

**THE MAUNGAHARURU-TANGITU HAPŪ**

and

**THE CROWN**

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**AGREEMENT IN PRINCIPLE  
TO SETTLE  
HISTORICAL CLAIMS**

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***22 September 2011***

## TABLE OF CONTENTS

1	BACKGROUND.....	3
2	AGREEMENT IN PRINCIPLE.....	3
3	HISTORICAL ACCOUNT, ACKNOWLEDGEMENT, AND APOLOGY.....	4
4	SETTLEMENT .....	4
5	CULTURAL REDRESS .....	6
6	FINANCIAL AND COMMERCIAL REDRESS .....	19
7	INTEREST AND TAX.....	22
8	NEXT STEPS.....	23
9	CONDITIONS.....	24
10	GENERAL.....	25

SCHEDULES

DEFINITIONS

SETTLEMENT TERMS

RELATIONSHIP REDRESS

Principles of a Partnership Agreement with Minister of Conservation

Hawke's Bay Regional Council Joint Planning Committee

ATTACHMENT 1 – Area of Interest

# **1 BACKGROUND**

## **Mandate and terms of negotiation**

- 1.1 The Maungaharuru-Tangitu Hapū has given Maungaharuru-Tangitu Incorporated a mandate to negotiate with the Crown a deed of settlement settling the historical claims of the Hapū.
- 1.2 The Crown recognised this mandate on 20 October 2009.
- 1.3 Maungaharuru-Tangitu Incorporated and the Crown agreed the scope, objectives, and general procedures for the negotiations by terms of negotiation dated 26 June 2010.

## **Nature and scope of deed of settlement agreed**

- 1.4 Maungaharuru-Tangitu Incorporated and the Crown have agreed, in principle, the nature and scope of the deed of settlement.
- 1.5 This agreement in principle records that agreement.

## **Approval and signing of this agreement in principle**

- 1.6 Maungaharuru-Tangitu Incorporated has—
  - 1.6.1 held information hui about the redress to be included in this agreement in principle; and
  - 1.6.2 authorised the Kōmiti of Maungaharuru-Tangitu Incorporated to sign it on behalf of the Hapū.

# **2 AGREEMENT IN PRINCIPLE**

- 2.1 Maungaharuru-Tangitu Incorporated and the Crown agree—
  - 2.1.1 that, in principle, the nature and scope of the deed of settlement is to be as provided in this agreement in principle;
  - 2.1.2 to undertake best endeavours to complete the work to deed of settlement within 18 months of signing of this agreement of principle;
  - 2.1.3 that the deed of settlement is to be signed by or on behalf of the Hapū and the Crown; and

- 2.1.4 that redress in this agreement in principle is subject, where relevant, to the resolution of overlapping claims to the Crown's satisfaction.

### **3 HISTORICAL ACCOUNT, ACKNOWLEDGEMENT, AND APOLOGY**

**3.1** The deed of settlement is to include –

- 3.1.1 an agreed account of the historical relationship between the Hapū and the Crown; and
- 3.1.2 the Crown's acknowledgement of its breaches of the Treaty of Waitangi and other acts and omissions which have caused the Hapū prejudice; and
- 3.1.3 a Crown apology for those breaches of the Treaty of Waitangi and the Crown acts and omissions which have caused the Hapū prejudice.

### **4 SETTLEMENT**

#### **Settlement of historical claims**

**4.1** The deed of settlement is to provide that, on and from the settlement date –

- 4.1.1 the historical claims of the Hapū are settled; and
- 4.1.2 the Crown is released and discharged from all obligations and liabilities in respect of the historical claims; and
- 4.1.3 the settlement is final.

#### **Terms of settlement**

**4.2** The terms of the settlement provided in the deed of settlement are to be –

- 4.2.1 those in schedule 2; and
- 4.2.2 any additional terms agreed by the parties.

## **Redress**

- 4.3 The deed of settlement will include a property that this agreement in principle specifies as a cultural redress property, a commercial redress property, or a potential deferred selection property, only if the Crown provides final written confirmation to Maungaharuru-Tangitu Incorporated that that property is available for settlement.
- 4.4 If the Crown does not provide final written confirmation under clause 4.3 in relation to a property, it is not obliged to substitute another property but in good faith, will consider alternative redress options.

