



# Ngāti Pāhauwera Treaty Claims Settlement Act 2012

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Commencement see section 2

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**Preamble**

- (1) The Treaty of Waitangi (Te Tiriti o Waitangi) was signed in 1840. The terms of the Treaty of Waitangi (Te Tiriti o Waitangi) in English and Māori are set out in Schedule 1 of the Treaty of Waitangi Act 1975:
- (2) Recitals (3) to (22) of this Preamble present, in summary form, the historical account set out in the deed of settlement entered into by Ngāti Pāhauwera and the Crown:

*Background*

- (3) The Ngāti Pāhauwera confederation of hapū descend from ancestors who maintained long occupation (noho tūturu/ahi-kā-roa) and established the take whenua (rights to the land) and exclusive and other customary rights that have formed the basis of the Iwi tino rangatiratanga over the lands. Collectively, Ngāti Pāhauwera exercised customary interests in northern Hawke's Bay. Their traditional boundary extended inland from the coast north of the Waihua River across to the Waiiau River and followed its course to the headwaters in the Huiarau Ranges. From there the boundary extended across to Tātarakina (Te Haroto) and on to Puketītiri and from there across to Te Wai o Hinganga (Esk River) and followed its course to the sea:

*Pre-1865 transactions*

- (4) In 1851, the Crown sought to purchase land in the Hawke's Bay in response to growing settler interest. A Ngāti Pāhauwera chief, Paora Rerepu, heard Crown assurances about material benefits of land transactions and expressed a willingness to enter negotiations with the Crown:
- (5) The Crown acquired a large block of land between the Mohaka and Waikari rivers from Ngāti Pāhauwera in 1851. The Mohaka block included some of the more productive lands in the Ngāti Pāhauwera rohe. The price paid for the block reflected Crown policy to pay low prices for Māori land as a contribution towards the cost of developing the new colony.

It also reflected an anticipation that economic opportunities for Māori would soon flow from proximity to European settlement. However, these benefits did not materialise:

- (6) Despite the 87 500 acre Mohaka block including pā, kāinga, cultivation sites, and important food gathering areas, the Crown reserved only 100 acres at Te Heru o Tūreia for the future use of Ngāti Pāhauwera. Te Heru o Tūreia was of paramount importance as a kāinga, mahinga kai, and the burial place of high-ranking Ngāti Pāhauwera ancestors, including Te Kahu o Te Rangi. The Crown nonetheless proceeded to acquire the reserve in 1859 from only a few of those involved in the original transaction:
- (7) The Mohaka transaction drew numerous petitions and other correspondence from Ngāti Pāhauwera in the late 19th and over the 20th century in relation to the purchase price, the sale of the reserve, and boundary issues:
- (8) In 1864, the Crown purchased the 21 000 acre Waihua block in the northern part of the Ngāti Pāhauwera rohe. This transaction confirmed an alliance between the Crown and Ngāti Pāhauwera in the lead up to the outbreak of war. No reserves were made for Ngāti Pāhauwera as a group. The surveyed boundary of the Waihua block was not the same as the boundary agreed in the purchase deed. As a result, an additional 1 152 acres was incorrectly included in the Waihua block. Although Ngāti Pāhauwera complained about this the Crown did not return the 1 152 acres or purchase the additional land from Ngāti Pāhauwera. Instead, the land was sold into private ownership:

*War*

- (9) Ngāti Pāhauwera gave political support and substantial military assistance to the Crown after war broke out on the East Coast in 1865. Following a limited military conflict between Crown forces and Pai Mārire in the Napier area in 1866, the Crown confiscated all Māori land between the Waikari and Esk Rivers. This included lands in which Ngāti Pāhauwera held interests, even though they were not considered by the Crown to have been “rebels”:

- (10) Ngāti Pāhauwera were amongst those who took up arms alongside the Crown to pursue Te Kooti and his forces after they escaped from the Chatham Islands in 1868. At that time, the Crown maintained ammunition reserves at Mohaka. The Crown ignored warnings of a possible attack on communities at Mohaka. In April 1869, Ngāti Pāhauwera pā and kāinga were attacked by Te Kooti's forces resulting in the killing of 56 Ngāti Pāhauwera men, women, and children, the wounding and taking of others as prisoners, and the destruction and looting of crops, property, and supplies. The survivors received little assistance from the Crown to aid their recovery, and like other civilians, received no compensation for their losses. The loss of their men, women, and children has been felt for generations by Ngāti Pāhauwera:

*Native Land Court*

- (11) The Native Land Court was established principally to speed up the alienation of Māori land to open up lands for settlement. The Court was to determine the owners of Māori land "according to native custom" and convert customary title into title derived from the Crown. In 1868, Ngāti Pāhauwera sought to secure title to much of their land to the north of the confiscation area. At this time around 120 000 acres between the valleys of the Mohaka and Waiau Rivers remained in Ngāti Pāhauwera possession:
- (12) Land rights under customary tenure were generally communal but the new land laws gave rights to individuals with no provision for title to be held by the tribe as a whole. The Court awarded the blocks to 10 owners each and registered others with interests on the title. For three of these blocks the names of hapū rather than individuals were registered. This did not fully comply with the Native Lands Act 1867. This legal irregularity meant those lands could not be sold immediately, but caused significant problems for Ngāti Pāhauwera. Title for these blocks was litigated throughout the 19th century and resolved only by the early 20th century:

*Alienation*

- (13) During the 1870s, Ngāti Pāhauwera suffered further land loss. By 1883, approximately half the land Ngāti Pāhauwera held at 1868 had been sold to private parties and the Crown. The

prices paid were low (between one and two shillings per acre) because the lands had limited value for agricultural or cultivation purposes. Pre-existing debts and charges for the survey of the blocks (which was necessary to acquire title) were deducted from the amount received by the vendors:

*Landlessness*

- (14) In 1907, the Royal Commission on Native Lands and Native-Land Tenure (the Stout-Ngata Commission) concluded that Ngāti Pāhauwera needed all their remaining land for their occupation and support. However, there was no legal barrier to prevent the Crown from continuing to purchase land. The Native Lands Act 1909 made private purchasing of Māori lands easier by providing a streamlined standard sale mechanism managed by Māori Land Boards. Despite the clear warning from the Stout-Ngata Commission, the Crown resumed purchasing land from Ngāti Pāhauwera in 1914, acquiring 18 631 acres by 1920 and another 5 381 acres over the following decade. Between 1911 and 1930, 7 507 acres of Ngāti Pāhauwera land was alienated to private purchasers with the consent of the Tairāwhiti Māori Land Board:
- (15) A consolidation scheme was introduced for the Mohaka, Waipapa, Waihua and Pūtere blocks in the late 1920s. Crown and individual interests in the blocks were converted into nominal cash values, and then into new subdivisions separating out Crown and Māori lands. The consolidation scheme was meant to increase the economic viability of remaining Māori landholdings, but was limited in its effectiveness. The Crown continued to acquire land while the consolidation scheme was underway. A number of Ngāti Pāhauwera owners were burdened with debts of more than £2,000 to pay for Crown interests incorporated into their new land blocks:
- (16) By 1930, approximately 25 000 acres remained in Ngāti Pāhauwera ownership. The Crown promoted a land development scheme on the Mohaka and Waipapa land blocks in 1930, with the aim of providing Ngāti Pāhauwera with the capital and agricultural training required to develop and operate dairy units on their remaining land. The Crown provided substantial loans for land development along with supervision by the Native Department. In return, the land

owners were required to surrender the right to exercise any rights of ownership:

- (17) The amount of land in Ngāti Pāhauwera ownership was insufficient to accommodate all those who wished to participate in the development scheme and only selected individuals were able to access any benefit. The success of the scheme was also hampered by the lack of suitable land for dairying. The early focus on the creation of subsistence level family based dairy farms did not allow for the exploration of other, possibly more appropriate, forms of land use. This was exacerbated by the sharp decline in dairy farming profits during the depression, and the reduction in the amounts of capital made available by the Crown in the 1940s. By 1950, only 30 dairy units remained in operation, with a few others converting to sheep:

*Post-war alienations*

- (18) The post-war period saw further sales of land and by the end of the 20th century Māori retained approximately 13 400 acres or less within the Ngāti Pāhauwera blocks. Most of those lands were scattered parcels in multiple ownership, with large numbers of people holding small ownership interests. Fractionated ownership, disputes over titles, lack of access to landlocked sections and rising rates greatly restricted the ability of landowners to derive full benefit from their holdings:
- (19) During the 20th century many people left the Mohaka district due to the lack of economic opportunities, the failure of many farms and the difficulty of fully utilising the lands remaining. The dispersal of people limited the opportunities for Ngāti Pāhauwera to transfer cultural knowledge from one generation to another through pakiwaitara and pūrākau, mahinga kai activity, whare wānanga, and social occasions:

*Environment*

- (20) The Crown has through legislation assumed regulatory control over resources and the environment. This limited opportunities for Ngāti Pāhauwera to develop and use those resources themselves. Over time, the environment suffered from some degree of degradation and there has been a decline in species of importance to Ngāti Pāhauwera. Mahinga kai and rongoa gathering places of Ngāti Pāhauwera have been polluted or

lost. The loss of these resources also led to the loss of knowledge and ritual associated with them, including rongoa and crafts:

*Socio-economic consequences*

- (21) The lack of land and resources and the ensuing lack of an economic base have significantly contributed to the impoverishment of Ngāti Pāhauwera. As a group, Ngāti Pāhauwera who stayed in the rohe have had very limited employment opportunities, lower than average housing stock, educational outcomes and incomes, a reliance on income support, and high rates of unemployment. As compared to the national average, fewer Ngāti Pāhauwera children have gained a high school qualification. Ngāti Pāhauwera suffered severely from newly-introduced European diseases and epidemics. The health of the resident population of Ngāti Pāhauwera remained very poor in contrast to national levels in the 20th century. In 2001, Māori living in the Mohaka/Raupunga area were assessed to be at the most deprived level on the New Zealand Deprivation Index:
- (22) The years of petitions and litigation about Crown actions and the inadequacies of the Crown's response have also taken a toll on Ngāti Pāhauwera, requiring time and resources that could have been directed towards developing Ngāti Pāhauwera. Ngāti Pāhauwera characterise their socio-economic experience as one of bleakness, but assert the need for a fresh relationship with the Crown and hope for their future development:

**The Parliament of New Zealand therefore enacts as follows:**

**1 Title**

This Act is the Ngāti Pāhauwera Treaty Claims Settlement Act 2012.

**2 Commencement**

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

## **Part 1**

### **Preliminary matters**

#### **Subpart 1—Preliminary provisions and acknowledgements and apology**

#### **3 Purpose**

The purpose of this Act is to give effect to certain provisions of the deed of settlement, which is a deed that settles the historical claims of Ngāti Pāhauwera.

#### **4 Act binds the Crown**

This Act binds the Crown.

#### **5 Outline**

- (1) This section is a guide to the overall scheme and effect of this Act, but does not affect the interpretation or application of the other provisions of this Act or the deed of settlement.
- (2) This Part—
  - (a) sets out the purpose of this Act and specifies that it binds the Crown; and
  - (b) records the acknowledgements made by the Crown and the apology offered by the Crown to Ngāti Pāhauwera (including the acceptance of the apology by Ngāti Pāhauwera); and
  - (c) defines terms used in this Act, including key terms such as Ngāti Pāhauwera and historical claims; and
  - (d) provides that the settlement of the historical claims is final; and
  - (e) provides for—
    - (i) the effect of the settlement on the jurisdiction of a court, tribunal, or other judicial body in respect of the historical claims; and
    - (ii) consequential amendments to the Treaty of Waitangi Act 1975; and
    - (iii) the effect of the settlement on certain memorials; and
    - (iv) the exclusion of the law against perpetuities, the timing of actions or matters provided for in this Act, and access to the deed of settlement.

- (3) Part 2 provides for cultural redress, including—
- (a) the vesting in the trustees of the Ngāti Pāhauwera Tiaki Trust of the fee simple estate in Te Heru o Tūreia to hold on behalf of Ngāti Pāhauwera and the immediate gifting of Te Heru o Tūreia Gift Area to the Crown to be administered as a historic reserve, the requirement for the Ngāti Pāhauwera Tiaki Trust to provide a registrable conservation covenant over Te Heru o Tūreia (Area B), and the declaration of Nakunaku (a site within Te Heru o Tūreia) as a historic reserve; and
  - (b) the vesting in the trustees of the Ngāti Pāhauwera Tiaki Trust of the fee simple estate in other cultural redress properties; and
  - (c) the right to manage the extraction of relevant hāngi stones; and
  - (d) the right of the trustees of the Ngāti Pāhauwera Development Trust to nominate members to a special tribunal to hear and report on any application that proposes to amend, revoke, or replace the Water Conservation (Mohaka River) Order 2004 or to make any other water conservation order under section 214 of the Resource Management Act 1991 in respect of the Mohaka River or its tributaries; and
  - (e) the requirement for the trustees of the Ngāti Pāhauwera Development Trust to be appointed as an advisory committee under section 21(1) of the Ministry of Agriculture and Fisheries (Restructuring) Act 1995 in relation to any proposed changes to the current prohibitions or restrictions on the commercial taking of aquatic life and finfish in the Mohaka River and the area known as the Wairoa Hard; and
  - (f) the requirement of certain local authorities to forward a copy of all applications for resource consents in respect of activities within the catchments of the Mohaka River, Waikari River, and Waihua River; and
  - (g) an acknowledgement by the Crown of the statement made by Ngāti Pāhauwera of their cultural, spiritual, historical, and traditional association with the relevant

part of the Earthquake Slip Marginal Strip and the effect of that acknowledgement.

- (4) Part 3 provides for commercial redress, including—
  - (a) the transfer of the licensed land to the trustees; and
  - (b) the creation of computer registers, and the effect of registration, in relation to the commercial redress properties; and
  - (c) the application of other enactments in relation to the transfer of commercial redress properties; and
  - (d) provisions for RFR redress.
- (5) There are 4 schedules that—
  - (a) list the hapū of Ngāti Pāhauwera;
  - (b) describe Te Heru o Tūreia that is vested in the trustees of the Ngāti Pāhauwera Tiaki Trust;
  - (c) describe the other cultural redress properties that are vested in the trustees of the Ngāti Pāhauwera Tiaki Trust;
  - (d) set out the requirements for giving notice in relation to the RFR properties.

### *Acknowledgements and apology*

#### **6 Acknowledgements and apology**

Sections 7 to 9 record the acknowledgements and the apology offered by the Crown to Ngāti Pāhauwera, and the acceptance of the apology, as set out in the deed of settlement.

