Waitangi. The Crown recognises the burden carried by your tūpuna and yourselves in your pursuit of justice for your people. The Crown is deeply sorry for the plight of your people, who have suffered impoverishment, social marginalisation and dislocation.

3.15. It is the Crown's hope that through this settlement it may redeem itself for the wrongs it has committed against Ngāti Rehua - Ngātiwai ki Aotea. The Crown endeavours to restore its honour and alleviate the well-founded and acute sense of injustice felt by Ngāti Rehua - Ngātiwai ki Aotea. Following this settlement, the Crown envisages a meaningful and fruitful relationship with Ngāti Rehua - Ngātiwai ki Aotea built on friendship, cooperation, trust and mutual respect for te Tiriti o Waitangi/the Treaty of Waitangi and its principles.

4 SETTLEMENT

ACKNOWLEDGEMENTS

- 4.1. Each party acknowledges that -
- 4.1.1. the other parties have acted honourably and reasonably in relation to the settlement; but
 - 4.1.2. it is not possible to -
 - (a) fully assess the loss and prejudice suffered by Ngāti Rehua- Ngātiwai ki Aotea as a result of the events on which the historical claims are based; or
 - (b) fully compensate Ngāti Rehua - Ngātiwai ki Aotea for all loss and prejudice suffered; and
 - 4.1.3. the settlement is intended to enhance the ongoing relationship between Ngāti Rehua - Ngātiwai ki Aotea and the Crown (in terms of te Tiriti o Waitangi, its principles and otherwise).
- 4.2. Ngāti Rehua - Ngātiwai ki Aotea acknowledge that, taking all matters into consideration (some of which are specified in clause 4.1), the settlement is fair and the best that can be achieved in the circumstances.

SETTLEMENT

- 4.3. Therefore, on and from the settlement date, -
- 4.3.1. the historical claims are settled; and
 - 4.3.2. the Crown is released and discharged from all obligations and liabilities in respect of the historical claims; and
 - 4.3.3. the settlement is final.
- 4.4. Except as provided in this deed or the settlement legislation, the parties' rights and obligations remain unaffected.

REDRESS

- 4.5. The redress, to be provided in settlement of the historical claims, -
- 4.5.1. is intended to benefit Ngāti Rehua - Ngātiwai ki Aotea collectively; but
 - 4.5.2. may benefit particular members, or particular groups of members, of Ngāti Rehua - Ngātiwai ki Aotea if the governance entity so determines in accordance with the governance entity's procedures.

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4: SETTLEMENT

- 4.6. The Crown acknowledges that, except as provided by this deed or the settlement legislation, the provision of redress will not affect -
- 4.6.1. any rights Ngāti Rehua - Ngātiwai ki Aotea may have in relation to water; and
 - 4.6.2. in particular, any rights Ngāti Rehua - Ngātiwai ki Aotea may have in relation to aboriginal title or customary rights or any other legal or common law rights, including the ability to bring a contemporary claim to water rights and interests in water.

IMPLEMENTATION

- 4.7. The settlement legislation will, on the terms provided by sections 15 to 20 of the draft settlement bill, -
- 4.7.1. settle the historical claims; and
 - 4.7.2. exclude the jurisdiction of any court, tribunal, or other judicial body in relation to the historical claims and the settlement; and
 - 4.7.3. provide that the legislation referred to in section 17 of the draft settlement bill does not apply -
 - (a) to a cultural redress property or any RFR land; or
 - (b) for the benefit of Ngāti Rehua - Ngātiwai ki Aotea or a representative entity; and
 - 4.7.4. require any resumptive memorials to be removed from any certificate of title or computer register for a cultural redress property or any RFR land; and
 - 4.7.5. provide that the rule against perpetuities and the Perpetuities Act 1964 does not -
 - (a) apply to a settlement document; or
 - (b) prescribe or restrict the period during which -
 - (i) the trustees of the Ngāti Rehua - Ngātiwai ki Aotea Settlement Trust, being the governance entity, may hold or deal with property; and
 - (ii) the Ngāti Rehua - Ngātiwai ki Aotea Settlement Trust may exist; and
 - 4.7.6. require the chief executive of the Ministry of Justice to make copies of this deed publicly available.
- 4.8. Part 1 of the general matters schedule provides for other action in relation to the settlement.