## **Transfer or vesting of settlement properties**

- 4.5 The settlement documentation is to provide that the vesting or transfer of –
- 4.5.1 a redress property, or a purchased deferred selection property, will be subject to –
- (a) any further identification; and
  - (b) survey (if required); and
  - (c) Part 4A of the Conservation Act 1987 (unless the settlement documentation provides otherwise); and
  - (d) sections 10 and 11 of the Crown Minerals Act 1991; and
  - (e) any relevant provisions included in the settlement documentation; and
- 4.5.2 a redress property will be subject to any encumbrance or right that –
- (a) the disclosure information for that property provides will exist at the settlement date; or
  - (b) the settlement documentation requires to be created on or before the settlement date; or
  - (c) is entered into on or before the settlement date in accordance with the settlement documentation; and
- 4.5.3 a purchased deferred selection property will be subject to any encumbrance or right that –
- (a) the disclosure information for that property provides will exist at the date the property is purchased by the governance entity; or
  - (b) is entered into in accordance with the deed of settlement before the date the governance entity purchases the property.

## 5 CULTURAL REDRESS

### On-account payment towards marae relocation fund

- 5.1 Upon the signing of this agreement, the Crown will make an on-account payment of \$2 million as a contribution to a marae relocation fund to enable the purchasing of land on the open market if it becomes available before settlement date.
- 5.2 The Minister for Treaty of Waitangi Negotiations and the Minister of Finance have the authority to approve the payment of \$2 million for marae relocation subject to the establishment of a Crown approved Hapū entity to hold for the benefit of all the Hapū on whose behalf the historical claims are being settled.

### Cultural redress properties

- 5.3 The deed of settlement is to provide that the settlement legislation will vest in the governance entity at the settlement date the properties identified in Table 1 as cultural redress properties.

**Table 1: Cultural redress properties**

Name of site	General description (approximate area in hectares)	Basis on which property is to be vested and rights or encumbrances affecting the property of which the Crown is currently aware
(a) Part Opouahi Scenic Reserve	36.38	Unencumbered, with - a) Any easement required to maintain public access across the site (if any); and b) Any rights of access the Department of Conservation or its agents may require to maintain the fence adjoining the boundary to the kiwi crèche area.
(b) Part Opouahi Station	250	Unencumbered
(c) Bed of Lake Opouahi	Area to be confirmed	Transfer with Reserve Status subject to - a) existing third party rights (if any); b) no liability for: i. weeds attached to the lakebeds; ii, the control or removal of such weeds;

		iii. contamination or silting of the lakebed, except to the extent that this is caused by an intentional or reckless act or omission or negligent act of the governance entity.
(d) Part of bed of Lake Tutira, and beds of Lake Waikopiro and Lake Orakai	202.7	Transfer with Reserve Status and subject to - a) existing third party rights (if any); and b) no liability for: i. weeds attached to the lakebeds; ii. the control or removal of such weeds; iii. contamination or silting of the lakebed, except to the extent that this is caused by an intentional or reckless act or omission or negligent act of governance entity.
(e) Part Whakaari Landing Place Reserve	Area to be confirmed	Transfer with Reserve Status

5.4 The Hapū shall have the right to elect whether to take the 250 hectares of Opouahi Station in a location to be agreed, subject to the location and area being suitable for ongoing and autonomous operation. The land shall be appropriately serviced by access ways and water and other facilities suitable for future Hapū use.

5.5 In the event that the Hapū and the Crown cannot agree on a suitable site the Crown shall pay to the governance entity on settlement date a sum equivalent to the value of 250 hectares based on the average land value per hectare for Opouahi Station.

#### **Transfer and Gift back**

5.6 The deed of settlement will provide for the transfer and gift back of the sites listed in Table 2 to the governance entity on behalf of the Hapū within a specified period from the settlement date, on condition that the governance entity gifts the land back to the Crown within a specified period from the date of transfer.