#### **7 Acknowledgements by the Crown**

The text of the acknowledgements made by the Crown, as set out in the deed of settlement, is as follows:

- (1) The Crown acknowledges its failure to deal in an appropriate way with grievances raised by successive generations of Ngāti Pāhauwera since 1851 and that recognition of these grievances is long overdue. The Crown also acknowledges the long tradition of Ngāti Pāhauwera loyalty to the Crown.
- (2) The Crown acknowledges that in acquiring the Mohaka and Waihua blocks in 1851 and 1864 it breached the Treaty of Waitangi (Te Tiriti o Waitangi) and its principles by—

- (a) failing to ensure Ngāti Pāhauwera were able to reserve sites of particular significance and places of residence within the Crown purchase blocks; and
  - (b) acquiring Te Heru o Tūreia in 1859, the single 100-acre reserve set aside from the Mohaka transaction, despite it being an important wāhi tapu and site of paramount significance and the only land remaining to Ngāti Pāhauwera in the Mohaka block.
- (3) The Crown further acknowledges that—
  - (a) it did not provide leasing as an alternative to purchase when it acquired the Mohaka block;
  - (b) there was ambiguity in the 1851 deed about the precise boundaries of the Mohaka transaction;
  - (c) the boundaries of Te Heru o Tūreia were never surveyed before the Crown purchased it, and the transfer of the title was made by only 11 of the 297 signatories to the Mohaka transaction;
  - (d) the Crown paid a low price for the Mohaka block and Ngāti Pāhauwera did not receive the full, ongoing benefits from European settlement they were led to expect in accepting a low price.
- (4) The Crown acknowledges that its failure to fully investigate and rectify the wrongful inclusion of 1 152 acres of adjacent Ngāti Pāhauwera land in the Waihua block deprived Ngāti Pāhauwera of its valuable land and resources, and breached the Treaty of Waitangi (Te Tiriti o Waitangi) and its principles.
- (5) The Crown acknowledges that it failed to provide Ngāti Pāhauwera with protection against the known risk of attack in 1869 and provided only minimal assistance to help Ngāti Pāhauwera recover after the attack on their pā and kāinga in the Mohaka Valley. The Crown acknowledges that the combined effect of these failures amounted to a breach of the Treaty of Waitangi (Te Tiriti o Waitangi) and its principles.
- (6) The Crown acknowledges that its confiscation of land in the Mohaka–Waikare confiscation district compulsorily extinguished any customary interests including those of Ngāti Pāhauwera in that district in breach of the Treaty of Waitangi (Te Tiriti o Waitangi) and its principles.
- (7) The Crown acknowledges that—

- (a) the Crown breached the Treaty of Waitangi (Te Tiriti o Waitangi) and its principles by not providing until 1894 any means in the native land legislation for a form of collective title enabling Ngāti Pāhauwera to administer and utilise their lands:
  - (b) Ngāti Pāhauwera were unable to effectively utilise the Waipapa, Waihua 1 and 2 and Whareraurakau blocks, awarded in the name of hapū in 1868, until the legal issues arising from the use of hapū rather than individual names in the titles were resolved in the late 19th century.
- (8) The Crown acknowledges that—
- (a) by the time a corporate title option had become available, title to all Ngāti Pāhauwera lands, except three blocks, had been awarded to individual Ngāti Pāhauwera:
  - (b) the operation and impact of the native land laws, in particular the awarding of land to individual Ngāti Pāhauwera rather than to iwi or hapū, made those lands more susceptible to partition, fragmentation, and alienation. This contributed to the further erosion of the traditional tribal structures of Ngāti Pāhauwera which were based on collective tribal and hapū custodianship of land. The Crown failed to take steps to adequately protect those structures. This had a prejudicial effect on Ngāti Pāhauwera and was a breach of the Treaty of Waitangi (Te Tiriti o Waitangi) and its principles:
  - (c) these processes disturbed Ngāti Pāhauwera settlement patterns and contributed to the displacement of their people by the end of the 19th century.
- (9) The Crown acknowledges that—
- (a) the Crown's ongoing programme of land purchasing in the 19th and early 20th centuries and private purchasing has left Ngāti Pāhauwera virtually landless:
  - (b) it failed to monitor the impact of land purchases on Ngāti Pāhauwera and, despite the clear implications of the Stout-Ngata Royal Commission's findings in 1907, proceeded to acquire large quantities of Ngāti Pāhauwera lands over the next two decades:

- (c) its failure to ensure Ngāti Pāhauwera retained sufficient land for their present and future needs was a breach of the Treaty of Waitangi (Te Tiriti o Waitangi) and its principles.
- (10) The Crown acknowledges that over time its actions and omissions have seriously impaired the ability of Ngāti Pāhauwera to make appropriate use of their remaining lands and to fully participate in the economic development of the country.
- (11) The Crown acknowledges that it used the consolidation scheme to convert its own fragmented purchases of Ngāti Pāhauwera land interests into usable land blocks, and to obtain additional land for survey costs. The Crown further acknowledges that Ngāti Pāhauwera did not receive all the benefits they were led to expect from consolidation and the subsequent development schemes, and many owners effectively lost the opportunity to live on and use their land under the development schemes.
- (12) The Crown acknowledges—
  - (a) the significance of the Mohaka, Waikari, and Waihua Rivers to Ngāti Pāhauwera as taonga and the mauri of their spiritual and material well-being:
  - (b) the importance to Ngāti Pāhauwera of these rivers as highways, and providers of mahinga kai and other resources important to Ngāti Pāhauwera for cultural and commercial reasons:
  - (c) that the environmental degradation of these rivers and the decline in species of importance to Ngāti Pāhauwera has been a source of distress to Ngāti Pāhauwera as is the detrimental impact of gravel extraction activities and access to hāngi stones.
- (13) The Crown acknowledges that it has failed to respect, provide for, and protect the special relationship of Ngāti Pāhauwera with their rivers.
- (14) The Crown acknowledges that Ngāti Pāhauwera have demonstrated their loyalty to the Crown over the generations and helped to meet the nation's defence obligations including service in two world wars. The Crown acknowledges the loss to Ngāti Pāhauwera of those who died in the service of their country in New Zealand and overseas.

- (15) The Crown acknowledges that—
- (a) Ngāti Pāhauwera expectations of an ongoing and mutually beneficial relationship with the Crown were not always realised:
  - (b) the socio-economic impacts of settlement on Ngāti Pāhauwera continue to be felt:
  - (c) in part as a result of Crown actions or omissions, Ngāti Pāhauwera have been deprived of opportunities for economic, social, and cultural development for too long and to the detriment of their material, cultural, and spiritual well-being.

## **8 Apology**

The text of the apology offered by the Crown, as set out in the deed of settlement, is as follows:

- (1) Ngāti Pāhauwera has a long tradition of providing support to, and seeking a positive relationship with, the Crown. The Crown profoundly regrets that it failed to provide adequate support to Ngāti Pāhauwera including before and after the attack at Mohaka in 1869.
- (2) The Crown is deeply sorry for its breaches of the Treaty of Waitangi (Te Tiriti o Waitangi) and its principles which left Ngāti Pāhauwera with insufficient land-holdings by 1883. The Crown profoundly regrets its ongoing failure to protect the remaining land-holdings of Ngāti Pāhauwera which has had devastating consequences for them—socially, economically, physically, culturally, and spiritually— that continue to be felt today.
- (3) The Crown unreservedly apologises for not having honoured its obligations to Ngāti Pāhauwera under the Treaty of Waitangi (Te Tiriti o Waitangi) and through this settlement the Crown seeks to atone for its wrongs and to begin the process of healing. The Crown looks forward to building a relationship with Ngāti Pāhauwera, based on mutual trust and co-operation, founded on the Treaty of Waitangi (Te Tiriti o Waitangi) and its principles.

## 9 Acceptance of apology

The text of the acceptance of the apology, as set out in the deed of settlement, is as follows:

Ngāti Pāhauwera acknowledges that the Crown's apology represents its commitment to build a positive relationship with Ngāti Pāhauwera and to honour its obligations under the Treaty of Waitangi (Te Tiriti o Waitangi), for the good of this and future generations. Accordingly, Ngāti Pāhauwera accept the apology offered by the Crown and also look forward to building a positive relationship with the Crown.

## Subpart 2—Interpretation

### 10 Interpretation of Act generally

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

### 11 Interpretation

(1) In this Act, unless the context otherwise requires,—

**administering body** has the meaning given by section 2(1) of the Reserves Act 1977

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

**aquatic life** has the meaning given by section 2(1) of the Conservation Act 1987

**authorised person**,—

- (a) in respect of a cultural redress property, has the meaning given by section 42(7); and
- (b) in respect of a commercial redress property, has the meaning given by section 83(5), 85(3), or 94(4) (as the case may be)

**business day** means any day other than—

- (a) Saturday, Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's birthday, and Labour Day; and
- (b) a day in the period starting on 25 December in a year and ending with the close of 15 January in the following year; and

- (c) the day observed as the anniversary of the province of Wellington or Hawke's Bay

**commercial redress property** means—

- (a) a commercial redress property for no consideration:
- (b) the licensed land:
- (c) a valued commercial redress property

**commercial redress property for no consideration** means a property described in table A of Part 4 of the provisions schedule

**Commissioner of Crown Lands** has the same meaning as Commissioner in section 2 of the Land Act 1948

**consent authority** has the meaning given by section 2(1) of the Resource Management Act 1991

**core area of interest** means the area identified in Part 6 of the documents schedule

**Crown** has the meaning given by section 2(1) of the Public Finance Act 1989

**Crown body** means any of the following:

- (a) a Crown entity (as defined by section 7(1) of the Crown Entities Act 2004):
- (b) a State enterprise (as defined by section 2 of the State-Owned Enterprises Act 1986):
- (c) the New Zealand Railways Corporation:
- (d) a company or body that is wholly owned or controlled by any 1 or more of the following:
  - (i) the Crown:
  - (ii) a Crown entity:
  - (iii) a State enterprise:
  - (iv) the New Zealand Railways Corporation:
- (e) a subsidiary of, or a related company to, a company or body referred to in paragraph (d)

**Crown forest land** has the meaning given to it by section 2(1) of the Crown Forest Assets Act 1989

**Crown forestry licence**—

- (a) has the meaning given to it by section 2(1) of the Crown Forest Assets Act 1989; and

- (b) in relation to the licensed land, means the licence described in the third column of table B of Part 4 of the provisions schedule

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

**Crown forestry rental trust deed** means the trust deed made on 30 April 1990 establishing the Crown forestry rental trust under section 34 of the Crown Forest Assets Act 1989

**cultural redress property** has the meaning given by section 26

**deed of settlement and deed**—

- (a) mean the deed of settlement dated 17 December 2010 and signed by—
- (i) the Minister for Treaty of Waitangi Negotiations, the Honourable Christopher Finlayson, the Associate Minister of Māori Affairs, the Honourable Georgina Te Heuheu, and the Minister of Finance, the Honourable Simon William English for the Crown; and
  - (ii) Kuki Green, Toro Waaka, Gerald Aranui, Sissiel Henderson, Charles Lambert, Tureiti Moxon, and Tania Hodges as trustees of the Ngāti Pāhauwera Development Trust and for Ngāti Pāhauwera; and
- (b) include—
- (i) the schedules to the deed; and
  - (ii) any amendments to the deed or its schedules

**Director-General** means the Director-General of Conservation

**documents schedule** means the documents schedule of the deed of settlement

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

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

**Historic Places Trust** means the New Zealand Historic Places Trust (Pouhere Taonga) continued by section 38 of the Historic Places Act 1993

**historical claims** has the meaning given to it in section 13

**land holding agency** means,—

- (a) in relation to commercial redress property for no consideration, the land holding agency specified for the property in table A of Part 4 of the provisions schedule:
- (b) in relation to the licensed land, LINZ:
- (c) in relation to a valued commercial redress property, the land holding agency specified for the property in table C of Part 4 of the provisions schedule

**licensed land**—

- (a) means the land described in table B of Part 4 of the provisions schedule; but
- (b) does not include—
  - (i) a tree growing, standing, or lying on that land; or
  - (ii) an improvement that has been acquired by a purchaser of the trees on that land; or
  - (iii) an improvement that has been made, after the acquisition of the trees on that land, by the purchaser or the licensee

**licensee** means the registered holder for the time being of the Crown forestry licence

**licensor** means the licensor for the time being of the Crown forestry licence

**LINZ** means Land Information New Zealand

**local authority** has the meaning given to it in section 5(1) of the Local Government Act 2002

**member of Ngāti Pāhauwera** means every individual referred to in section 12(1)(a)

**Ngāti Pāhauwera Development Trust** means the trust established by the Ngāti Pāhauwera Development Trust deed

**Ngāti Pāhauwera Development Trust deed**—

- (a) means the deed of trust establishing the Ngāti Pāhauwera Development Trust, dated 27 September 2008; and
- (b) includes—

- (i) the schedules of and any attachments to the deed of trust; and
- (ii) any amendments to the deed of trust or its schedules and attachments

**Ngāti Pāhauwera Tiaki Trust** means the trust established by the Ngāti Pāhauwera Tiaki Trust deed

**Ngāti Pāhauwera Tiaki Trust deed**—

- (a) means the deed of trust establishing the Ngāti Pāhauwera Tiaki Trust, dated 27 September 2008; and
- (b) includes—
  - (i) the schedules of and any attachments to the deed of trust; and
  - (ii) any amendments to the deed of trust or its schedules and attachments

**provisions schedule** means the provisions schedule of the deed of settlement

**regional council** has the meaning given by section 2(1) of the Resource Management Act 1991

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

**related company** has the meaning given to it in section 2(3) of the Companies Act 1993

**relevant consent authority** means a consent authority of a region or district that contains, or is adjacent to, the relevant part of the Earthquake Slip Marginal Strip

**relevant part of the Earthquake Slip Marginal Strip** means the area, with the general location (but not the precise boundaries), indicated on OTS-119-16

**representative entity** means—

- (a) the trustees; and
- (b) any person (including any trustee) acting for, or on behalf of,—
  - (i) the collective group referred to in section 12(1)(a); or
  - (ii) 1 or more of the whānau, hapū, or groups that together form the collective group referred to in section 12(1)(a); or
  - (iii) 1 or more members of Ngāti Pāhauwera

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

**RFR area** means the area shown on SO 433356

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

**settlement document** means a document entered into by the Crown to give effect to the deed of settlement

**subsidiary** has the meaning given to it in section 5 of the Companies Act 1993

**trustees of the Ngāti Pāhauwera Development Trust** and **trustees** mean the trustees from time to time of the Ngāti Pāhauwera Development Trust

**trustees of the Ngāti Pāhauwera Tiaki Trust** means the trustees from time to time of the Ngāti Pāhauwera Tiaki Trust

**valued commercial redress property** means a property described in table C of Part 4 of the provisions schedule.

- (2) In the definition of Crown body in subsection (1), **controlled** means,—
- (a) in relation to a company, control of the composition of its board of directors; and
  - (b) in relation to another body, control of the composition of the group that would be its board of directors if the body were a company.