5 CULTURAL REDRESS

STATUTORY ACKNOWLEDGEMENT

- 5.1. The settlement legislation will, on the terms provided by sections 31 to 42 of the draft settlement bill -
- 5.1.1. provide the Crown's acknowledgement of the statements by Ngāti Rehua - Ngātiwai ki Aotea of their particular cultural, spiritual, historical and traditional association with the following areas -
- (a) Fitzroy Bay Landing Recreation Reserve (as shown on deed plan OTS-126-01):
 - (b) Fitzroy Local Purpose Public Utility Reserve (as shown on deed plan OTS-126-01):
 - (c) Hirakimatā area (part Aotea Conservation Park) (as shown on deed plan OTS-126-02):
 - (d) Komahunga area (part Aotea Conservation Park and part Harataonga Recreation Reserve) (as shown on deed plan OTS-126-03):
 - (e) Koroiti area (part Aotea Conservation Park and part Harataonga Recreation Reserve) (as shown on deed plan OTS-126-04):
 - (f) Kotuku Point Scenic Reserve (as shown on deed plan OTS-126-05):
 - (g) Medlands Wildlife Management Reserve (as shown on deed plan OTS-126-06):
 - (h) Okupe area (part Aotea Conservation Park) (as shown on deed plan OTS-126-07):
 - (i) Omahungaiti Bay Marginal Strip (as shown on deed plan OTS-126-03):
 - (j) Onepoto Historic Reserve (as shown on deed plan OTS-126-08):
 - (k) Oruawharo Creek Government Purpose Reserve (as shown on deed plan OTS-126-09):
 - (l) Oruawharo Creek Recreation Reserve (as shown on deed plan OTS-126-09):
 - (m) Oruawharo Marginal Strip (as shown on deed plan OTS-126-09):
 - (n) Overtons Beach Marginal Strip (as shown on deed plan OTS-126-04):
 - (o) Poutekorua area (part Aotea Conservation Park and part Tryphena Scenic Reserve) (as shown on deed plan OTS-126-10):

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- (p) Rangitāwhiri tuturu area (part Aotea Conservation Park and part Tryphena Scenic Reserve) (as shown on deed plan OTS-126-10):
 - (q) Ruahine area (as shown on deed plan OTS-126-11):
 - (r) Sandy Bay Marginal Strip (as shown on deed plan OTS-126-10):
 - (s) S.S. Wairarapa Graves (Tapuwai Point) Historic Reserve (as shown on deed plan OTS-126-12):
 - (t) Te Atamira Scenic Reserve (as shown on deed plan OTS-126-10):
 - (u) Te Paparahi area (part Aotea Conservation Park) (as shown on deed plan OTS-126-08):
 - (v) Wairahi area (Wairaki Forest Sanctuary and part Aotea Conservation Park) (as shown on deed plan OTS-126-13):
 - (w) Whakatautuna Point Marginal Strip (as shown on deed plan OTS-126-04):
 - (x) Whangapoua area (part Aotea Conservation Park and part Okiwi Recreation Reserve) (as shown on deed plan OTS-126-12); and
- 5.1.2. require relevant consent authorities, the Environment Court and Heritage New Zealand Pouhere Taonga to have regard to the statutory acknowledgement; and
- 5.1.3. require relevant consent authorities to record the statutory acknowledgement on statutory plans that relate to the statutory areas and to provide summaries of resource consent applications or copies of notices of applications to the governance entity; and
- 5.1.4. require relevant consent authorities to forward to the governance entity -
- (a) summaries of resource consent applications for an activity within, adjacent to or directly affecting a statutory area; and
 - (b) a copy of a notice of a resource consent application served on the consent authority under section 145(10) of the Resource Management Act 1991; and
- 5.1.5. enable the governance entity, and any member of Ngāti Rehua - Ngātiwai ki Aotea, to cite the statutory acknowledgement as evidence of Ngāti Rehua - Ngātiwai ki Aotea association with an area.
- 5.2. The statements of association are in the documents schedule.

PROTOCOLS

- 5.3. Each of the following protocols must, by or on the settlement date, be signed and issued to the governance entity by the responsible Minister -
- 5.3.1. the Crown minerals protocol:

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- 5.3.2. the taonga tūturu protocol.
- 5.4. A protocol sets out how the Crown will interact with the governance entity with regard to the matters specified in it.
- 5.5. Each protocol will be -
- 5.5.1. in the form set out in the documents schedule; and
- 5.5.2. issued under and, subject to, the terms provided by sections 21 to 26 of the draft settlement bill.
- 5.6. A failure by the Crown to comply with a protocol is not a breach of this deed.

PARTNERSHIP AGREEMENT WITH THE DEPARTMENT OF CONSERVATION

- 5.7. The settlement legislation will, on the terms set out in section 27 to 30 of the draft settlement bill, provide that the Minister of Conservation, the Director-General of Conservation, and the governance entity must, by or on the settlement date, enter into the Department of Conservation partnership agreement.
- 5.8. The Department of Conservation partnership agreement -
- 5.8.1. sets out how the Department will interact with the governance entity with regard to the matters specified in it; and
- 5.8.2. will be in the form set out in part 3 of the documents schedule.
- 5.9. A failure by the Crown to comply with the Department of Conservation partnership agreement is not a breach of this deed.