- 5.7 The date for the transfer and gift-back may be agreed to be a date and time which has historical and cultural significance to the Hapū.
- 5.8 The Hapū and the Crown will work in good faith on the terms of the transfer and gift-back arrangement between the agreement in principle and the deed of settlement. The details of the transfer and gift-back arrangement will be consistent with recent Treaty settlements.

**Table 2: Sites subject to transfer and gift back**

Name of site	General description (approx area)
(a) Boundary Stream Scenic Reserve	792.62 ha
(b) Bellbird Bush Scenic Reserve	181.93 ha
(c) Part Opouahi Scenic Reserves	130.82 ha

### Overlay classifications

- 5.9 The deed of settlement is to provide for the settlement legislation to -
- 5.9.1 declare the sites described in Table 3, as subject to an overlay classification; and
- 5.9.2 provide the Crown's acknowledgement of a statement of the Hapū's values in relation to each site; and
- 5.9.3 require the New Zealand Conservation Authority, or a conservation board -
- (a) when considering a conservation document, in relation to each site, to have particular regard to -
    - (i) the statement of the Hapū's values; and
    - (ii) the protection principles agreed by the parties; and
  - (b) before approving a conservation document, in relation to each site to -
    - (i) consult with the governance entity; and
    - (ii) have particular regard to the governance entity's views as to the effect of the policy or the document on the Hapū's values and the protection principles; and



- 5.9.4 require the Director-General of Conservation to take action in relation to the protection principles to the extent of his or her discretion; and
- 5.9.5 enable the making of regulations and bylaws in relation to the site.

**Table 3: Sites subject to overlay classifications**

<b>Name of site</b>	<b>General description (approximate area in hectares)</b>
(a) Boundary Stream Scenic Reserve	792.62
(b) Bellbird Bush Scenic Reserve	181.93
(c) Part Opouahi Scenic Reserve	130.82
(d) Tutira Domain Recreation Reserve	205.94 (to be confirmed)
(e) Coastal Land across Moeangiāngi Marginal Strip (previously known as Earthquake Slip Conservation Area), Tangoio Marginal Strip, Waipatiki Beach Marginal Strip, and Part Whakaari Landing Place Reserve	(to be confirmed)

### **Statutory acknowledgements**

- 5.10 The deed of settlement is to provide for the settlement legislation to -
- 5.10.1 provide the Crown's acknowledgement of the statements by the Hapū of their particular cultural, spiritual, historical, and traditional association with each of the areas described in Table 4, clause 5.11 and clause 5.13 to the extent those areas are owned and managed by the Crown; and
- 5.10.2 require relevant consent authorities, the Environment Court, and the Historic Places Trust to have regard to the statutory acknowledgements; and
- 5.10.3 require relevant consent authorities to forward to the governance entity summaries of resource consent applications affecting each area; and copies of any notices served on the consent authority under section 145(10) of the Resource Management Act 1991; and

- 5.10.4 require relevant consent authorities to record the statutory acknowledgements on certain statutory planning documents under the Resource Management Act 1991; and
- 5.10.5 enable the governance entity, and any member of the Hapū, to cite a statutory acknowledgement as evidence of the Hapū's association with the relevant area.

**Table 4: Sites subject to statutory acknowledgements**

<b>Name of site</b>	<b>General description (approximate area to be confirmed)</b>
(a) Esk Kiwi Sanctuary Area	129.61
(b) Mangapukahu Scenic Reserve	77.02
(c) Moeangiāngi Marginal Strip (previously known as Earthquake Slip Conservation Area)	207.50
(d) Tangoio Falls Scenic Reserve	50.46
(e) Te Kuta Recreation Reserve	0.55
(f) Waikoau Conservation Area	239.93
(g) Waipatiki Scenic Reserve	64.54
(h) White Pine Bush Scenic Reserve	22.85
(i) Water columns over Lake Opouahi, Lake Tutira, Lake Waikopiro and Lake Orakai	
(j) Peaks of Maungaharuru Range	
(k) The rocks and reefs: Kioie; Kotuku; Omoko; Panepaoa; Punakerua; Rautoetoe; Tarahua; Tarehou; Te Ahiaruhe; Te Ngaio-iti; Te Uma; Urukaraka; Whakapao; Whakatapu.	