## 12 Meaning of Ngāti Pāhauwera

- (1) In this Act, **Ngāti Pāhauwera** means—
- (a) the collective group composed of individuals who descend from 1 or more Ngāti Pāhauwera ancestors and who are members of 1 or more of the Ngāti Pāhauwera hapū listed in Schedule 1; and
  - (b) every whānau, hapū, or group to the extent that it is composed of individuals referred to in paragraph (a); and
  - (c) every individual referred to in paragraph (a).
- (2) In this section, **Ngāti Pāhauwera ancestor** means a recognised ancestor of any of the Ngāti Pāhauwera hapū who exercised the customary rights predominantly in relation to the core area of interest at any time after 6 February 1840.

- (3) For the purposes of subsection (1)(a), a person is descended from another person if descended from that other person by—
- (a) birth; or
  - (b) legal adoption.
- (4) In this section, **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.

### 13 Meaning of historical claims

- (1) In this Act, **historical claims** means every claim (whether or not a claim has arisen or been considered, researched, registered, notified, or made by or before the settlement date) that Ngāti Pāhauwera (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 the Treaty of Waitangi (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.
- (2) In this Act, **historical claims** includes every claim to the Waitangi Tribunal to which subsection (1) applies that relates exclusively to Ngāti Pāhauwera (or a representative entity), including—
- (a) Wai 119—the Mohaka River and land claim; and
  - (b) Wai 430—the Rāwhiti Station claim; and
  - (c) Wai 436—the Ngāi Tane claim; and
  - (d) Wai 731—the Kupa whānau claim.
- (3) However, **historical claims** does not include the following:

- (a) a claim that a member of Ngāti Pāhauwera, or a whānau, hapū, or group referred to in section 12(1) may have that is, or is founded on, a right arising as a result of being descended from an ancestor who is not referred to in section 12:
  - (b) a claim that a member of Ngāti Kapua Matotoru may have that is, or is founded on, a right arising as a result of being descended other than from Hinetunge:
  - (c) a claim based on descent from Tahumatua II that a member of Marangatuhetaua (Ngāti Tu), Ngāi Tataara or Ngāti Kurumokihi or Ngāi Te Ruruku ki Tangoio may have that is, or is founded on, a right arising as a result of being descended from Tukapua I, Whakaari, Tataramoa, or Te Ruruku:
  - (d) a claim that a member of Ngāi Te Ruruku may have based on descent from Whararakau or Te Hiku:
  - (e) a claim that a representative entity may have to the extent the claim is, or is founded on, a claim referred to in paragraph (a):
  - (f) an application under subpart 1 or 2 of Part 4 of the Marine and Coastal Area (Takutai Moana) Act 2011.
- (4) Subsection (3)(f) is to avoid doubt.

### Subpart 3—Settlement of historical claims

#### *Historical claims settled and jurisdiction of courts, etc, removed*

#### **14 Settlement of historical claims final**

- (1) The historical claims are settled.
- (2) The settlement of the historical claims is final and, on and from the settlement date, the Crown is released and discharged from all obligations and liabilities in respect of those claims.
- (3) Subsections (1) and (2) do not limit the acknowledgements expressed in, or the provisions of, the deed of settlement.
- (4) Despite any other enactment or rule of law, on and from the settlement date, no court, tribunal, or other judicial body has jurisdiction (including, without limitation, the jurisdiction to inquire or further inquire into, or to make a finding or recommendation) in respect of—

- (a) the historical claims; or
  - (b) the deed of settlement; or
  - (c) this Act; or
  - (d) the redress provided under the deed of settlement or this Act.
- (5) Subsection (4) does not exclude the jurisdiction of a court, tribunal, or other judicial body in respect of the interpretation or implementation of the deed of settlement or this Act.

*Consequential amendment to Treaty of Waitangi  
Act 1975*

**15 Amendment to Treaty of Waitangi Act 1975**

- (1) This section amends the Treaty of Waitangi Act 1975.
- (2) Schedule 3 is amended by inserting the following item in its appropriate alphabetical order: “Ngāti Pāhauwera Treaty Claims Settlement Act 2012, section 14(4) and (5)”.

*Protections no longer apply*

**16 Certain enactments do not apply**

- (1) The enactments listed in subsection (2) do not apply—
  - (a) to land within the RFR area; or
  - (b) for the benefit of Ngāti Pāhauwera or a representative entity.
- (2) The enactments are—
  - (a) sections 8A to 8HJ of the Treaty of Waitangi Act 1975;
  - (b) sections 27A to 27C of the State-Owned Enterprises Act 1986;
  - (c) sections 211 to 213 of the Education Act 1989;
  - (d) Part 3 of the Crown Forest Assets Act 1989;
  - (e) Part 3 of the New Zealand Railways Corporation Restructuring Act 1990.

**17 Removal of memorials**

- (1) The chief executive of LINZ must issue to the Registrar-General a certificate that identifies (by reference to the relevant legal description, certificate of title, or computer register) each allotment that is—
  - (a) solely within the RFR area; and

- (b) contained in a certificate of title or computer register that has a memorial entered under any enactment referred to in section 16(2).
- (2) The chief executive of LINZ must issue a certificate under subsection (1) as soon as is reasonably practicable after the settlement date.
- (3) Each certificate must state that it is issued under this section.
- (4) The Registrar-General must, as soon as is reasonably practicable after receiving a certificate issued under subsection (1),—
  - (a) register the certificate against each certificate of title or computer register identified in the certificate; and
  - (b) cancel, in respect of each allotment identified in the certificate, each memorial that is entered (in accordance with any enactment referred to in section 16(2)) on a certificate of title or computer register identified in the certificate.

#### Subpart 4—Other matters

##### *Perpetuities*

#### **18 Rule against perpetuities does not apply**

- (1) The rule against perpetuities and the provisions of the Perpetuities Act 1964 do not—
  - (a) prescribe or restrict the period during which—
    - (i) the Ngāti Pāhauwera Development Trust and the Ngāti Pāhauwera Tiaki Trust may exist in law; or
    - (ii) the trustees of the Ngāti Pāhauwera Development Trust and the trustees of the Ngāti Pāhauwera Tiaki Trust, in their capacity as trustees, may hold or deal with property (including income derived from property); or
  - (b) apply to a settlement document if the application of that rule or the provisions of that Act would otherwise make the document, or a right conferred by the document, invalid or ineffective.
- (2) However, if the Ngāti Pāhauwera Development Trust or the Ngāti Pāhauwera Tiaki Trust is, or becomes, a charitable trust, the application (if any) of the rule against perpetuities or any

provision of the Perpetuities Act 1964 to either trust must be determined under the general law.

*Timing of actions or matters*

**19 Timing of actions or matters**

- (1) Actions or matters occurring under this Act occur or take effect on and from the settlement date.
- (2) However, if a provision of this Act requires an action or matter to occur or to take effect on a date other than the settlement date, that action or matter occurs or takes effect on and from that other date.

*Access to deed of settlement*

**20 Access to deed of settlement**

The chief executive of the Ministry of Justice must make copies of the deed of settlement available—

- (a) for inspection free of charge, and for purchase at a reasonable price, at the head office of the Ministry of Justice in Wellington during the period of 9 am to 5 pm on any business day; and
- (b) free of charge on an Internet site maintained by or on behalf of the Ministry of Justice.

**Part 2**

**Cultural redress**

Subpart 1—Te Heru o Tūreia

**21 Interpretation**

In this Act, **Te Heru o Tūreia**, **Te Heru o Tūreia (Area B)**, **Te Heru o Tūreia Gift Area**, and **Nakunaku** mean the sites described by those names in Schedule 2.

**22 Te Heru o Tūreia**

- (1) Te Heru o Tūreia ceases to be a conservation area subject to the Conservation Act 1987.
- (2) The fee simple estate in Te Heru o Tūreia vests in the trustees of the Ngāti Pāhauwera Tiaki Trust to hold on behalf of Ngāti Pāhauwera.

**23 Gifting of Te Heru o Tūreia Gift Area**

- (1) After the vesting of Te Heru o Tūreia under section 22(2), the fee simple estate in Te Heru o Tūreia Gift Area then immediately vests in the Crown as a gift from Ngāti Pāhauwera to the people of New Zealand.
- (2) Te Heru o Tūreia Gift Area is declared a reserve and classified as a historic reserve subject to section 18 of the Reserves Act 1977.
- (3) The reserve created by subsection (2) is named Te Heru o Tūreia Historic Reserve.
- (4) Despite the vestings under section 22(2) and subsection (1), any encumbrance that affected Te Heru o Tūreia Gift Area immediately before the settlement date continues to affect it as if the vestings had not occurred.
- (5) The vesting of Te Heru o Tūreia Gift Area is not affected by Part 4A of the Conservation Act 1987, or section 11 and Part 10 of the Resource Management Act 1991.

**24 Te Heru o Tūreia (Area B)**

- (1) Section 22 is subject to the trustees of the Ngāti Pāhauwera Tiaki Trust providing the Crown with a registrable covenant in relation to Te Heru o Tūreia (Area B) in the form set out in Part 3 of the documents schedule.
- (2) The covenant referred to in subsection (1) is to be treated as a conservation covenant for the purposes of—
  - (a) section 27 of the Conservation Act 1987; and
  - (b) section 77 of the Reserves Act 1977.
- (3) Despite the vesting of Te Heru o Tūreia under section 22(2), the assets and fixtures associated with the kakabeak enclosures on Te Heru o Tūreia (Area B) do not vest with the land and remain the responsibility of the Department of Conservation.

**25 Nakunaku**

- (1) After the vesting of Te Heru o Tūreia under section 22(2), Nakunaku is declared a reserve and classified as a historic reserve for the purposes specified in section 18 of the Reserves Act 1977.

- (2) The reserve created by subsection (1) is named Nakunaku Historic Reserve.

### Subpart 2—Vesting of other cultural redress properties

#### 26 Interpretation

- (1) In this Act, **cultural redress property**—
- (a) means any of the following sites, and each site means the land described by that name in Schedule 3:
- Sites vested in fee simple*
- (i) Takauere:
- (ii) Ononi:
- (iii) Te Kuta:
- Sites vested in fee simple subject to conservation covenant*
- (iv) Tauwhareroa:
- (v) Kuwatawata:
- (vi) Ngākōauau (Area A):
- (vii) Paaka Te Ahu:
- (viii) bed of part of Lake Rotoroa:
- (ix) bed of Lake Rotongaio:
- Sites vested in fee simple to be administered as scenic reserve*
- (x) Mangawhārangi:
- (xi) Ngākōauau (Area B):
- (xii) Tānga Kākāriki:
- (xiii) Pūtere:
- Site vested in fee simple to be administered as local purpose reserve*
- (xiv) Raupunga Reserve; and
- (b) includes Te Heru o Tūreia (Area B) and Nakunaku.
- (2) In this Act and Schedule 3,—
- Crown stratum**, in relation to Lake Rotongaio or part of Lake Rotoroa, means that part of Lake Rotongaio and that part of part of Lake Rotoroa comprising the space occupied by water and the space occupied by air above the water

**Lake Rotongaio** means the bed of Lake Rotongaio and the Crown stratum above the bed

**lakebeds** means—

- (a) the bed of Lake Rotongaio; and
- (b) the bed of part of Lake Rotoroa

**Minister** means the Minister of Conservation

**part of Lake Rotoroa** means the bed of part of Lake Rotoroa and the Crown stratum above the bed

**reserve site** means each of the following cultural redress properties:

- (a) Nakunaku;
- (b) Mangawhārangī;
- (c) Ngākōauau (Area B);
- (d) Tānga Kākāriki;
- (e) Pūtere;
- (f) Raupunga Reserve.

*Sites vested in fee simple*

**27 Takauere**

- (1) Takauere (being Pittars Conservation Area) ceases to be a conservation area under the Conservation Act 1987.
- (2) The fee simple estate in Takauere vests in the trustees of the Ngāti Pāhauwera Tiaki Trust.

**28 Ononi**

- (1) The reservation of Ononi (being part of Mangawhārangī Scenic Reserve) as a scenic reserve subject to the Reserves Act 1977 is revoked.
- (2) The fee simple estate in Ononi vests in the trustees of the Ngāti Pāhauwera Tiaki Trust.

**29 Te Kuta**

- (1) The reservation of Te Kuta as a local purpose (stock resting place) reserve subject to the Reserves Act 1977 is revoked.
- (2) The fee simple estate in Te Kuta vests in the trustees of the Ngāti Pāhauwera Tiaki Trust.

*Sites vested in fee simple subject to conservation  
covenant*

**30 Tauwhareroa**

- (1) The reservation of Tauwhareroa (being Rawhiti Scenic Reserve) as a scenic reserve subject to the Reserves Act 1977 is revoked.
- (2) The fee simple estate in Tauwhareroa vests in the trustees of the Ngāti Pāhauwera Tiaki Trust.
- (3) Subsections (1) and (2) are subject to the trustees of the Ngāti Pāhauwera Tiaki Trust providing the Crown with a registrable covenant in relation to Tauwhareroa in the form set out in Part 3 of the documents schedule.
- (4) The covenant referred to in subsection (3) is to be treated as a conservation covenant for the purposes of section 77 of the Reserves Act 1977.

**31 Kuwatawata**

- (1) Kuwatawata (being part of the Mohaka River Conservation Area) ceases to be a conservation area under the Conservation Act 1987.
- (2) The fee simple estate in Kuwatawata vests in the trustees of the Ngāti Pāhauwera Tiaki Trust.
- (3) Subsections (1) and (2) are subject to the trustees of the Ngāti Pāhauwera Tiaki Trust providing the Crown with a registrable covenant in relation to Kuwatawata in the form set out in Part 3 of the documents schedule.
- (4) The covenant referred to in subsection (3) is to be treated as a conservation covenant for the purposes of—
  - (a) section 27 of the Conservation Act 1987; and
  - (b) section 77 of the Reserves Act 1977.

**32 Ngākōauau (Area A)**

- (1) Ngākōauau (Area A) (being part of Maulders Conservation Area) ceases to be a conservation area subject to the Conservation Act 1987.
- (2) The fee simple estate in Ngākōauau (Area A) vests in the trustees of the Ngāti Pāhauwera Tiaki Trust.

- (3) Subsections (1) and (2) are subject to the trustees of the Ngāti Pāhauwera Tiaki Trust providing the Crown with—
  - (a) a registrable right of way easement over the area shown as “B” on SO 431384 in the form set out in Part 5 of the documents schedule; and
  - (b) a registrable covenant in relation to that part of Ngākōauau (Area A) shown as “A”, “B”, “C”, and “D” on SO 431384 in the form set out in Part 3 of the documents schedule.
- (4) The covenant referred to in subsection (3) is to be treated as a conservation covenant for the purposes of section 77 of the Reserves Act 1977.