RELATIONSHIP AGREEMENT WITH THE MINISTRY FOR THE ENVIRONMENT

- 5.10. The Ministry for the Environment and the governance entity must, by or on the settlement date, sign the Ministry for the Environment relationship agreement.
- 5.11. The Ministry for the Environment relationship agreement -
- 5.11.1. sets out how the Ministry will interact with the governance entity with regard to the matters specified in it; and
- 5.11.2. will be in the form set out in part 4 of the documents schedule.
- 5.12. A failure by the Crown to comply with the Ministry for the Environment relationship agreement is not a breach of this deed.

LETTER OF RECOGNITION WITH THE MINISTRY FOR PRIMARY INDUSTRIES

- 5.13. The Director-General for Primary Industries must, by or on the settlement date, write a letter to the governance entity in the form set out in part 5 of the documents schedule outlining how Ngāti Rehua - Ngātiwai ki Aotea will have input into sustainability processes and decisions covering fisheries resources, and how Ngāti Rehua - Ngātiwai

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ki Aotea will be consulted on policy development led, and work undertaken, by the Ministry for Primary Industries, as these directly affect the area of interest.

LETTERS OF INTRODUCTION

5.14. The Director of the Office of Treaty Settlements will, by no later than six months after the settlement date, write a letter of introduction in the forms set out in part 6 of the documents schedules to each of the following entities, to introduce the governance entity and encourage each entity to establish or enhance an ongoing relationship with Ngāti Rehua - Ngātiwai ki Aotea -

5.14.1. Ministry of Business, Innovation and Employment:

5.14.2. Ministry of Social Development.

CULTURAL REDRESS PROPERTIES

5.15. The settlement legislation will vest in the governance entity on the settlement date -

In fee simple

5.15.1. the fee simple estate in each of the following sites:

(a) Kaitoke Land site A (being part Claris Recreation Reserve):

(b) Kaitoke Land site B (being part Claris Recreation Reserve):

(c) Waipareira site A:

(d) Waipareira site B:

(e) 35 Mulberry Grove Road:

(f) 37 Mulberry Grove Road:

(g) 39 Mulberry Grove Road:

(h) 41 Mulberry Grove Road:

(i) 5 Pohutukawa Place; and

In fee simple subject to an easement

5.15.2. the fee simple estate in the fee simple estate in Akapoua property (being part Aotea Conservation Park), subject to the governance entity providing a registrable right to convey water and electricity easement in relation to that site in the form set out in part 7.1 of the documents schedule; and

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In fee simple subject to a conservation covenant

- 5.15.3. the fee simple estate in each of the following sites, subject to the governance entity providing a registrable conservation covenant in relation to that site in the form set out in part 7 of the documents schedule -
- (a) Maraenui property (being part Te Hauturu-o-Toi / Little Barrier Island Nature Reserve):
 - (b) Nga Pua o Mataahu property (being part Te Hauturu-o-Toi / Little Barrier Island Nature Reserve):
 - (c) Ōkiwi property (being part Okiwi Recreation Reserve and part Aotea Conservation Park):
 - (d) Rangitāwhiri property (being part Aotea Conservation Park); and

As a historic reserve

- 5.15.4. the fee simple estate in each of the following sites as a historic reserve, with the governance entity as the administering body -
- (a) Kaitoke Estuary property (being part Claris Recreation Reserve):
 - (b) Matarehu property (being part Aotea Conservation Park):
 - (c) Awana Bay property (being part Stony Beach Recreation Reserve); and

As a historic reserve subject to an easement

- 5.15.5. the fee simple estate in Harataonga property (being part Harataonga Recreation Reserve) as a historic reserve, with the governance entity as the administering body, subject to the governance entity granting a registrable right of way easement in gross in relation to that site in the form set out in part 7.3 of the documents schedule; and

As a scenic reserve

- 5.15.6. the fee simple estate in Rakitū Island property (being part Rakitu Island Scenic Reserve) as a scenic reserve, with the governance entity as the administering body; and

As a scenic reserve subject to an easement

- 5.15.7. the fee simple estate in Hirakimatā property (being part Aotea Conservation Park), but excluding the improvements, as a scenic reserve, with the governance entity as the administering body, subject to the governance entity granting a registrable right of way easement in gross in relation to that site in the form set out in part 7.4 of the documents schedule.

[Drafter's note - access is required to maintain/repair/replace/locate Department of Conservation improvements which do not currently fall within the easement area. This will be provided for in an instrument to be agreed between the parties prior to signing of the deed of settlement.]