### **Statutory acknowledgement in respect of the coastal marine area**

- 5.11 ~~The deed of settlement is to require that, on the settlement date, the Crown provide the~~ governance entity with a statutory acknowledgement in respect of the coastal marine area adjacent to the area of interest on the same terms as set out in clause 5.10.
- 5.12 ~~A statutory acknowledgement over the Hapū's coastal marine area will not extend into~~ the areas covered by river statutory acknowledgements and does not have the effect of granting, creating, or providing evidence of an estate or interest in, or rights relating to that area, including rights set out in the Marine and Coastal Area (Takutai Moana) Act 2011.

### **Statutory acknowledgements over rivers and tributaries**

- 5.13 ~~The deed of settlement is to require that, on the settlement date, the Crown provide the~~ governance entity with statutory acknowledgements over the following rivers and their tributaries to the extent they fall within the area of interest on the same terms as set out in clause 5.10:

5.13.1 Anaura River and tributaries;

5.13.2 Arapaoanui (also known as Arapawanui) River and tributaries;

5.13.3 Esk (also known as Te Waiohinga) River and tributaries;

5.13.4 Mahiaruhe Stream and tributaries;

5.13.5 Pakuratahi Stream and tributaries;

5.13.6 Sandy Creek and tributaries;

5.13.7 Te Ngaru (also known as Te Ngarue) River and tributaries;

5.13.8 Waikare River and tributaries;

5.13.9 Waikoau River and tributaries; and

5.13.10 Waitaha Stream and tributaries.

- 5.14 The statutory acknowledgements over rivers and tributaries will be subject to clauses 5.16 and 5.17.

- 5.15 The statutory acknowledgements over rivers and tributaries will, in substance, be on similar terms to those provided in recent Treaty settlements.

- 5.16 In particular, the statutory acknowledgements:

5.16.1 will not affect the lawful rights or interests of a person who is not a party to the deed of settlement; and

5.16.2 in relation to riverbeds will not include:

- (a) a part of the bed of the waterway that is not owned by the Crown; or
- (b) ~~land that the waters of the waterway do not cover at its fullest flow~~ without overlapping its banks; or
- (c) an artificial watercourse (which is contemplated as including an irrigation canal, water supply race, canal for the supply of water for electricity power generation, and farm drainage canal).

5.17 Statutory acknowledgements over rivers and their tributaries will not extend into those parts of the riverbeds that are within the coastal marine area as defined in the Marine and Coastal Area (Takutai Moana) Act 2011.

#### **Deeds of recognition**

5.18 The deed of settlement is to require that, on the settlement date, the Crown provide the governance entity with the deeds of recognition referred to in Table 5.

5.19 The deeds of recognition will relate to the areas described in Table 5, to the extent those areas are owned and managed by the Crown.

5.20 A deed of recognition will require the Minister of Conservation and the Director-General of Conservation, or the Commissioner of Crown Lands, as the case may be, when undertaking certain activities within such an area, to -

5.20.1 consult the governance entity; and

5.20.2 have regard to the governance entity's views concerning the Hapū's association with the area as described in a statement of association.

**Table 5: Sites subject to deeds of recognition**

<b>Name of site</b>	<b>General description (approximate area to be confirmed)</b>
(a) Moeangi Marginal Strip (previously known as Earthquake Slip Conservation Area)	207.50
(b) Esk Kiwi Sanctuary Area	129.61
(c) Mangapukahu Scenic Reserve	77.02
(d) Tangoio Falls Scenic Reserve	50.46

(e) Te Kuta Recreation Reserve	0.55
(f) Waikōau Conservation Area	239.93
(g) Waipatiki Scenic Reserve	64.54
(h) White Pine Bush Scenic Reserve	22.85
(i) Peaks of Maungaharuru Range	

### **Deeds of recognition over rivers and tributaries**

- 5.21 The deed of settlement is to provide for deeds of recognition over the redress rivers on the same terms as set out in 5.20. The deeds of recognition over rivers and tributaries to be provided to the governance entity will, in substance, be on similar terms to those provided in recent Treaty settlements and subject to the tributaries being upstream of the coastal marine area as defined in the Marine and Coastal Area (Takutai Moana) Act 2011.