### **33 Paaka Te Ahu**

- (1) The reservation of Paaka Te Ahu (being Mohaka River Scenic Reserve) as a scenic reserve subject to the Reserves Act 1977 is revoked.
- (2) The fee simple estate in Paaka Te Ahu vests in the trustees of the Ngāti Pāhauwera Tiaki Trust.
- (3) Subsection (2) is subject to the trustees of the Ngāti Pāhauwera Tiaki Trust providing the Crown with a registrable covenant in relation to Paaka Te Ahu in the form set out in Part 3 of the documents schedule.
- (4) The covenant referred to in subsection (3) is to be treated as a conservation covenant for the purposes of—
  - (a) section 27 of the Conservation Act 1987; and
  - (b) section 77 of the Reserves Act 1977.

### **34 Bed of Lake Rotongaio**

- (1) Lake Rotongaio ceases to be a conservation area under the Conservation Act 1987.
- (2) The fee simple estate in the bed of Lake Rotongaio vests in the trustees of the Ngāti Pāhauwera Tiaki Trust.
- (3) The bed of Lake Rotongaio site is not rateable under the Local Government (Rating) Act 2002, except under section 9 of that Act.
- (4) The Crown stratum above the bed of Lake Rotongaio is declared a reserve and classified as a local purpose (wildlife man-

agement) reserve subject to section 23 of the Reserves Act 1977.

- (5) The reserve created by subsection (4) is named Lake Roton-gaio Local Purpose (Wildlife Management) Reserve.
- (6) Subsections (1) to (5) are subject to the trustees of the Ngāti Pāhauwera Tiaki Trust providing the Crown with a registrable covenant in relation to the lakebeds in the form set out in Part 3 of the documents schedule.
- (7) The covenant referred to in subsection (6) is to be treated as a conservation covenant for the purposes of—
  - (a) section 77 of the Reserves Act 1977:
  - (b) section 27 of the Conservation Act 1987.
- (8) This section is subject to sections 47, 48, and 49.

### **35 Bed of part of Lake Rotoroa**

- (1) Part of Lake Rotoroa ceases to be a conservation area under the Conservation Act 1987.
- (2) The fee simple estate in the bed of part of Lake Rotoroa vests in the trustees of the Ngāti Pāhauwera Tiaki Trust.
- (3) The bed of part of Lake Rotoroa site is not rateable under the Local Government (Rating) Act 2002, except under section 9 of that Act.
- (4) The Crown stratum above the bed of part of Lake Rotoroa is declared a reserve and classified as a local purpose (wildlife management) reserve subject to section 23 of the Reserves Act 1977.
- (5) The reserve created by subsection (4) is named Lake Rotoroa Local Purpose (Wildlife Management) Reserve.
- (6) Subsections (1) to (5) are subject to the trustees of the Ngāti Pāhauwera Tiaki Trust providing the Crown with the registrable covenant referred to in section 34(6).
- (7) This section is subject to sections 47, 48, and 49.

*Sites vested in fee simple to be administered as  
scenic reserves*

**36 Mangawhārangi**

- (1) The reservation of Mangawhārangi (being part of Mangawhārangi Scenic Reserve) as a scenic reserve subject to the Reserves Act 1977 is revoked.
- (2) The fee simple estate in Mangawhārangi vests in the trustees of the Ngāti Pāhauwera Tiaki Trust.
- (3) Mangawhārangi is declared a reserve and classified as a scenic reserve for the purposes specified in section 19(1)(a) of the Reserves Act 1977.
- (4) The reserve created by subsection (3) is named Mangawhārangi Scenic Reserve.

**37 Ngākōauau (Area B)**

- (1) Ngākōauau (Area B) (being part of Maulders Conservation Area) ceases to be a conservation area under the Conservation Act 1987.
- (2) The fee simple estate in Ngākōauau (Area B) vests in the trustees of the Ngāti Pāhauwera Tiaki Trust.
- (3) Ngākōauau (Area B) is declared a reserve and classified as a scenic reserve for the purposes specified in section 19(1)(a) of the Reserves Act 1977.
- (4) The reserve created by subsection (3) is named Ngākōauau Scenic Reserve.

**38 Tānga Kākāriki**

- (1) The reservation of Tānga Kākāriki (being part of Kakariki Scenic Reserve) as a scenic reserve subject to the Reserves Act 1977 is revoked.
- (2) The fee simple estate in Tānga Kākāriki vests in the trustees of the Ngāti Pāhauwera Tiaki Trust.
- (3) Tānga Kākāriki is declared a reserve and classified as a scenic reserve for the purposes specified in section 19(1)(a) of the Reserves Act 1977.
- (4) The reserve created by subsection (3) is named Tānga Kākāriki Scenic Reserve.

**39 Pūtere**

- (1) The reservation of Pūtere (being the Putere Scenic Reserve) as a scenic reserve subject to the Reserves Act 1977 is revoked.
- (2) The fee simple estate in Pūtere vests in the trustees of the Ngāti Pāhauwera Tiaki Trust.
- (3) Pūtere is declared a reserve and classified as a scenic reserve for the purposes specified in section 19(1)(a) of the Reserves Act 1977.
- (4) The reserve created by subsection (3) is named Pūtere Scenic Reserve.

*Site vested in fee simple to be administered as  
local purpose reserve*

**40 Raupunga Reserve**

- (1) The reservation of Raupunga Reserve (being Raupunga Scenic Reserve) as a scenic reserve subject to the Reserves Act 1977 is revoked.
- (2) The fee simple estate in Raupunga Reserve vests in the trustees of the Ngāti Pāhauwera Tiaki Trust.
- (3) Raupunga Reserve is declared a reserve and classified as a local purpose (water supply) reserve subject to section 23 of the Reserves Act 1977.
- (4) The reserve created by subsection (3) is named Raupunga Local Purpose (Water Supply) Reserve.

**Subpart 3—General provisions relating to  
vesting of cultural redress properties**

*General provisions*

**41 Properties vest subject to, or together with, encumbrances**

- (1) Each cultural redress property vests under subpart 1 or 2 subject to, or together with, any encumbrances listed in relation to the property in Schedule 2 or 3 (whether as an existing encumbrance that continues to affect the property after the vesting or as a new encumbrance that first affects the property immediately after the vesting).

- (2) Subsection (3) applies if a cultural redress property vests subject to an unregistered concession, whether or not the concession also applies to land outside the cultural redress property.
- (3) The concession applies in respect of the cultural redress property as if the registered proprietors of the property were the grantor under the concession.

#### **42 Registration of ownership**

- (1) This section applies in relation to the fee simple estate in a cultural redress property vested in the trustees of the Ngāti Pāhauwera Tiaki Trust under subpart 1 or 2.
- (2) The Registrar-General must, on written application by an authorised person, comply with subsections (3) and (4).
- (3) To the extent that a cultural redress property (other than Ngākōauau (Area B)) is all of the land contained in a computer freehold register, the Registrar-General must—
  - (a) register the trustees of the Ngāti Pāhauwera Tiaki Trust as the proprietors of the fee simple estate in the land; and
  - (b) record anything in the register, and do anything else, that is necessary to give effect to this Part and to Part 5 of the deed of settlement.
- (4) To the extent that a cultural redress property is not all of the land contained in a computer freehold register, or there is no computer freehold register for all or part of the property, or in the case of Ngākōauau (Area B), the Registrar-General must, in accordance with an application received from an authorised person,—
  - (a) create 1 or more computer freehold registers for the fee simple estate in the property in the names of the trustees of the Ngāti Pāhauwera Tiaki Trust; and
  - (b) record on the register any encumbrances that are registered, notified, or notifiable and that are described in the application.
- (5) Subsection (4) applies subject to the completion of any survey necessary to create the computer freehold register.

- (6) A computer freehold register must be created under this section as soon as is reasonably practicable after the settlement date, but no later than—
- (a) 24 months after the settlement date; or
  - (b) any later date that may be agreed in writing by the trustees of the Ngāti Pāhauwera Tiaki Trust and the Crown.
- (7) In this section, **authorised person** means a person authorised by the Director-General.

#### **43 Application of Part 4A of Conservation Act 1987**

- (1) The vesting of the fee simple estate in a cultural redress property in the trustees of the Ngāti Pāhauwera Tiaki Trust under subpart 1 or 2 is a disposition for the purposes of Part 4A of the Conservation Act 1987, but sections 24(2A), 24A, and 24AA of that Act do not apply to the disposition.
- (2) Despite subsection (1), the rest of section 24 of the Conservation Act 1987 does not apply to the vesting of—
- (a) a reserve site under subpart 1 or 2; or
  - (b) Kuwatawata under section 31(2), the bed of Lake Rotorua under section 34(2), and the bed of part of Lake Rotorua under section 35(2).
- (3) If the reservation under subpart 1 or 2 of a reserve site is revoked in relation to all or part of the site, then the sites referred to in subsection (2)(a) are no longer exempt from the rest of section 24 of the Conservation Act 1987 in relation to all or that part of the site.

#### **44 Recording application of Part 4A of Conservation Act 1987**

- (1) The Registrar-General must record on the computer freehold register for—
- (a) a reserve site—
    - (i) that the land is subject to Part 4A of the Conservation Act 1987, but that section 24 of that Act does not apply; and
    - (ii) that the land is subject to sections 43(3) and 54 of this Act; and

- (b) Kuwatawata, the bed of Lake Rotongaio, and the bed of part of Lake Rotoroa, that the land is subject to Part 4A of the Conservation Act 1987, but that section 24 of that Act does not apply; and
  - (c) any other cultural redress property, that the land is subject to Part 4A of the Conservation Act 1987.
- (2) Notification under subsection (1) that land is subject to Part 4A of the Conservation Act 1987 is to be treated as having been made in compliance with section 24D(1) of that Act.
- (3) If the reservation of a reserve site under subpart 1 or 2 is revoked in relation to—
  - (a) all of the site, then the Director-General must apply in writing to the Registrar-General to remove from the computer freehold register for the site the notifications that—
    - (i) section 24 of the Conservation Act 1987 does not apply to the site; and
    - (ii) the site is subject to sections 43(3) and 54 of this Act; or
  - (b) part of the site, then the Registrar-General must ensure that the notifications referred to in paragraph (a) remain only on the computer freehold register for the part of the site that remains a reserve.
- (4) The Registrar-General must comply with an application received in accordance with subsection (3)(a).

#### **45 Application of other enactments**

- (1) Sections 24 and 25 of the Reserves Act 1977 do not apply to the revocation, under subpart 1 or 2, of the reserve status of a cultural redress property.
- (2) Section 11 and Part 10 of the Resource Management Act 1991 do not apply to—
  - (a) the vesting of the fee simple estate in a cultural redress property under subpart 1 or 2; or
  - (b) any matter incidental to, or required for the purpose of, the vesting.
- (3) The vesting of the fee simple estate in a cultural redress property under subpart 1 or 2 does not—

- (a) limit section 10 or 11 of the Crown Minerals Act 1991;  
or
  - (b) affect other rights to subsurface minerals.
- (4) The permission of a council under section 348 of the Local Government Act 1974 is not required for laying out, forming, granting, or reserving a private road, private way, or right of way required to fulfil the terms of the deed of settlement in relation to a cultural redress property.

**46 Application of New Zealand Geographic Board (Ngā Pou Taunaha o Aotearoa) Act 2008 to certain sites**

- (1) If a site vested under subpart 1 or 2, immediately before the vesting, comprised the whole of a reserve or conservation area and an official geographic name was assigned under the New Zealand Geographic Board (Ngā Pou Taunaha o Aotearoa) Act 2008 to the site,—
- (a) that official geographic name is discontinued; and
  - (b) the Board must ensure that, as soon as is reasonably practicable, the official geographic name is removed from the Gazetteer.
- (2) However, if a site vested under subpart 1 or 2 comprises only part of a reserve or conservation area to which an official geographic name has been assigned,—
- (a) subsection (1)(a) applies only to the part of the site that is vested under subpart 1 or 2; and
  - (b) the Board must amend the Gazetteer so that the official geographic name applies only to the part of the reserve or conservation area that is not vested under subpart 1 or 2.
- (3) If a site is vested under subpart 1 or 2 and reserved and classified as a historic reserve or scenic reserve under that subpart, the historic reserve or scenic reserve does not become a Crown protected area.
- (4) The Minister must not change the name of a reserve site under section 16(10) of the Reserves Act 1977 without the written consent of the administering body of the site, and section 16(10A) of that Act does not apply to the proposed change.

- (5) In this section, **Board**, **Crown protected area**, **Gazetteer**, and **official geographic name** have the same meanings as in section 4 of the New Zealand Geographic Board (Ngā Pou Taunaha o Aotearoa) Act 2008.

*Further provisions relating to bed of Lake Rotongaio and bed of part of Lake Rotoroa*

**47 Lawful access or use, and recreational activities, in relation to lakes**

- (1) Despite the vestings under sections 34(2) and 35(2),—
- (a) any lawful right of access to, or use of, Lake Rotongaio or part of Lake Rotoroa remains unaffected; and
  - (b) members of the public may carry out lawful recreational activities in or on Lake Rotongaio or part of Lake Rotoroa; and
  - (c) the registered proprietors of the lakebeds must not interfere with a member of the public carrying out a lawful recreational activity in or on Lake Rotongaio or part of Lake Rotoroa.
- (2) A recreational activity under subsection (1)—
- (a) for which any enactment requires a permit, licence, or other authorisation must be carried out in accordance with the required authorisation;
  - (b) does not include an activity that—
    - (i) is unlawful under any enactment or bylaw; or
    - (ii) involves attaching a fixture to the bed of Lake Rotongaio or the bed of part of Lake Rotoroa; or
    - (iii) involves a risk of a significant adverse effect to Lake Rotongaio or part of Lake Rotoroa.
- (3) To avoid doubt, the vestings under sections 34(2) and 35(2) do not give any rights to, or impose any obligations on, the trustees of the Ngāti Pāhauwera Tiaki Trust in relation to—
- (a) the waters of Lake Rotongaio or part of Lake Rotoroa; or
  - (b) the aquatic life of Lake Rotongaio or part of Lake Rotoroa (except the plants attached to the bed of Lake Rotongaio or the bed of part of Lake Rotoroa).

**48 Existing structures in or on lakebeds**

- (1) Despite the vestings under sections 34(2) and 35(2), an existing structure—
- (a) does not vest in the trustees of the Ngāti Pāhauwera Tiaki Trust; and
  - (b) may remain in or on the lakebeds without the consent of, and without charge by, the registered proprietors of the land; and
  - (c) may be used, occupied, accessed, repaired, maintained, removed, or demolished at any time without the consent of, and without charge by, the registered proprietors of the land.
- (2) However, if the owner of an existing structure removes or demolishes it, the registered proprietors may require the owner to leave the lakebeds concerned in a clean and tidy condition.
- (3) In this section and sections 49 and 50, **existing structure**—
- (a) means a structure in or on any of the lakebeds to the extent that the structure existed on the settlement date; and
  - (b) includes such a structure whether or not, at any time, it was or is unlawful or unauthorised.