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PROVISIONS IN RELATION TO CERTAIN CULTURAL REDRESS PROPERTIES

Hauraki Gulf Marine Park

- 5.16. Clause 5.17 applies to each of the following cultural redress properties -
- 5.16.1. Awana Bay property (being part Stony Beach Recreation Reserve):
 - 5.16.2. Harataonga property (being part Harataonga Recreation Reserve):
 - 5.16.3. Hirakimatā property (being part Aotea Conservation Park):
 - 5.16.4. Kaitoke Estuary property (being part Claris Recreation Reserve):
 - 5.16.5. Matarehu property (being part Aotea Conservation Park):
 - 5.16.6. Nga Pua o Mataahu property (being part Te Hauturu-o-Toi / Little Barrier Island Nature Reserve):
 - 5.16.7. Rakitū Island property (being part Rakitu Island Scenic Reserve):
 - 5.16.8. Maraenui property (being part Te Hauturu-o-Toi / Little Barrier Island Nature Reserve):
 - 5.16.9. Ōkiwi property (being part Okiwi Recreation Reserve and part Aotea Conservation Park).
- 5.17. The settlement legislation will, on the terms provided by section 83 to 85 of the draft settlement bill, provide that on and from the settlement date each cultural redress property referred to in clause 5.16 is to be included as part of the Hauraki Gulf Marine Park.
- 5.18. Each of the following cultural redress properties continues to be subject to clause 11 of schedule 4 of the Crown Minerals Act 1991:
- 5.18.1. Kaitoke Land site A (being part Claris Recreation Reserve):
 - 5.18.2. Waipareira site A:
 - 5.18.3. Akapoua property (being part Aotea Conservation Park):
 - 5.18.4. Maraenui property (being part Te Hauturu-o-Toi / Little Barrier Island Nature Reserve):
 - 5.18.5. Nga Pua o Mataahu property (being part Te Hauturu-o-Toi / Little Barrier Island Nature Reserve):
 - 5.18.6. Ōkiwi property (being part Okiwi Recreation Reserve and part Aotea Conservation Park):
 - 5.18.7. Matarehu property (being part Aotea Conservation Park):
 - 5.18.8. Awana Bay property (being part Stony Beach Recreation Reserve):

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5.18.9. Harataonga property (being part Harataonga Recreation Reserve):

5.18.10. Rakitū Island property (being part Rakitu Island Scenic Reserve):

5.18.11. Hirakimatā property (being part Aotea Conservation Park).

Access by the Crown for biodiversity work

5.19. Clause 5.20 applies to each of the following cultural redress properties:

5.19.1. Hirakimatā property (being part Aotea Conservation Park):

5.19.2. Ōkiwi property (being part Okiwi Recreation Reserve and part Aotea Conservation Park).

5.20. The settlement legislation will, on the terms provided by section 61 and 68 of the draft settlement bill, provide that on and from the date of the vesting of each cultural redress property referred to in clause 5.19 -

5.20.1. the Crown may enter the property, including buildings on it, with or without motor vehicles, machinery, implements of any kind, or dogs, for any of the following purposes -

- (a) species management:
- (b) monitoring pest plants or pest animals:
- (c) control of pest plants or pest animals:

5.20.2. the Crown must give notice to the owners of the property, orally or by electronic means (as the Crown and the owners agree), 24 hours before entering the property or, if that is not practicable, then -

- (a) before entering, if practicable; or
- (b) as soon as possible after entering; and

5.20.3. despite clause 5.20.2 -

- (a) the owners of the property and the Crown may agree the circumstances in which notice is not required; and
- (b) the Crown may enter without prior written notice if responding to a known or suspected incursion of a pest animal; and
- (c) the Crown must first obtain consent from the owner, or occupier, of a building on the property that may be used for accommodation purposes before entering that building and the Crown may enter the building only in daylight hours.

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GENERAL PROVISIONS IN RELATION TO ALL CULTURAL REDRESS PROPERTIES

- 5.21. Each cultural redress property is to be -
- 5.21.1. as described in schedule 2 of the draft settlement bill; and
 - 5.21.2. vested on the terms provided by -
 - (a) sections 47 to 85 of the draft settlement bill; and
 - (b) part 2 of the property redress schedule; and
 - 5.21.3. subject to any encumbrances, or other documentation, in relation to that property -
 - (a) required by clauses 5.15.2, 5.15.3, 5.15.5 and 5.15.7 to be provided by the governance entity; or
 - (b) required by the settlement legislation; and
 - (c) in particular, referred to by schedule 2 of the draft settlement bill.