### **Pouwhenua and interpretation panel funding**

- 5.22 The deed of settlement is to provide that the Crown will pay the governance entity on the settlement date the sum of \$15,000 for the purpose of erecting pouwhenua on sites of historical and cultural importance to the Hapū.
- 5.23 Following the signing of this agreement in principle Maungaharuru-Tangitū Incorporated and the Crown will in good faith explore the identification of suitable sites for the location of these pouwhenua.

### **Relationship Redress**

- 5.24 Relationship redress acknowledges and supports the aspirations of the Hapū for greater relationships with central Crown agencies, local authorities and non Crown organisations. The forms of relationship redress are set out in clauses 5.25 to 5.41.

### **Protocols**

- 5.25 A protocol is a statement issued by a Minister of the Crown setting out how a particular government agency intends to:
- 5.25.1 exercise its functions, powers and duties in relation to specified matters within its control in the area of interest; and
  - 5.25.2 consult and interact with the Hapū on a continuing basis and enable that group to have input into its decision-making processes.

5.26 The protocols offered to the governance entity will be, in substance, on the same terms as those in previous Treaty settlements. The deed of settlement and the settlement legislation will provide for the following Ministers to issue protocols to the governance entity. A protocol will provide for the Crown's interaction with the governance entity in relation to specified matters.

5.27 The following Ministers will issue protocols to the governance entity:

5.27.1 the Minister for Energy and Resources in respect of Crown minerals; and

5.27.2 the Minister for Arts, Culture and Heritage.

#### **Partnership agreement / Kawenata with the Minister of Conservation**

5.28 The deed of settlement will provide for a partnership agreement, to be known as a kawenata, with the Minister of Conservation, based on the principles outlined in schedule 3.

#### **Annual meeting with the Ministry for the Environment**

5.29 The deed of settlement will provide for a joint annual meeting with officials from the Ministry for the Environment and the governance entity, together with other Hawke's Bay iwi and hapū, to discuss environmental issues in the Hawke's Bay region.

5.30 The deed of settlement will provide that -

5.30.1 the governance entity will have an opportunity to express to the Ministry for the Environment (MFE) as soon as practicable after the settlement date the views of the Hapū on how the Treaty of Waitangi provisions, and other relevant provisions of the Resource Management Act (RMA), are being implemented in their area of interest; and

5.30.2 the Crown, through annual meetings with MFE, will monitor (in accordance with the functions of MFE under section 24 of the RMA) the performance of the relevant local authorities in the area of interest in implementing the Treaty of Waitangi provisions, and other relevant provisions, of the RMA.

5.30.3 to the extent possible, the annual meeting will be carried out on a regional basis with the governance entities of all settled hapū and iwi in the Hawke's Bay.

#### **Letter of Recognition from Ministry of Agriculture and Forestry with respect to fisheries**

5.31 The Crown offers to provide the governance entity with a letter from the Ministry of Agriculture and Forestry that recognises that the Hapū as tāngata whenua:

5.31.1 are entitled to have input and participation in certain fisheries management processes that relate to fish stocks in their area of interest and that are subject to the Fisheries Act 1996; and

- 5.31.2 ~~have a special relationship with all species of fish, aquatic life and seaweed within their area of interest and an interest in the sustainable utilisation of all species of fish, aquatic life and seaweed.~~
- 5.32 The deed of settlement will record that the Director General of the Ministry of Agriculture and Forestry will write to the governance entity outlining -
- 5.32.1 that the Ministry recognises the Hapū as tāngata whenua within their area of interest and have a special relationship with all species of fish, aquatic life and seaweed within their area of interest;
- 5.32.2 ~~how the Hapū can have input and participation into the Ministry's national fisheries plans; and~~
- 5.32.3 how the Hapū can implement the Fisheries (Kaimoana Customary Fishing) Regulations 1998 within their area of interest.
- 5.33 Maungaharuru-Tangitu Incorporated and the Ministry will agree on the contents of the letter before the initialling of a deed of settlement.
- 5.34 The deed of settlement will include an explanation of how the Ministry of Agriculture and Forestry intends to deliver on its legislative obligations in relation to the Hapū.