**49 Determination of matters relating to existing structures**

Despite the vestings under sections 34(2) and 35(2), a local authority must determine the following matters as if the lakebeds were owned by the Crown:

- (a) a person's application for a resource consent or a building consent under the Resource Management Act 1991 or the Building Act 2004 to use, occupy, access, repair, maintain, remove, or demolish an existing structure; or
- (b) any attempt by a person to rectify the non-compliance of an existing structure with or under the Resource Management Act 1991 or the Building Act 2004.

**50 Liability for existing structures**

The registered proprietors of the lakebeds are not liable for an existing structure for which they would, apart from this section, be liable by reason of their ownership of any of the lakebeds.

**51 New structures require consent**

- (1) No person may erect or modify a structure in or on, or attach a structure to, any of the lakebeds, unless the registered proprietors of the lakebeds first give their written consent.
- (2) However, subsection (1) does not apply if—
  - (a) the activity relating to the structure is permitted or otherwise authorised under section 45; or
  - (b) section 52 applies to the activity relating to the structure.
- (3) The registered proprietors may impose conditions on the grant of their consent, including imposing a charge.

**52 Authorisations not affected**

- (1) To avoid doubt, the vestings under sections 34(2) and 35(2) do not limit or otherwise affect a right or an authorisation provided by or under an enactment that does not require the consent of the registered proprietors of the lakebeds—
  - (a) to undertake an activity in, on, or in relation to the lakebeds; or
  - (b) to exercise a power or perform a function or duty in, on, or in relation to the lakebeds.
- (2) The rights and authorisations referred to in subsection (1) include, but are not limited to, a right or an authorisation to—
  - (a) place or install, permanently or temporarily, a structure of any kind in or on the lakebeds; or
  - (b) enter and remain on the lakebeds to carry out any activity, including to gain access to, or undertake an activity on, any structure placed or installed in or on the lakebeds.

*Provisions relating to reserve sites***53 Application of Reserves Act 1977 to reserve sites**

- (1) The trustees of the Ngāti Pāhauwera Tiaki Trust are the administering body of a reserve site for the purposes of the Reserves Act 1977.
- (2) Sections 48A, 114, and 115 of the Reserves Act 1977 apply to a reserve site, despite sections 48A(6), 114(5), and 115(6) of that Act.

- (3) Sections 78(1)(a), 79 to 81, and 88 of the Reserves Act 1977 do not apply in relation to a reserve site.
- (4) If the reservation of a reserve site under this Part is revoked under section 24 of the Reserves Act 1977 in relation to all or part of the site, section 25 of that Act, except subsection (2) of that provision, does not apply to the revocation.

#### **54 Subsequent transfer of reserve land**

- (1) This section applies to all, or the part, of a reserve site that, at any time after it is vested in the trustees of the Ngāti Pāhauwera Tiaki Trust under subpart 1 or 2, remains a reserve under the Reserves Act 1977 (**reserve land**).
- (2) The fee simple estate in the reserve land may be transferred to any other person only in accordance with this section, despite any other enactment or rule of law.
- (3) The Minister of Conservation must give written consent to the transfer of the fee simple estate in the reserve land to another person or persons (the **new owners**) if, on written application, the registered proprietors of the reserve land satisfy the Minister of Conservation that the new owners are able to—
  - (a) comply with the requirements of the Reserves Act 1977; and
  - (b) perform the duties of an administering body under that Act.
- (4) The Registrar-General must, upon receiving the documents specified in subsection (5), register the new owners as the proprietors of the fee simple estate in the reserve land.
- (5) The documents are—
  - (a) a transfer instrument to transfer the fee simple estate in the reserve land to the new owners, including a notification that the new owners are to hold the reserve land for the same reserve purposes as it was held by the administering body immediately before the transfer; and
  - (b) the written consent of the Minister of Conservation to the transfer of the reserve land; and
  - (c) any other document required for the registration of the transfer instrument.

- (6) The new owners, from the time of their registration under subsection (4),—
- (a) are the administering body of the reserve land for the purposes of the Reserves Act 1977; and
  - (b) hold the reserve land for the same reserve purposes as it was held by the administering body immediately before the transfer.
- (7) Despite subsections (1) and (2), subsections (3) to (6) do not apply to the transfer of the fee simple estate in the reserve land if—
- (a) the transferors of the reserve land are or were trustees of a trust; and
  - (b) the transferees are the trustees of that same trust, after any new trustee has been appointed to the trust or any transferor has ceased to be a trustee of the trust; and
  - (c) the instrument to transfer the reserve land is accompanied by a certificate given by the transferees, or the transferees' solicitor, verifying that paragraphs (a) and (b) apply.

#### **55 Reserves not to be mortgaged**

The registered proprietors of a reserve site must not mortgage, or give a security interest in, all or any part of the site that, at any time after the site was vested in the trustees of the Ngāti Pāhauwera Tiaki Trust under subpart 1 or 2, remains a reserve under the Reserves Act 1977.

#### **56 Saving of bylaws, etc, in relation to reserve sites**

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

#### Subpart 4—Extraction of hāngi stones

##### 57 Interpretation

In this subpart,—

**coastal marine area** has the meaning given by section 2(1) of the Resource Management Act 1991

**hāngi stones** means naturally occurring rounded rocks that—

- (a) are typically basalt, rhyolite, or andesite volcanic cobbles; and
- (b) are typically lacking in fracture planes; and
- (c) have dense crystalline texture giving them the capacity to retain heat; and
- (d) are commonly found in deposits of volcanic debris

**relevant hāngi stones** means hāngi stones that are situated in the bed of the Mohaka River or Te Hoe River to the extent that the bed of the river is situated in the core area of interest but not in the coastal marine area.

##### 58 Restriction on extraction of relevant hāngi stones

- (1) A person may only extract relevant hāngi stones if—
  - (a) the relevant hāngi stones are loose; and
  - (b) the person has obtained the written consent of the trustees of the Ngāti Pāhauwera Development Trust to extract the relevant hāngi stones; and
  - (c) the person extracts the relevant hāngi stones in accordance with any terms or conditions set out in the consent referred to in paragraph (b).
- (2) If a person extracts relevant hāngi stones in carrying out another activity, the person must return the stones—
  - (a) to their original position; or
  - (b) as close as is reasonably practicable to their original position; or
  - (c) if the trustees so direct, to another place in the vicinity of their original position.

##### 59 Trustees' consent

- (1) The trustees of the Ngāti Pāhauwera Development Trust are not obliged to give a consent to extract relevant hāngi stones

under section 58(1)(b), but may give it on any terms and conditions they see fit.

- (2) Despite any enactment, any person who has obtained the consent of the trustees to extract relevant hāngi stones may extract the stones without obtaining any consent from a local authority.

#### **60 Appointment of tangata tiaki**

- (1) Tangata tiaki may be appointed by the trustees of the Ngāti Pāhauwera Development Trust to promote compliance with the restriction imposed by section 58(1).
- (2) An appointment under subsection (1) may be made whether or not any regulations have been made under section 61, but if any regulations have been made, the appointment must be made in accordance with those regulations.
- (3) The functions of tangata tiaki are—
  - (a) to assist in implementing the restriction imposed by section 58(1); and
  - (b) to advise members of the public of the restriction; and
  - (c) to record any failure by a person to comply with the restriction if the tangata tiaki has reasonable grounds to believe that the failure is intentional; and
  - (d) to request the name, contact details, and date of birth of any person referred to in paragraph (c); and
  - (e) to report the matters specified in paragraphs (c) and (d) to the New Zealand Police.
- (4) To avoid doubt, tangata tiaki are responsible to the trustees of the Ngāti Pāhauwera Development Trust for the discharge of their functions under subsection (3).

#### **61 Regulations relating to tangata tiaki**

The Governor-General may, on the recommendation of the Minister of Justice after consultation with the trustees of the Ngāti Pāhauwera Development Trust, by Order in Council, make regulations for all or any of the following purposes:

- (a) providing for the appointment of tangata tiaki under section 60, the qualification for appointment, the terms

of the appointment, and the termination of an appointment:

- (b) prescribing additional functions of tangata tiaki appointed under section 60, being functions that are reasonably incidental to the functions specified in that section:
- (c) prescribing any duties or powers to be exercised by tangata tiaki for the purpose of performing their functions:
- (d) prescribing the means (including, without limitation, identity cards or badges, or both) by which tangata tiaki are to be identified.

#### Subpart 5—Redress relating to fisheries and resource management matters

##### *Nominations for special tribunal relating to Water Conservation (Mohaka River) Order 2004*

#### **62 Nominations for special tribunal in relation to Water Conservation (Mohaka River) Order 2004**

- (1) This section applies if the Minister for the Environment appoints a special tribunal under section 202 of the Resource Management Act 1991 (a **special tribunal**) to hear and report on a relevant application where—
  - (a) the waters to be protected fall entirely within the core area of interest; or
  - (b) the waters to be protected fall partly within the core area of interest.
- (2) If subsection (1)(a) applies, the trustees of the Ngāti Pāhauwera Development Trust may nominate for appointment up to half of the members of the special tribunal.
- (3) If subsection (1)(b) applies, the trustees of the Ngāti Pāhauwera Development Trust may nominate for appointment 1 member of the special tribunal.
- (4) The Minister for the Environment must not refuse to accept any nomination under subsection (2) or (3) unless the Minister is satisfied on reasonable grounds that—

- (a) the nominee's duties and responsibilities as a member of the special tribunal may be affected by some other interest or duty that the nominee has; or
  - (b) there may be a perception on the part of any person with an interest in the application, or the general public, that the nominee—
    - (i) has predetermined the outcome of the application; or
    - (ii) is biased.
- (5) For the purposes of subsection (3), if more than 1 other iwi or hapū have the right to nominate a member of the special tribunal, the trustees of the Ngāti Pāhauwera Development Trust may, along with all other iwi with a right of nomination, agree on and jointly nominate up to half of the members of the special tribunal.
- (6) However, if the trustees of the Ngāti Pāhauwera Development Trust are unable or unwilling to reach agreement with all other iwi under subsection (5), the Minister for the Environment must instead consult with the trustees of the Ngāti Pāhauwera Development Trust on the membership of the special tribunal.
- (7) In this section,—
- relevant application** means an application to—
- (a) revoke or amend the Water Conservation (Mohaka River) Order 2004; or
  - (b) make an order under section 214 of the Resource Management Act 1991 in respect of the Mohaka River or its tributaries

**waters to be protected** means the waters within the Mohaka River and its tributaries in respect of which restrictions or prohibitions within the meaning of section 200 of the Resource Management Act 1991 are proposed as at the date on which the Minister makes a decision to appoint the special tribunal.

#### *Advisory committee*

### **63 Appointment of advisory committee in relation to Mohaka River and Wairoa Hard**

- (1) The Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the

time being responsible for the administration of the Ministry of Agriculture and Fisheries (Restructuring) Act 1995, must, on or before the settlement date appoint the trustees of the Ngāti Pāhauwera Development Trust as an advisory committee under section 21(1) of that Act, for the purposes of advising the Minister on any proposed changes to—

- (a) the current prohibition on the commercial taking of aquatic life in the Mohaka River; and
  - (b) the current prohibition on the commercial taking of finfish and the current restrictions on the use of nets for the taking of finfish in the area in the Hawke’s Bay known as the Wairoa Hard.
- (2) In this section, **aquatic life** and **finfish** have the same meanings as in section 2(1) of the Fisheries Act 1996.

*Amendment to Hawke’s Bay Regional Resource  
Management Plan*

**64 Amendment to Hawke’s Bay Regional Resource Management Plan**

- (1) The heading to Pol 52 of the Hawke’s Bay Regional Resource Management Plan is amended by omitting “**RESOURCE ALLOCATION—**”.
- (2) In this section, **Hawke’s Bay Regional Resource Management Plan** means the Hawke’s Bay Regional Resource Management Plan as prepared by the Hawke’s Bay Regional Council operative on and from 28 August 2006.

**65 Provision of certain resource consents to trustees of Ngāti Pāhauwera Development Trust**

- (1) A local authority specified in subsection (2) must forward to the trustees of the Ngāti Pāhauwera Development Trust a copy of all applications for resource consents in respect of activities within the catchment of a river specified in subsection (3).
- (2) The local authorities are—
  - (a) the Hawke’s Bay Regional Council;
  - (b) the Wairoa District Council;
  - (c) the Hastings District Council.
- (3) The rivers are—

- (a) the Mohaka River:
- (b) the Waikari River:
- (c) the Waihua River.

### Subpart 6—Statutory acknowledgement

#### 66 Interpretation

In this subpart,—

**statement of association** means the statement—

- (a) made by Ngāti Pāhauwera of their particular cultural, spiritual, historical, and traditional association with the relevant part of the Earthquake Slip Marginal Strip; and
- (b) that is in the form set out in Part 1 of the documents schedule at the settlement date

**statutory acknowledgement** means the acknowledgement made by the Crown in section 67 of the statement of association in respect of the relevant part of the Earthquake Slip Marginal Strip, on the terms set out in this subpart

**statutory plan**—

- (a) means a district plan, proposed plan, regional coastal plan, regional plan, or regional policy statement as defined in section 2(1) of the Resource Management Act 1991; and
- (b) includes a proposed policy statement provided for in Schedule 1 of the Resource Management Act 1991.

#### 67 Statutory acknowledgement by the Crown

The Crown acknowledges the statement of association.

#### 68 Purposes of statutory acknowledgement

- (1) The only purposes of the statutory acknowledgement are to—
  - (a) require relevant consent authorities, the Environment Court, and the Historic Places Trust to have regard to the statutory acknowledgement, as provided for in sections 69 to 71; and
  - (b) require relevant consent authorities to forward summaries of resource consent applications, or copies of notices of resource consent applications, to the trustees

- of the Ngāti Pāhauwera Development Trust, as provided for in section 73; and
- (c) enable the trustees of the Ngāti Pāhauwera Development Trust and any member of Ngāti Pāhauwera to cite the statutory acknowledgement as evidence of the association of Ngāti Pāhauwera with the relevant part of the Earthquake Slip Marginal Strip, as provided for in section 74.
- (2) This section does not limit sections 76 to 78.

**69 Relevant consent authorities to have regard to statutory acknowledgement**

- (1) On and from the effective date, a relevant consent authority must have regard to the statutory acknowledgement in deciding, under section 95E of the Resource Management Act 1991, whether the trustees of the Ngāti Pāhauwera Development Trust are affected persons in relation to an activity within, adjacent to, or directly affecting the relevant part of the Earthquake Slip Marginal Strip and for which an application for a resource consent has been made.
- (2) Subsection (1) does not limit the obligations of a relevant consent authority under the Resource Management Act 1991.

**70 Environment Court to have regard to statutory acknowledgement**

- (1) On and from the effective date, the Environment Court must have regard to the statutory acknowledgement for the relevant part of the Earthquake Slip Marginal Strip in deciding, under section 274 of the Resource Management Act 1991, whether the trustees of the Ngāti Pāhauwera Development Trust are persons who have an interest in proceedings that is greater than the interest that the general public has in respect of an application for a resource consent for activities within, adjacent to, or directly affecting the relevant part of the Earthquake Slip Marginal Strip.
- (2) Subsection (1) does not limit the obligations of the Environment Court under the Resource Management Act 1991.