VESTING AND GIFT BACK OF MOKOHINAU ISLANDS NATURE RESERVE AND BURGESS ISLAND SCENIC RESERVE

- 5.22. The Mokahinau islands are revered by Ngāti Rehua – Ngātiwai ki Aotea as having significant historical and cultural prominence to Ngāti Rehua – Ngātiwai ki Aotea people and tupuna. In early times the Mokahinau was the home of Ngāti Rehua – Ngātiwai ki Aotea tupuna rangatira Te Heru who was a kaitiaki and protected the vast and bountiful fishing grounds of these island groups from other iwi. To this day the Mokahinau islands continue to sustain and provide for the descendants of Ngāti Rehua – Ngātiwai ki Aotea who uphold and exercise kaitiakitanga, customary fishing and harvesting of their taonga, Manu oi. The Mokohinau islands have their own mauri and Ngāti Rehua – Ngātiwai ki Aotea are bound by whakapapa to uphold and look after the islands for their future generations.
- 5.23. In clause 5.24, **gift back site** means the Mokohinau Islands Nature Reserve and the Burgess Island Scenic Reserve (as shown on deed plan OTS-126-44).
- 5.24. The settlement legislation will, on the terms provided by sections 86 to 88 of the draft settlement bill, provide that -
- 5.24.1. the governance entity may give 40 working days' written notice to the Minister of Conservation stating the date that the gift back site is to vest in the governance entity under clause 5.24.3; and
 - 5.24.2. the **vesting date** for the gift back site will be -
 - (a) the date specified in the notice under clause 5.24.1, being a date no later than the first anniversary of the settlement date; and

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- (b) if a notice is not given for a site, the first anniversary of the settlement date; and
- 5.24.3. on the vesting date the fee simple estate in the gift back site vests in the governance entity; and
- 5.24.4. on the twenty-eighth day after the vesting date, the fee simple estate in the gift back site vests in the Crown -
 - (a) with its current status; and
 - (b) as a gift from the governance entity on behalf of Ngāti Rehua - Ngātiwai ki Aotea to the Crown for the people of New Zealand; and
- 5.24.5. despite the vestings under clauses 5.24.3 and 5.24.4 -
 - (a) the gift back site remains a reserve under the Reserves Act 1977; and
 - (b) any enactment, instrument, or interest that applied to a gift back site immediately before the vesting date continues to apply to that gift back site; and
 - (c) the Crown retains all liability for the gift back site; and
- 5.24.6. the vestings under clauses 5.24.3 and 5.24.4 are not affected by -
 - (a) Part 4A of the Conservation Act 1987; or
 - (b) section 10 or 11 of the Crown Minerals Act 1991; or
 - (c) section 11 or Part 10 of the Resource Management Act 1991; or
 - (d) any other enactment relating to the gift back site.

OFFICIAL GEOGRAPHIC NAMES

- 5.25. Subject to clause 5.27, the settlement legislation will, from the settlement date, provide for each of the names listed in the second column to be the official geographic name for the features set out in columns 3 and 4.

Existing Name	Official geographic name	Location (NZTopo50 and grid references)	Geographic feature type
Burgess Island (Pokohinu)	Burgess Island / Pokohinu	AX33 909246	Island
Cape Barrier	Cape Barrier / Matarehu	AZ34 264744	Cape
Fanal Island (Motukino)	Motukino / Fanal Island	AX33 935206	Island
Great Barrier Island (Aotea)*	Aotea / Great Barrier Island	AY34 176934	Island

DEED OF SETTLEMENT

5: CULTURAL REDRESS

Existing Name	Official geographic name	Location (NZTopo50 and grid references)	Geographic feature type
Katherine Bay	Te Whanga-o-Motairehe / Katherine Bay	AY34 106029 - AY34 082997	Bay
Motairehe	Motairehe	AY34 138003	Locality
Motairehe Stream	Motairehe Stream	AY34 139036 - AY34 139005	Stream
Mount Hobson	Maunga Hirakimatā / Mount Hobson	AY34 169927	Hill
Needles Point	Needles Point / Ngā-Taratara-o-Toi	AY34 169105	Islets (group of Islets)
Okupu	Ō-Kupe-Mai-Tawhiti	AY34 201843	Hill
Okupu Bay	Ō-Kupe-Mai-Tawhiti Bay	AY34 191838 - AY34 183842	Bay
Port Fitzroy	Te Whanga-o-Rarohara / Port Fitzroy	AY34 105959 - AY34 076929	Port
Rakitu Island (Arid Island)	Rakitū / Arid Island	AY34 248992	Island
Rangiahua Island (Flat Island)	Te Rangihāhua Island	AY34 070 890	Island
Rangiwhakaea Bay	Te Whanga-o-Rangiwhakaea	AY34 168041 - AY34 180038	Bay
Te Ahumata	Te Ahumatā	AY34 180866	Hill
Tryphena Harbour	Rangitāwhiri / Tryphena Harbour	AZ34 226778 - AZ34 208786	Harbour
Tryphena Point	Tryphena Point / Te Kūrae-o-Turi	AZ34 226778	Point
Unnamed	Te Motu Tohorā	AZ35 282761	Island

* *subject to clause 5.27*

- 5.26. The settlement legislation will provide for the official geographic names on the terms provided by sections 43 to 46 of the draft settlement bill.
- 5.27. If the legislation giving effect to the Pare Hauraki Collective Redress Deed (the **Hauraki Settlement Legislation**) comes into force before the settlement legislation, then the Hauraki Settlement Legislation will provide for Aotea / Great Barrier Island to be the official geographic name of Great Barrier Island (Aotea) (AY34 176934, Island).

DEED OF SETTLEMENT

5: CULTURAL REDRESS

CONSERVATION MANAGEMENT STRATEGY

- 5.28. Clause 5.29 applies in relation to the following areas -
- 5.28.1. Aotea / Great Barrier Island:
 - 5.28.2. Mokohinau Islands:
 - 5.28.3. Rakitū / Arid Island.
- 5.29. The settlement legislation will, on the terms provided for in sections 89 to 91 of the draft settlement bill, provide that despite sections 17D and 17F of the Conservation Act 1987 the governance entity and the Director-General of Conservation are jointly responsible for preparing, amending or reviewing any conservation management strategy that applies to the areas described in clause 5.28.

CO-GOVERNANCE OF TE HAUTURU-O-TOI / LITTLE BARRIER ISLAND GIFT AREA

- 5.30. Ngāti Rehua – Ngātiwai ki Aotea recognise and acknowledge Ngāti Manuhiri of Omaha marae as their close whanaunga through their tupuna Mataahu, Maki and Ranginui. Ngāti Rehua – Ngātiwai ki Aotea acknowledge their role and that of Ngāti Manuhiri of Omaha marae as kaitiaki for Hauturu-o-Toi, and are committed to working alongside their whanaunga to protect their tupuna kainga for their mokopuna and future generations.
- 5.31. The settlement legislation will, on the terms provided for in sections 92 to 107 of the draft settlement bill, provide for the preparation, approval, coming into effect, review, and amendment of a conservation management plan for Te Hauturu-o-Toi / Little Barrier Island gift area (the **Hauturu Plan**), which will have effect as a conservation management plan prepared and approved under section 40B of the Reserves Act 1977.
- 5.32. The parties acknowledge and agree -
- 5.32.1. the governance entity's right to participate in the preparation and approval of the Hauturu Plan, and any amendments to that plan, does not exclude representatives of other iwi (including but not limited to the trustees of the Ngāti Manuhiri Settlement Trust, acting under subpart 8 of Part 2 of the Ngāti Manuhiri Claims Settlement Act 2012) from being involved with the Hauturu Plan, if other enactments provide for that;
 - 5.32.2. that an initial Hauturu Plan has been prepared in accordance with subpart 8 of Part 2 of the Ngāti Manuhiri Claims Settlement Act 2012, and in consultation with Ngāti Rehua - Ngātiwai ki Aotea; and
 - 5.32.3. this initial Hauturu Plan will be reviewed no later than three years after the settlement date, in accordance with the terms provided for in the draft settlement bill; and
 - 5.32.4. the Hauturu Plan must be reviewed no later than ten years after the date it was last approved, in accordance with the terms provided for in the draft settlement bill.

DEED OF SETTLEMENT

5: CULTURAL REDRESS

CULTURAL REDRESS GENERALLY NON-EXCLUSIVE

- 5.33. The Crown may do anything that is consistent with the cultural redress, including entering into, and giving effect to, another settlement that provides for the same or similar cultural redress.
- 5.34. However, the Crown must not enter into another settlement that provides for the same redress as 5.15 and 5.24.

6 FINANCIAL AND COMMERCIAL REDRESS

FINANCIAL REDRESS

- 6.1. The Crown must pay the governance entity on the settlement date \$4,600,000, being the financial and commercial redress amount of \$5,100,000 less \$500,000 being the on-account payment referred to in clause 6.2.

ON-ACCOUNT PAYMENT

- 6.2. Within ten business days after the date of this deed, the Crown will pay \$500,000 to the governance entity on account of the financial and commercial redress amount.

RFR FROM THE CROWN

- 6.3. The governance entity is to have a right of first refusal in relation to a disposal of RFR land, being land listed in the attachments as RFR land that, on the settlement date -
- 6.3.1. is vested in the Crown; or
- 6.3.2. the fee simple for which is held by the Crown.
- 6.4. The right of first refusal is -
- 6.4.1. to be on the terms provided by sections 108 to 136 of the draft settlement bill; and
- 6.4.2. in particular, to apply -
- (a) for a term of 176 years from the settlement date; but
- (b) only if the RFR land is not being disposed of in the circumstances provided by sections 119 to 125 of the draft settlement bill.