**71 Historic Places Trust and Environment Court to have regard to statutory acknowledgement**

- (1) This section applies if, on and after the effective date, an application is made under section 11 or 12 of the Historic Places Act 1993 for an authority to destroy, damage, or modify an archaeological site within the relevant part of the Earthquake Slip Marginal Strip.
- (2) The Historic Places Trust must have regard to the statutory acknowledgement in exercising its powers under section 14 of the Historic Places Act 1993 in relation to the application made under subsection (1), including in determining whether the trustees of the Ngāti Pāhauwera Development Trust are persons directly affected by an extension of time.
- (3) The Environment Court must have regard to the statutory acknowledgement in determining under section 20 of the Historic Places Act 1993 any appeal from a decision of the Historic Places Trust in relation to the application made under subsection (1), including in determining whether the trustees of the Ngāti Pāhauwera Development Trust are persons directly affected by the decision.
- (4) In this section, **archaeological site** has the same meaning as in section 2 of the Historic Places Act 1993.

**72 Recording statutory acknowledgement on statutory plans**

- (1) On and from the effective date, each relevant consent authority must attach information recording the statutory acknowledgement to all statutory plans that wholly or partly cover the relevant part of the Earthquake Slip Marginal Strip.
- (2) The information attached to a statutory plan must include—
  - (a) the relevant provisions of sections 67 to 71 in full; and
  - (b) the description of the relevant part of the Earthquake Slip Marginal Strip; and
  - (c) the statement of association for the relevant part of the Earthquake Slip Marginal Strip.
- (3) The attachment of information to a statutory plan under this section is for the purpose of public information only, and the information is not—

- (a) part of the statutory plan, unless adopted by the relevant consent authority; or
- (b) subject to the provisions of Schedule 1 of the Resource Management Act 1991, unless adopted as part of the statutory plan.

**73 Provision of resource consent applications to trustees of Ngāti Pāhauwera Development Trust**

- (1) Each relevant consent authority must, for a period of 20 years from the effective date, provide the following to the trustees of the Ngāti Pāhauwera Development Trust for each resource consent application for an authority for activities within, adjacent to, or directly affecting the relevant part of the Earthquake Slip Marginal Strip:
  - (a) if the application is received by the consent authority, a summary of the application; or
  - (b) if notice of the application is served on the consent authority under section 145(10) of the Resource Management Act 1991, a copy of the notice.
- (2) The information provided in a summary of an application must be the same as would be given to an affected person by limited notification under section 95B of the Resource Management Act 1991, or as may be agreed between the trustees of the Ngāti Pāhauwera Development Trust and the relevant consent authority.
- (3) A summary of an application must be provided under subsection (1)(a)—
  - (a) as soon as is reasonably practicable after the consent authority receives the application; and
  - (b) before the consent authority decides under section 95 of the Resource Management Act 1991 whether to notify the application.
- (4) A copy of a notice of an application must be provided under subsection (1)(b) no later than 10 business days after the date on which the consent authority receives the notice.
- (5) This section does not affect a relevant consent authority's obligation,—

- (a) under section 95 of the Resource Management Act 1991, to decide whether to notify an application, and to notify the application if it decides to do so; or
- (b) under section 95E of that Act, to decide if the trustees of the Ngāti Pāhauwera Development Trust are affected persons in relation to an activity.

#### **74 Use of statutory acknowledgement**

- (1) The trustees of the Ngāti Pāhauwera Development Trust and any member of Ngāti Pāhauwera may, as evidence of the association of Ngāti Pāhauwera with the relevant part of the Earthquake Slip Marginal Strip, cite the statutory acknowledgement in submissions to, and in proceedings before, a relevant consent authority, the Environmental Protection Authority or a board of inquiry under Part 6AA of the Resource Management Act 1991, the Environment Court, or the Historic Places Trust concerning activities within, adjacent to, or directly affecting the relevant part of the Earthquake Slip Marginal Strip.
- (2) The content of the statement of association is not, by virtue of the statutory acknowledgement, binding as fact on—
  - (a) relevant consent authorities:
  - (b) the Environmental Protection Authority or a board of inquiry under Part 6AA of the Resource Management Act 1991:
  - (c) the Environment Court:
  - (d) the Historic Places Trust:
  - (e) parties to proceedings before those bodies:
  - (f) any other person who is entitled to participate in those proceedings.
- (3) However, the bodies and persons specified in subsection (2) may take the statutory acknowledgement into account.
- (4) To avoid doubt,—
  - (a) neither the trustees of the Ngāti Pāhauwera Development Trust nor members of Ngāti Pāhauwera are precluded from stating that Ngāti Pāhauwera have an association with the relevant part of the Earthquake Slip Marginal Strip that is not described in the statutory acknowledgement; and

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

**75 Trustees of Ngāti Pāhauwera Development Trust may waive rights**

- (1) The trustees of the Ngāti Pāhauwera Development Trust may waive the right to be provided with summaries, and copies of notices, of resource consent applications under section 73 in relation to the relevant part of the Earthquake Slip Marginal Strip.
- (2) Rights must be waived by written notice to the relevant consent authority, the Environment Court, or the Historic Places Trust, stating—
  - (a) the scope of the waiver; and
  - (b) the period for which it applies.
- (3) An obligation under this subpart does not apply to the extent that the corresponding right has been waived under this section.

*General provisions relating to statutory  
acknowledgement*

**76 Exercise of powers and performance of duties and functions**

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

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

**77 Rights not affected**

Except as expressly provided in this subpart, the statutory acknowledgement does not affect the lawful rights or interests of any person who is not a party to the deed of settlement.

**78 Limitation of rights**

Except as expressly provided in this subpart, the statutory acknowledgement does not have the effect of granting, creating, or providing evidence of an estate or interest in, or rights relating to, the relevant part of the Earthquake Slip Marginal Strip.

*Amendment to Resource Management Act 1991*

**79 Amendment to Resource Management Act 1991**

- (1) This section amends the Resource Management Act 1991.
- (2) Schedule 11 is amended by inserting the following item in its appropriate alphabetical order: “Ngāti Pāhauwera Treaty Claims Settlement Act 2012”.

**Subpart 7—The Crown not prevented from  
providing other similar redress**

**80 The Crown not prevented from providing other similar redress**

- (1) The provision of the specified cultural redress does not prevent the Crown from doing anything that is consistent with that cultural redress, including—
- (a) providing, or agreeing to introduce legislation providing or enabling, the same or similar redress to any person other than Ngāti Pāhauwera or the trustees of the Ngāti Pāhauwera Development Trust; or
- (b) disposing of land.
- (2) However, subsection (1) is not an acknowledgement by the Crown or Ngāti Pāhauwera that any other iwi or group has interests in relation to land or an area to which any of the specified cultural redress relates.

- (3) In this section, **specified cultural redress** means the statutory acknowledgement for the relevant part of the Earthquake Slip Marginal Strip.

### Part 3 Commercial redress

#### Subpart 1—Transfer of commercial redress properties

##### **81 The Crown may transfer properties**

To give effect to Part 6 of the deed of settlement and Part 4 of the provisions schedule, the Crown (acting by and through the chief executive of the land holding agency) is authorised to do 1 or both of the following:

- (a) transfer the fee simple estate in a commercial redress property to the trustees of the Ngāti Pāhauwera Development Trust;
- (b) sign a transfer instrument or other document, or do any other thing, to effect a settlement transfer.

##### **82 Revocation of reserve status**

- (1) The reservation of the Mohaka Pound, Kotemāori, Raupunga Stock Resting Reserve, Mohaka Coach Road, and Pūtere Road sites as reserves subject to the Reserves Act 1977 is revoked.
- (2) Sections 24 and 25 of the Reserves Act 1977 do not apply to any revocation under subsection (1).
- (3) In this section, **Mohaka Pound**, **Kotemāori**, **Raupunga Stock Resting Reserve**, **Mohaka Coach Road**, and **Pūtere Road** mean the sites listed in Part 4 of the provisions schedule.

##### **83 Registrar-General to create computer freehold register**

- (1) This section applies to a commercial redress property other than licensed land, to the extent that it is not all of the land contained in a computer freehold register or there is no computer freehold register for all or part of the property.
- (2) The Registrar-General must, in accordance with a written application by an authorised person, and after the completion of

any necessary survey, create a computer freehold register in the name of the Crown—

- (a) subject to, and together with, any encumbrances that are registered, notified, or notifiable and that are described in the written application; but
  - (b) without any statement of purpose.
- (3) The authorised person may grant a covenant to arrange for the later creation of a computer freehold register for a commercial redress property.
- (4) Despite the Land Transfer Act 1952,—
- (a) the authorised person may request the Registrar-General to register a covenant (as referred to in subsection (3)) under the Land Transfer Act 1952 by creating a computer interest register; and
  - (b) the Registrar-General must register the covenant in accordance with paragraph (a).
- (5) In this section, **authorised person** means a person authorised by the chief executive of the land holding agency.

#### **84 Application of other enactments**

- (1) Section 11 and Part 10 of the Resource Management Act 1991 do not apply to—
- (a) the transfer to the trustees of the Ngāti Pāhauwera Development Trust of a commercial redress property; or
  - (b) a matter incidental to, or required for the purpose of, that transfer.
- (2) The transfer of a commercial redress property to the trustees of the Ngāti Pāhauwera Development Trust does not—
- (a) limit section 10 or 11 of the Crown Minerals Act 1991; or
  - (b) affect other rights to subsurface minerals.
- (3) The transfer of a commercial redress property to the trustees of the Ngāti Pāhauwera Development Trust is a disposition for the purposes of Part 4A of the Conservation Act 1987, but sections 24(2A), 24A, and 24AA of that Act do not apply to the disposition.
- (4) The permission of a council under section 348 of the Local Government Act 1974 is not required for laying out, forming,

granting, or reserving a private road, private way, or right of way that may be required to fulfil the terms of Part 6 of the deed of settlement and Part 4 of the provisions schedule in relation to the transfer of a commercial redress property.

- (5) In exercising the powers conferred by section 81, the Crown is not required to comply with any other enactment that would otherwise regulate or apply to the transfer of a commercial redress property.
- (6) Subsection (5) is subject to subsections (2) and (3).

#### **85 Registrar-General to create computer freehold registers for licensed land**

- (1) This section applies to licensed land to be transferred to the trustees of the Ngāti Pāhauwera Development Trust under Part 6 of the deed of settlement that is subject to a single Crown forestry licence.
- (2) The Registrar-General must, in accordance with a written application by an authorised person, and after the completion of any necessary survey, create 1 computer freehold register for that part of the licensed land in the Gisborne Land Registration District and 1 computer freehold register for that part of the licensed land in the Hawke's Bay Land Registration District, each in the name of the Crown—
  - (a) subject to, and together with, any encumbrances that are registered, notified, or notifiable and that are described in the written application; but
  - (b) without any statement of purpose.
- (3) In this section, **authorised person** means a person authorised by the chief executive of LINZ.

#### Subpart 2—Licensed land

#### **86 Licensed land ceases to be Crown forest land**

- (1) Licensed land ceases to be Crown forest land on the registration of the transfer of the fee simple estate in the land to the trustees of the Ngāti Pāhauwera Development Trust.
- (2) However, although the licensed land does not cease to be Crown forest land until the transfer of the fee simple estate in the land to the trustees of the Ngāti Pāhauwera Development

Trust is registered, neither the Crown nor any court or tribunal may do any thing, or omit to do any thing, if that act or omission would, between the settlement date and the date of registration, be consistent with the Crown Forest Assets Act 1989, but inconsistent with this Part or Part 6 of the deed of settlement.

**87 Trustees of Ngāti Pāhauwera Development Trust are confirmed beneficiaries and licensors in relation to licensed land**

- (1) The trustees of the Ngāti Pāhauwera Development Trust are, in relation to the licensed land, the confirmed beneficiaries under clause 11.1 of the Crown forestry rental trust deed.
- (2) The effect of subsection (1) is that—
  - (a) the trustees of the Ngāti Pāhauwera Development Trust are entitled to the rental proceeds payable since the commencement of the Crown forestry licence; and
  - (b) all the provisions of the Crown forestry rental trust deed apply on the basis that the trustees of the Ngāti Pāhauwera Development Trust are the confirmed beneficiaries.
- (3) The Crown must give notice under section 17(4)(b) of the Crown Forest Assets Act 1989 in respect of the Crown forestry licence, even though the Waitangi Tribunal has not made a recommendation under section 8HB(1)(a) of the Treaty of Waitangi Act 1975 for the return of the licensed land.
- (4) Notice given by the Crown under subsection (3) has effect as if—
  - (a) the Waitangi Tribunal had made a recommendation under section 8HB(1)(a) of the Treaty of Waitangi Act 1975 for the return of the settlement licensed land; and
  - (b) the recommendation had become final on the settlement date.
- (5) The trustees of the Ngāti Pāhauwera Development Trust are the licensor under the Crown forestry licence as if the licensed land had been returned to Māori ownership—
  - (a) on the settlement date; and
  - (b) under section 36 of the Crown Forest Assets Act 1989.

- (6) However, section 36(1)(b) of the Crown Forest Assets Act 1989 does not apply to the settlement licensed land.

**88 Effect of transfer of licensed land**

Section 87 applies whether or not, on the settlement date, the transfer of the fee simple estate in the licensed land has been registered.

**89 Public access to licensed land**

- (1) Clause 6.2 of the Crown forestry licence (which relates to public entry for recreational purposes) continues to apply even though the Crown is no longer the licensor under the licence because the land has been transferred to the trustees of the Ngāti Pāhauwera Development Trust under section 81.
- (2) A notification to the effect described in subsection (1) must—
- (a) be recorded against each computer freehold register for the licensed land; and
  - (b) on application by the registered proprietor, be removed from each computer freehold register for the licensed land on the expiry of the Crown forestry licence.

**90 Public right of way easement may be granted**

- (1) A public right of way easement may be granted under section 8 of the Crown Forest Assets Act 1989 in relation to the licensed land and is enforceable in accordance with its terms, despite its subject matter.
- (2) Sections 26 and 27 of the Crown Forest Assets Act 1989 apply to any variation, renewal, or cancellation under section 8(b) of that Act of a public right of way easement.
- (3) The permission of a council under section 348 of the Local Government Act 1974 is not required to lay out, form, grant, or reserve a private road, private way, or right of way under this section.
- (4) In this section, **public right of way easement** means an easement in gross granted in relation to the licensed land, as described in clause 6.7.3 of the deed of settlement.

### Subpart 3—Access to protected sites

#### **91 Meaning of protected site**

In this subpart, **protected site** means any area of land situated in the licensed land that—

- (a) is wāhi tapu or a wāhi tapu area within the meaning of section 2 of the Historic Places Act 1993; and
- (b) becomes a registered place within the meaning of section 2 of that Act.