7 SETTLEMENT LEGISLATION, CONDITIONS AND TERMINATION

SETTLEMENT LEGISLATION

- 7.1. The Crown must propose the draft settlement bill for introduction to the House of Representatives.
- 7.2. The settlement legislation will provide for all matters for which legislation is required to give effect to this deed of settlement.
- 7.3. The draft settlement bill proposed for introduction to the House of Representatives -
 - 7.3.1. must comply with the drafting standards and conventions of the Parliamentary Counsel Office for Government Bills, as well as the requirements of the Legislature under Standing Orders, Speakers' Rulings and conventions; and
 - 7.3.2. must be in a form that is satisfactory to Ngāti Rehua - Ngātiwai ki Aotea and the Crown.
- 7.4. Ngāti Rehua - Ngātiwai ki Aotea and the governance entity must support the passage of the draft settlement bill through Parliament.

SETTLEMENT CONDITIONAL

- 7.5. This deed, and the settlement, are conditional on the settlement legislation coming into force.
- 7.6. However, the following provisions of this deed are binding on its signing -
 - 7.6.1. clauses 7.4 to 7.10:
 - 7.6.2. paragraph 1.3, and parts 4 to 7, of the general matters schedule.

EFFECT OF THIS DEED

- 7.7. This deed -
 - 7.7.1. is "without prejudice" until it becomes unconditional; and
 - 7.7.2. may not be used as evidence in proceedings before, or presented to, the Waitangi Tribunal, any court, or any other judicial body or tribunal.
- 7.8. Clause 7.6 does not exclude the jurisdiction of a court, tribunal, or other judicial body in respect of the interpretation or enforcement of this deed.

DEED OF SETTLEMENT

7: SETTLEMENT LEGISLATION, CONDITIONS AND TERMINATION

TERMINATION

- 7.9. The Crown or the governance entity may terminate this deed, by notice to the other, if -
- 7.9.1. the settlement legislation has not come into force within 36 months after the date of this deed; and
 - 7.9.2. the terminating party has given the other party at least 40 business days' notice of an intention to terminate.
- 7.10. If this deed is terminated in accordance with its provisions -
- 7.10.1. this deed (and the settlement) are at an end; and
 - 7.10.2. subject to this clause, this deed does not give rise to any rights or obligations; and
 - 7.10.3. this deed remains "without prejudice"; but
 - 7.10.4. the parties intend that the on-account payment is taken into account in any future settlement of historical claims.

8 GENERAL, DEFINITIONS AND INTERPRETATION

GENERAL

- 8.1. The general matters schedule includes provisions in relation to -
- 8.1.1. the implementation of the settlement; and
 - 8.1.2. the Crown's -
 - (a) payment of interest in relation to the settlement; and
 - (b) tax indemnities in relation to redress; and
 - 8.1.3. giving notice under this deed or a settlement document; and
 - 8.1.4. amending this deed.

HISTORICAL CLAIMS

- 8.2. In this deed, historical claims -
- 8.2.1. means every claim (whether or not the claim has arisen or been considered, researched, registered, notified, or made by or on the settlement date) that Ngāti Rehua - Ngātiwai ki Aotea, or a representative entity, had at, or at any time before, the settlement date, or may have at any time after the settlement date, and that -
 - (a) is, or is founded on, a right arising -
 - (i) from te Tiriti o Waitangi or its principles; or
 - (ii) under legislation; or
 - (iii) at common law, including aboriginal title or customary law; or
 - (iv) from fiduciary duty; or
 - (v) otherwise; and
 - (b) arises from, or relates to, acts or omissions before 21 September 1992 -
 - (i) by, or on behalf of, the Crown; or
 - (ii) by or under legislation; and
 - 8.2.2. includes every claim to the Waitangi Tribunal to which clause 8.2.1 applies that relates exclusively to Ngāti Rehua - Ngātiwai ki Aotea or a representative entity, including the following claims:
 - (a) Wai 678:

DEED OF SETTLEMENT

8: GENERAL, DEFINITIONS AND INTERPRETATION

(b) Wai 1545; and

8.2.3. includes every other claim to the Waitangi Tribunal to which clause 8.2.1 applies, so far as it relates to Ngāti Rehua - Ngātiwai ki Aotea or a representative entity, including the following claims:

(a) Wai 244:

(b) Wai 1544:

(c) Wai 1711:

(d) Wai 1721:

(e) Wai 1960.