#### **92 Right of access to protected site**

- (1) The owner of the land on which a protected site is situated and any person holding an interest in, or a right of occupancy to, that land must allow access across the land to each protected site to Māori for whom the protected site is of special spiritual, cultural, or historical significance.
- (2) The right of access may be exercised by vehicles or by foot over any reasonably convenient routes specified by the owner.
- (3) The right of access is subject to the following conditions:
  - (a) a person intending to exercise the right of access must give the owner reasonable notice in writing of his or her intention to exercise that right; and
  - (b) the right of access may be exercised only at reasonable times and during daylight hours; and
  - (c) a person exercising the right of access must observe any reasonable conditions imposed by the owner relating to the time, location, or manner of access as are reasonably required—
    - (i) for the safety of people; or
    - (ii) for the protection of land, improvements, flora and fauna, plant and equipment, or livestock; or
    - (iii) for operational reasons.

#### **93 Right of access subject to Crown forestry licence**

- (1) The right of access conferred by section 92 is subject to and does not override the terms of the Crown forestry licence, except where the licensee has agreed to an exercise of the right of access.

- (2) An amendment to a Crown forestry licence will be of no effect to the extent that it purports to—
- (a) delay the date from which a person who has a right of access under section 92 may exercise that right; or
  - (b) otherwise adversely affect the right of access.

**94 Registrar-General must note right of access**

- (1) The Registrar-General must, in accordance with a written application by an authorised person, record on the computer freehold registers for the licensed land that the land is, or may at any future time be, subject to the right of access set out in section 92.
- (2) An application must be made as soon as is reasonably practicable after the settlement date.
- (3) However, if the computer freehold registers have not been created by the settlement date, an application must be made as soon as is reasonably practicable after the registers have been created.
- (4) In this section, **authorised person** means a person authorised by the chief executive of LINZ.

Subpart 4—Right of first refusal in relation  
to RFR land

*Interpretation*

**95 Interpretation**

In this subpart and Schedule 4, unless the context otherwise requires,—

**dispose of**, in relation to RFR land,—

- (a) means to—
  - (i) transfer or vest the fee simple estate in the land; or
  - (ii) grant a lease of the land for a term that is, or will be (if any rights of renewal or extension are exercised under the lease), for 50 years or longer; but
- (b) to avoid doubt, does not include to—

- (i) mortgage, or give a security interest in, the land; or
- (ii) grant an easement over the land; or
- (iii) consent to an assignment of a lease, or to a sub-lease, of the land; or
- (iv) remove an improvement, fixture, or fitting from the land

**expiry date**, in relation to an offer, means its expiry date under sections 98(a) and 99

**notice** means a notice given in writing under this subpart

**offer** means an offer, made in accordance with section 98, by an RFR landowner to dispose of RFR land to the trustees of the Ngāti Pāhauwera Development Trust

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

**RFR land** has the meaning given by section 96

**RFR landowner**, in relation to RFR land,—

- (a) means—
  - (i) the Crown, if the land is vested in the Crown or the Crown holds the fee simple estate in the land; and
  - (ii) a Crown body, if the body holds the fee simple estate in the land; and
- (b) includes a local authority to which RFR land has been disposed of under section 104(1); but
- (c) to avoid doubt, does not include an administering body in which RFR land is vested—
  - (i) on the settlement date; or
  - (ii) after the settlement date, under section 105(1)

**RFR period** means the period of 100 years from the settlement date.

## 96 Meaning of RFR land

(1) In this subpart, **RFR land**—

- (a) means the land within the RFR area shown on SO 433356 that, on the settlement date, is—
  - (i) vested in the Crown; or
  - (ii) held in fee simple by the Crown; or

- (iii) a reserve vested in an administering body that derived title from the Crown; and
  - (b) includes land obtained in exchange for a disposal of RFR land under section 109(1)(c) or 110; but
  - (c) does not include a commercial redress property.
- (2) However, land ceases to be RFR land if—
- (a) the RFR landowner transfers the fee simple estate in the land to—
    - (i) the trustees of the Ngāti Pāhauwera Development Trust or their nominee (for example, under a contract formed under section 102); or
    - (ii) any other person (including the Crown or a Crown body) under section 97(c); or
  - (b) the RFR landowner transfers or vests the fee simple estate in the land to or in a person other than the Crown or a Crown body—
    - (i) under any of sections 106 to 112 (which relate to permitted disposals of RFR land); or
    - (ii) under section 113(1) (which relates to matters that may override the obligations of an RFR landowner under this subpart); or
  - (c) the RFR period ends.

*Restrictions on disposal of RFR land*

**97 Restrictions on disposal of RFR land**

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

- (a) under any of sections 103 to 112; or
- (b) under section 113(1); or
- (c) within 2 years after the expiry date of an offer by the RFR landowner to dispose of the land to the trustees of the Ngāti Pāhauwera Development Trust, if the offer was—
  - (i) made in accordance with section 98; and
  - (ii) on terms that were the same as, or more favourable to the trustees of the Ngāti Pāhauwera Development Trust than, the terms of the disposal to the person; and

- (iii) not withdrawn under section 100; and
- (iv) not accepted under section 101.

*Right of first refusal*

**98 Requirements for offer**

An offer by an RFR landowner to dispose of RFR land to the trustees of the Ngāti Pāhauwera Development Trust must be by notice to the trustees of the Ngāti Pāhauwera Development Trust, incorporating—

- (a) the terms of the offer, including its expiry date; and
- (b) a legal description of the land, including any encumbrances affecting it, and the reference for any computer register that contains the land; and
- (c) a street address for the land (if applicable); and
- (d) a street address, postal address, and fax number to enable the trustees of the Ngāti Pāhauwera Development Trust to give notices to the RFR landowner in relation to the offer.

**99 Expiry date of offer**

- (1) The expiry date of an offer must be on or after the date that is 40 business days after the date on which the trustees of the Ngāti Pāhauwera Development Trust receive notice of the offer.
- (2) However, the expiry date of an offer may be on or after the date that is 20 business days after the date on which the trustees receive notice of the offer if—
  - (a) the trustees of the Ngāti Pāhauwera Development Trust received an earlier offer to dispose of the land; and
  - (b) the expiry date of the earlier offer was no earlier than 6 months before the expiry date of the later offer; and
  - (c) the earlier offer was not withdrawn.

**100 Withdrawal of offer**

The RFR landowner may, by notice to the trustees of the Ngāti Pāhauwera Development Trust, withdraw an offer at any time before it is accepted.

**101 Acceptance of offer**

- (1) The trustees of the Ngāti Pāhauwera Development Trust may, by notice to the RFR landowner who made an offer, accept the offer if—
  - (a) it has not been withdrawn; and
  - (b) its expiry date has not passed.
- (2) The trustees of the Ngāti Pāhauwera Development Trust must accept all the RFR land offered, unless the offer permits them to accept less.

**102 Formation of contract**

- (1) If the trustees of the Ngāti Pāhauwera Development Trust accept an offer by an RFR landowner to dispose of RFR land under section 101, a contract for the disposal of the land is formed between the landowner and the trustees of the Ngāti Pāhauwera Development Trust on the terms in the offer, including the terms set out in subsections (3) to (6).
- (2) The terms of the contract may be varied by written agreement between the landowner and the trustees of the Ngāti Pāhauwera Development Trust.
- (3) Under the contract, the trustees of the Ngāti Pāhauwera Development Trust may nominate any person other than the trustees of the Ngāti Pāhauwera Development Trust (the **nominee**) to receive the transfer of the RFR land.
- (4) The trustees may nominate a nominee only—
  - (a) if the nominee is lawfully able to hold the RFR land; and
  - (b) by giving notice to the RFR landowner on or before the day that is 10 business days before the date on which the transfer is to be settled.
- (5) The notice must specify—
  - (a) the full name of the nominee; and
  - (b) any other details about the nominee that the landowner needs in order to transfer the RFR land to the nominee.
- (6) If the trustees of the Ngāti Pāhauwera Development Trust nominate a nominee, the trustees remain liable for the obligations of the transferee under the contract.

*Disposals to others where land remains RFR  
land*

**103 Disposal to the Crown or Crown body**

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

**104 Disposal of existing public works to local authority**

- (1) An RFR landowner may dispose of RFR land that is a public work, or part of a public work, in accordance with section 50 of the Public Works Act 1981 to a local authority (as defined in section 2 of the Public Works Act 1981).
- (2) To avoid doubt, if RFR land is disposed of to a local authority under subsection (1), the local authority becomes—
  - (a) the RFR landowner of the land; and
  - (b) subject to the obligations of an RFR landowner under this subpart.

**105 Disposal of reserve to administering body**

- (1) An RFR landowner may dispose of RFR land in accordance with section 26 or 26A of the Reserves Act 1977.
- (2) To avoid doubt, if RFR land that is a reserve is vested in an administering body under subsection (1), the administering body does not become—
  - (a) the RFR landowner of that land; or
  - (b) subject to the obligations of an RFR landowner under this subpart.
- (3) However, if the RFR land vests back in the Crown under section 25 or 27 of the Reserves Act 1977, the Crown becomes—
  - (a) the RFR landowner of the land; and
  - (b) subject to the obligations of an RFR landowner under this subpart.

*Disposals if land may cease to be RFR land***106 Disposal in accordance with enactment or rule of law**

An RFR landowner may dispose of RFR land in accordance with an obligation under any enactment or rule of law.

**107 Disposal in accordance with legal or equitable obligation**

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

- (a) a legal or an equitable obligation that—
  - (i) was unconditional before the settlement date; or
  - (ii) was conditional before the settlement date but became unconditional on or after the settlement date; or
  - (iii) arose after the exercise (whether before, on, or after the settlement date) of an option existing before the settlement date; or
- (b) the requirements, existing before the settlement date, of a gift, an endowment, or a trust relating to the land.

**108 Disposal by the Crown under certain legislation**

The Crown may dispose of RFR land in accordance with—

- (a) section 54(1)(d) of the Land Act 1948; or
- (b) section 355(3) of the Resource Management Act 1991; or
- (c) subpart 3 of Part 2 of the Marine and Coastal Area (Takutai Moana) Act 2011.

**109 Disposal of land held for public works**

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

- (a) section 40(2) or (4) or 41 of the Public Works Act 1981 (including as those provisions are applied by another enactment); or
- (b) section 52, 105(1), 106, 114(3), 117(7), or 119 of the Public Works Act 1981; or
- (c) section 117(3)(a) of the Public Works Act 1981; or
- (d) section 117(3)(b) of the Public Works Act 1981 if the land is disposed of to the owner of adjoining land; or

- (e) section 23(1) or (4), 24(4), or 26 of the New Zealand Railways Corporation Restructuring Act 1990.
- (2) To avoid doubt, RFR land may be disposed of by an order of the Maori Land Court under section 134 of Te Ture Whenua Maori Act 1993, after an application by an RFR landowner under section 41(e) of the Public Works Act 1981.

**110 Disposal for reserve or conservation purposes**

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

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

**111 Disposal for charitable purposes**

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

**112 Disposal to tenants**

The Crown may dispose of RFR land—

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

*RFR landowner obligations***113 RFR landowner's obligations under this subpart**

- (1) An RFR landowner's obligations under this subpart in relation to RFR land are subject to—
  - (a) any other enactment or rule of law, but, for a Crown body, the obligations apply despite the purpose, functions, or objectives of the Crown body; and

- (b) any encumbrance, or legal or equitable obligation,—
    - (i) that prevents or limits an RFR landowner’s disposal of RFR land to the trustees of the Ngāti Pāhauwera Development Trust; and
    - (ii) that the RFR landowner cannot satisfy by taking reasonable steps; and
  - (c) the terms of a mortgage over, or security interest in, RFR land.
- (2) Reasonable steps, for the purposes of subsection (1)(b)(ii), do not include steps to promote the passing of an enactment.
  - (3) This subpart does not limit subsection (1).

### *Notices*

#### **114 Notice of RFR land with computer register after settlement date**

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

#### **115 Notice of disposals of RFR land to others**

- (1) An RFR landowner must give notice to the trustees of the Ngāti Pāhauwera Development Trust of the disposal of RFR land by the landowner to a person other than the trustees of the Ngāti Pāhauwera Development Trust.
- (2) The notice must be given on or before the date that is 20 business days before the date of the disposal.
- (3) The notice must—
  - (a) specify the legal description of the land (including any encumbrances affecting it); and

- (b) identify any computer register that contains the land; and
- (c) specify the street address for the land (if applicable); and
- (d) identify the person to whom the land is being disposed of; and
- (e) explain how the disposal complies with section 97; and
- (f) in the case of a disposal under section 97(c), include a copy of any written contract for the disposal.

**116 Notice of land ceasing to be RFR land**

- (1) This section applies if land contained in a computer register is to cease being RFR land because—
  - (a) the RFR landowner is to transfer the fee simple estate in the land to—
    - (i) the trustees of the Ngāti Pāhauwera Development Trust or their nominee (for example, under a contract formed under section 102); or
    - (ii) any other person (including the Crown or a Crown body) under section 97(c); or
  - (b) the RFR landowner is to transfer or vest the fee simple estate in the land to or in a person other than the Crown or a Crown body—
    - (i) under any of sections 106 to 112; or
    - (ii) under section 113(1).
- (2) The RFR landowner must, as early as practicable before the transfer or vesting, give the chief executive of LINZ notice that the land is to cease being RFR land.
- (3) The notice must—
  - (a) specify the legal description of the land; and
  - (b) identify the computer register that contains the land; and
  - (c) specify the details of the transfer or vesting of the land.

**117 Notice requirements**

- Schedule 4 applies to notices given under this subpart by or to—
- (a) an RFR landowner; or
  - (b) the trustees of the Ngāti Pāhauwera Development Trust.

*Memorials for RFR land***118 Recording memorials on computer registers for RFR land**

- (1) The chief executive of LINZ must issue to the Registrar-General 1 or more certificates that specify the legal descriptions of, and identify the computer registers that contain,—
  - (a) the RFR land for which there is a computer register on the settlement date; and
  - (b) the RFR land for which a computer register is first created after the settlement date; and
  - (c) land for which there is a computer register that becomes RFR land after the settlement date.
- (2) The chief executive must issue a certificate, as soon as is reasonably practicable after—
  - (a) the settlement date for RFR land, for which there is a computer register on the settlement date; or
  - (b) receiving a notice under section 114 that a computer register has been created for the RFR land or that the land has become RFR land, for any other land.
- (3) Each certificate must state that it is issued under this section.
- (4) The chief executive must provide a copy of each certificate to the trustees of the Ngāti Pāhauwera Development Trust as soon as is reasonably practicable after issuing the certificate.
- (5) The Registrar-General must, as soon as is reasonably practicable after receiving a certificate issued under this section, record on the computer register that the land described in the certificate (and contained in the computer register) is—
  - (a) RFR land as defined in section 96; and
  - (b) subject to this subpart (which restricts disposal, including leasing, of the land).