8.3. However, historical claims does not include the following claims:

8.3.1. a claim that a member of Ngāti Rehua - Ngātiwai ki Aotea, or a whānau, hapū or group referred to in clause 8.7.2, may have that is, or is founded on, a right arising as a result of being descended from a tupuna who is not referred to in clause 8.7.1:

8.3.2. a claim that a representative entity may have to the extent the claim is, or is founded, on a claim referred to in clause 8.3.1.

8.4. To avoid doubt, clause 8.2.1 is not limited by clauses 8.2.2 or 8.2.3.

8.5. To avoid doubt, this settlement does not affect the right of any group to apply for recognition of customary interests under the Marine and Coastal Area (Takutai Moana) Act 2011.

NGĀTI REHUA - NGĀTIWAI KI AOTEA

8.6. Ngāti Rehua - Ngātiwai ki Aotea acknowledges and values their inextricable connections to Ngātiwai and other iwi groups. These connections arise through whakapapa and whanaungatanga, through tupuna such as Mataahu, Ranginui and Te Awe. The following claimant definition defines Ngāti Rehua - Ngātiwai ki Aotea for the purposes of the Treaty settlement recorded in this deed only. It is not intended to imply that Ngāti Rehua - Ngātiwai ki Aotea and Ngātiwai are not whanaunga.

8.7. In this deed, **Ngāti Rehua - Ngātiwai ki Aotea** means -

8.7.1. the collective group composed of individuals who descend from Ngāti Rehua - Ngātiwai ki Aotea tupuna; and

DEED OF SETTLEMENT

8: GENERAL, DEFINITIONS AND INTERPRETATION

- 8.7.2. every whānau, hapū or group to the extent that it is composed of individuals referred to in clause 8.7.1.
- 8.8. For the purposes of clause 8.7.1 -
- 8.8.1. a person is descended from another person if the first person is descended from the other by -
- (a) birth; or
 - (b) legal adoption; or
 - (c) Māori customary adoption in accordance with Ngāti Rehua - Ngātiwai ki Aotea tikanga (Māori customary values and practices); and
- 8.8.2. **Ngāti Rehua - Ngātiwai ki Aotea tupuna** means an individual who -
- (a) exercised customary rights by virtue of being descended from -
 - (i) Ranginui, the son of Hikihiki; or
 - (ii) Rehua, the son of Mataahu and Te Kura; or
 - (iii) Te Awe, the son of Te Whaiti; or
 - (iv) a recognised ancestor of any of the descent groups of Ngāti Rehua - Ngātiwai ki Aotea described in clause 8.7.2; and
 - (b) exercised the customary rights in 8.8.2(a) predominantly in relation to the Area of Interest at any time after 6 February 1840.
- 8.8.3. customary rights means rights according to tikanga Māori (Māori customary values and practices), including -
- (a) rights to occupy land; and
 - (b) rights in relation to the use of land or other natural or physical resources.

MANDATED BODY AND SIGNATORIES

- 8.9. In this deed -
- 8.9.1. **mandated body** means the Ngāti Rehua - Ngātiwai ki Aotea Trust; and
- 8.9.2. **mandated signatories** means the following individuals -
- (a) Mrs Nicola Maree Ataria MacDonald, Chair/Lead Negotiator, Auckland:
 - (b) Mr Rodney Vaughan Ngawaka, Cultural Educator, Aotea:
 - (c) Miss Catherine Hope Munro, Teacher, Aotea:
 - (d) Miss Yvonne Jewel Wiki, Administrator, Whananaki.

8: GENERAL, DEFINITIONS AND INTERPRETATION

ADDITIONAL DEFINITIONS

8.10. The definitions in part 6 of the general matters schedule apply to this deed.

INTERPRETATION

8.11. Part 7 of the general matters schedule applies to the interpretation of this deed.

DEED OF SETTLEMENT

SIGNED as a deed on [date]

SIGNED for and on behalf of)
NGĀTI REHUA - NGĀTIWAI KI AOTEA)
by the mandated signatories)
in the presence of:)

Nicola Maree Ataria MacDonald

Signature of Witness

Witness Name

Rodney Vaughan Ngawaka

Occupation

Catherine Hope Munro

Address

Yvonne Jewel Wiki

SIGNED by the)
NGĀTI REHUA - NGĀTIWAI KI AOTEA)
SETTLEMENT TRUST)
in the presence of:)

[]

Signature of Witness

Witness Name

[]

Occupation

[]

Address

[]

DEED OF SETTLEMENT

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

Hon Christopher Finlayson

Signature of Witness

Witness Name

Occupation

Address

The Minister of Finance)
(only in relation to the tax indemnities))
in the presence of:)

Hon Steven Joyce

Signature of Witness

Witness Name

Occupation

Address