**119 Removal of memorials when land to be transferred or vested**

- (1) The chief executive of LINZ must, before registration of the transfer or vesting of land described in a notice received under section 116, issue to the Registrar-General a certificate that—
  - (a) specifies the legal description of the land; and
  - (b) identifies the computer register that contains the land; and

- (c) specifies the details of the transfer or vesting of the land; and
  - (d) states that it is issued under this section.
- (2) The chief executive must provide a copy of each certificate to the trustees of the Ngāti Pāhauwera Development Trust as soon as is reasonably practicable after issuing the certificate.
- (3) If the Registrar-General receives a certificate issued under this section, he or she must, immediately before registering the transfer or vesting described in the certificate, remove any memorial recorded under section 118 from the computer register identified in the certificate.

#### **120 Removal of memorials when RFR period ends**

- (1) The chief executive of LINZ must, as soon as is reasonably practicable after the RFR period ends, issue to the Registrar-General a certificate that—
- (a) identifies each computer register that still has a memorial recorded on it under section 118; and
  - (b) states that it is issued under this section.
- (2) The chief executive must provide a copy of each certificate to the trustees of the Ngāti Pāhauwera Development Trust as soon as is reasonably practicable after issuing the certificate.
- (3) The Registrar-General must, as soon as is reasonably practicable after receiving a certificate issued under this section, remove a memorial recorded under section 118 from any computer register identified in the certificate.

#### *General provisions*

#### **121 Waiver and variation**

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

**122 Disposal of Crown bodies not affected**

This subpart does not limit the ability of the Crown, or a Crown body, to sell or dispose of a Crown body.

**123 Assignment of RFR right**

- (1) Subsection (2) applies if, at any time, an RFR holder—
  - (a) assigns the holder's RFR rights to an assignee in accordance with the holder's constitutional documents; and
  - (b) has given the notices required by subsection (3).
- (2) This subpart and Schedule 4 apply, with all necessary modifications, to the assignee as if the assignee were the Ngāti Pāhauwera Development Trust.
- (3) An RFR holder must give notice to each RFR landowner,—
  - (a) stating that the RFR rights of the RFR holder are to be assigned under this section; and
  - (b) specifying the date of assignment; and
  - (c) specifying the name of the assignee, and if assignees are the trustees of a trust, the name of the trust; and
  - (d) specifying the street or postal address or fax number for notices to the assignee.

- (4) In this section and Schedule 4,—

**assignee** means 1 or more persons to whom an RFR holder assigns the holder's RFR rights

**constitutional documents** means, as the case requires, the trust deed of the Ngāti Pāhauwera Development Trust or the constitutional documents of any assignee

**RFR holder** means, as the case requires,—

- (a) the Ngāti Pāhauwera Development Trust; or
- (b) an assignee

**RFR right** means the rights and obligations provided for by or under this subpart.

**Schedule 1**

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**Ngāti Pāhauwera hapū****Nga hapū o Ngāti Pāhauwera**

For the purposes of section 12(1)(a), the hapū of Ngāti Pāhauwera are—

- (1) Ngā Uri-ō-Māmangu:
- (2) Ngāi Tāne:
- (3) Ngāi Tāpui:
- (4) Ngāi Tauira:
- (5) Ngāi Taumau:
- (6) Ngāi Te Awhā:
- (7) Ngāi Te Huki:
- (8) Ngāi Te Ngau Pātea:
- (9) Ngāi Te Rau/Rauri:
- (10) Ngāi Te Rongo:
- (11) Ngāi Tahuāo:
- (12) Ngāi Tarapāroa:
- (13) Ngarangiaitu:
- (14) Ngāti Ao Kino:
- (15) Ngāti Heki:
- (16) Ngāti Hēouri:
- (17) Ngāti Hikapī (Ngāti Mihirau):
- (18) Ngāti Hine Kete:
- (19) Ngāti Hine Kū:
- (20) Ngāti Hine Mura:
- (21) Ngāti Hine Rākai:
- (22) Ngāti Hine Tunge:
- (23) Ngāti Hineiro:
- (24) Ngāti Hinekino:
- (25) Ngāti Hinemōkai:
- (26) Ngāti Hūatu:
- (27) Ngāti Ira:
- (28) Ngāti Irirangi:
- (29) Ngāti Iriwhata:
- (30) Ngāti Kahu-o-Te-Rangi:
- (31) Ngāti Kaihāere:
- (32) Ngāti Kaingaahi:
- (33) Ngāti Kapekape:
- (34) Ngāti Kapua Matotoru:

- (35) Ngāti Kapukapu:
- (36) Ngāti Katihe:
- (37) Ngāti Kautata (Ngāti Whakarewa):
- (38) Ngāti Kawe:
- (39) Ngāti Kopa:
- (40) Ngāti Kotihe:
- (41) Ngāti Kūkura:
- (42) Ngāti Kura/Kurahikakawa:
- (43) Ngāti Matengāhuru:
- (44) Ngāti Matewai:
- (45) Ngāti Māwete:
- (46) Ngāti Moe:
- (47) Ngāti Mouru:
- (48) Ngāti Paeahi:
- (49) Ngāti Pāhauwera:
- (50) Ngāti Paieka:
- (51) Ngāti Pari:
- (52) Ngāti Pāroa:
- (53) Ngāti Patupaku:
- (54) Ngāti Pēhi:
- (55) Ngāti Peke:
- (56) Ngāti Ponga:
- (57) Ngāti Pōporo:
- (58) Ngāti Pouanga:
- (59) Ngāti Poupou:
- (60) Ngāti Pūraro:
- (61) Ngāti Pūrua/Popoia:
- (62) Ngāti Rāhui:
- (63) Ngāti Rangi Haere Kau:
- (64) Ngāti Ririwehi:
- (65) Ngāti Ruakohatu:
- (66) Ngāti Tahiroa:
- (67) Ngāti Tangopū:
- (68) Ngāti Taponga:
- (69) Ngāi Tātaku:
- (70) Ngāi Tātua:
- (71) Ngāti Taumau:
- (72) Ngāi Te Māha:
- (73) Ngāi Te Pānga:

- (74) Ngāi Te Rangitakūao:
  - (75) Ngāti Hinekaraka:
  - (76) Ngāti Tuhemata:
  - (77) Ngāti Wera:
  - (78) Ngāi Tahu:
  - (79) Ngāi Te Ruatai:
  - (80) Ngāti Tauhere:
  - (81) Ngāti Hinerangi/Ngāti Hine Paia:
  - (82) Ngāi Te Ao Kapiti:
  - (83) Ngāi Te Aonui:
  - (84) Ngāti Rangitohumare:
  - (85) Ngāi Te Rūruku.
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## Schedule 2

### Te Heru o Tūreia

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#### Part 1

#### Description of site vested in fee simple

<b>Name of site</b>	<b>Description</b>
Te Heru o Tūreia	Hawke's Bay Land District: Hastings and Wairoa Districts. Means the combined area of Te Heru o Tūreia Gift Area described in Part 2 and Te Heru o Tūreia (Area B) and Nakunaku described in Part 3.

#### Part 2

#### Description of site vested in fee simple and subject to gifting

<b>Name of site</b>	<b>Description</b>
Te Heru o Tūreia Gift Area	Hawke's Bay Land District: Hastings and Wairoa Districts. 1489.2000 hectares, more or less, being Sections 2, 3, and 4 SO 438297. Part R7457 and Part Proclamation 539179.1.

#### Part 3

#### Description of sites vested in fee simple subject to conservation covenant or to be administered as historic reserve

<b>Name of site</b>	<b>Description</b>	<b>Encumbrances</b>
Te Heru o Tūreia (Area B)	Hawke's Bay Land District: Hastings and Wairoa Districts. 164.0000 hectares, more or less, being Section 1 SO 438297. Part R7457 and Part Proclamation 539179.1.	Subject to the conservation covenant referred to in section 24(1). Subject to an unregistered telecommunications concession with a concession number ECHB-1216-CON.

Part 3—*continued*

<b>Name of site</b>	<b>Description</b>	<b>Encumbrances</b>
Nakunaku	Hawke's Bay Land District: Wairoa District. 52.910 hectares, more or less, being Section 4 SO 9433. Part Proclamation 539179.1.	Subject to section 18 of the Reserves Act 1977 for the purposes of a his- toric reserve.

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**Schedule 3**

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**Other cultural redress properties****Part 1****Cultural redress properties vested in fee simple**

<b>Name of site</b>	<b>Description</b>	<b>Encumbrances</b>
Takauere	Hawke's Bay Land District: Wairoa District. 19.0600 hectares, more or less, being Section 1 SO 430512. Part Computer Freehold Register HBK4/1385.	Nil.
Ononi	Hawke's Bay Land District: Wairoa District. 1.9400 hectares, more or less, be- ing Section 1 SO 430226. Part GN570972.1.	Nil.
Te Kuta	Hawke's Bay Land District: Hast- ings District. 2.0116 hectares, more or less, be- ing Sections 2 and 4 SO 443558. Part <i>Gazette</i> 1931 page 281.	Nil.

**Part 2****Cultural redress properties vested in fee simple subject to conservation covenant**

<b>Name of site</b>	<b>Description</b>	<b>Encumbrances</b>
Tauwhareroa	Hawke's Bay Land District: Wairoa District. 8.9720 hectares, more or less, being Mohaka B15. All Computer Freehold Register HBL4/253.	Subject to the conser- vation covenant re- ferred to in section 30(3).
Kuwatawata	Hawke's Bay Land District: Hastings District. 0.0441 hectares, more or less, being Section 1 SO 441789. Part Deed 46 and Part GN 337680.1.	Subject to the conser- vation covenant re- ferred to in section 31(3).

Part 2—*continued*

Name of site	Description	Encumbrances
Ngākōauau (Area A)	Hawke's Bay Land District: Wairoa District. 56.9200 hectares, more or less, being Section 1 SO 431384. Part Computer Freehold Register HBL3/257.	Subject to the right of way easement referred to in section 32(3)(a). Subject to the conservation covenant referred to in section 32(3)(b).
Paaka Te Ahu	Hawke's Bay Land District: Wairoa District. 16.1874 hectares, more or less, being Section 18 Block XII Mohaka Survey District. All GN388123.2.	Subject to the conservation covenant referred to in section 33(3).
Bed of Lake Rotongaio	Gisborne Land District: Wairoa District. 12.4600 hectares, more or less, being Section 1 SO 430169, which excludes the Crown stratum as defined in section 26(2).	Subject to the conservation covenant referred to in section 34(6).
Bed of part of Lake Rotoroa	Gisborne Land District: Wairoa District. 10.7370 hectares, more or less, being Section 1 SO 430206, which excludes the Crown stratum as defined in section 26(2).	Subject to the conservation covenant referred to in section 34(6).

## Part 3

Cultural redress properties vested in fee  
simple and to be administered as scenic  
reserves under section 19 of Reserves Act  
1977

Name of site	Description	Encumbrances
Ngākōauau (Area B)	Hawke's Bay Land District: Wairoa District. 300.8000 hectares, more or less, being Section 2 SO 431384. All Computer Free- hold Register HBL2/561, Balance Computer Freehold Registers HBL3/257 and HBL1/942 and Part Transfer 313229.3.	Subject to section 19(1)(a) of the Reserves Act 1977 for the pur- poses of a scenic re- serve. Subject to an unregis- tered beehive permit to G L Janson with a concession number ECHB-20754-OTH. Subject to savings and excluding all minerals within the meaning of the Land Act 1924 on or under the land and re- serving to Her Majesty the Queen and all per- sons lawfully entitled to work those minerals a right of ingress, egress, and regress over the land (affects former Lot 1 DP 19152).
Mangawhārangi	Hawke's Bay Land District: Wairoa District. 60.0600 hectares, more or less, being Section 2 SO 430226. Part GN570972.1.	Subject to section 19(1)(a) of the Reserves Act 1977 for the pur- poses of a scenic re- serve.

Part 3—*continued*

<b>Name of site</b>	<b>Description</b>	<b>Encumbrances</b>
Tānga Kākāriki	Hawke's Bay Land District: Wairoa District. 108.6400 hectares, more or less, being Section 53 Block VII Mohaka Survey District. Part GN392786.1.	Subject to section 19(1)(a) of the Reserves Act 1977 for the purposes of a scenic reserve. Subject to a right to convey water created by 525840.7 and contained in register M4/428.
Pūtere	Gisborne Land District: Wairoa District. 47.7529 hectares, more or less, being Section 5 Block XXIV Waiau Survey District. All <i>Gazette</i> 1927 page 3537.	Subject to section 19(1)(a) of the Reserves Act 1977 for the purposes of a scenic reserve.

## Part 4

## Cultural redress property to be vested in fee simple to be administered as local purpose reserve under section 23 of Reserves Act 1977

<b>Name of site</b>	<b>Description</b>	<b>Encumbrances</b>
Raupunga Reserve	Hawke's Bay Land District: Wairoa District. 229.7602 hectares, more or less, being Section 3 Block VI Wāihua Survey District. All Computer Freehold Register HBJ1/1274.	Subject to section 23 of the Reserves Act 1977 for the purposes of a local purpose (water supply) reserve. Subject to an unregistered beehive permit to G L Janson with a concession number ECHB-20754-OTH.

**Schedule 4**

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**Notices in relation to RFR land****1 Requirements for giving notice**

A notice by or to an RFR landowner or RFR holder, under subpart 4 of Part 3, must be—

- (a) in writing and signed by—
  - (i) the person giving it; or
  - (ii) at least 2 of the trustees if the RFR holder is the Ngāti Pāhauwera Development Trust; and
- (b) addressed to the recipient at the street address, postal address, or fax number—
  - (i) specified for the RFR holder in accordance with the deed of settlement, in the case of a notice to the RFR holder; or
  - (ii) specified by the RFR landowner in an offer made under section 98, or specified in a later notice given to the RFR holder, in the case of a notice given by the RFR holder to an RFR landowner; and
  - (iii) of the national office of LINZ, in the case of a notice given to the chief executive of LINZ under section 114 or 116(2); and
- (c) given by—
  - (i) delivering it by hand to the recipient's street address; or
  - (ii) posting it to the recipient's postal address; or
  - (iii) faxing it to the recipient's fax number.

**2 Time when notice received**

- (1) A notice is to be treated as having been received—
  - (a) at the time of delivery, if delivered by hand; or
  - (b) on the second day after posting, if posted; or
  - (c) at the time of transmission, if faxed.
- (2) However, a notice is to be treated as having been received on the next business day if, under subclause (1), it would be treated as having been received—

- (a) after 5 pm on a business day; or
- (b) on a day that is not a business day.

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**Legislative history**

1 March 2011	Introduction (Bill 273–1)
17 May 2011	First reading and referral to Māori Affairs Committee
29 August 2011	Reported from Māori Affairs Committee (Bill 273–2)
16 February 2012	Second reading
8 March 2012	Committee of the whole House (Bill 273–3)
29 March 2012	Third reading
5 April 2012	Royal assent

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This Act is administered by the Ministry of Justice.

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