#### **Appointment as an advisory committee to the Minister of Fisheries**

- 5.35 The Ministry of Agriculture and Forestry will appoint Maungaharuru-Tangitu Incorporated and/or the governance entity as an advisory committee to the Minister of Fisheries in relation to the Wairoa Hard, under section 21 of the Ministry of Agriculture and Fisheries (Restructuring) Act 1995.

#### **Letters of introduction to social service agencies**

- 5.36 Following signing of this agreement in principle, the Crown will write letters of introduction to the following social service agencies or any other agencies as agreed between Maungaharuru-Tangitu Incorporated and the Crown, to introduce the Hapū -
- 5.36.1 Ministry of Justice;
- 5.36.2 Ministry of Health;
- 5.36.3 Department of Building and Housing;
- 5.36.4 Ministry of Education;
- 5.36.5 Ministry of Māori Development;
- 5.36.6 Ministry of Social Development;
- 5.36.7 Ministry of Science and Innovation; and

**5.36.8 New Zealand Police.**

- 5.37 The purpose of the letters is to raise the profile of the Hapū with Crown agencies and provide a platform for better engagement between the Hapū and those agencies in the future. The text of the letters and list of social service agencies will be agreed between Maungaharuru-Tangitu Incorporated and the Crown and issued as soon as practicable after the signing of this agreement in principle and before the deed of settlement is finalised.
- 5.38 The early provision of the letters will enable the Hapū to approach social service agencies prior to achieving settlement, and help agencies understand how the Hapū fits into their service area.

**Letters of introduction to non-core Crown agencies**

- 5.39 Following signing of this agreement in principle, the Crown will write letters of introduction to the following non-core Crown agencies or any other agencies as agreed between Maungaharuru-Tangitu Incorporated and the Crown, to introduce the Hapū -

- 5.39.1 Historic Places Trust;
- 5.39.2 New Zealand Geographic Board;
- 5.39.3 Hawke's Bay Regional Council;
- 5.39.4 Napier City Council;
- 5.39.5 Hastings District Council;
- 5.39.6 Department of Internal Affairs (National Library and Archives functions)
- 5.39.7 New Zealand Transport Agency;
- 5.39.8 Fish and Game Council of New Zealand; and
- 5.39.9 Museums (to be identified before deed of settlement).

- 5.40 The purpose of the letters is to raise the profile of the Hapū with non-core Crown agencies and provide a platform for better engagement between the Hapū and those agencies in the future. The text of the letters and list of non-core Crown agencies will be agreed between the Hapū and the Crown before the deed of settlement is finalised.

**Hawke's Bay Regional Council Joint Planning Committee**

- 5.41 The deed of settlement will provide for membership of the Hapū on the Hawke's Bay Regional Council Joint Planning Committee as provided for in schedule 4.



### **New and altered geographic names**

5.42 The Crown will invite Maungaharuru-Tangitu Incorporated to develop a list of new and altered place name changes for places within the area of interest for submission to the New Zealand Geographic Board/Ngā Pou Taunaha o Aotearoa, to be processed under the usual statutory provisions followed by the Board.

5.43 The deed of settlement is to provide for the settlement legislation to—

5.43.1 assign to the locations or geographic features identified in the deed of settlement as potential new geographic names that the parties agree are to be new geographic names; and

5.43.2 alter the existing geographic names to the potential new geographic names, if the parties agree to that alteration.

### **New and altered Department of Conservation names**

5.44 The Crown will invite the Maungaharuru-Tangitu Incorporated to submit a list of new and altered place name changes in relation to lands within their area of interest administered by the Department of Conservation that they would wish to have changed and agrees to negotiate those changes with Maungaharuru-Tangitu Incorporated prior to deed of settlement.

### **Non-exclusive cultural redress**

5.45 Where cultural redress is non-exclusive, the Crown may do anything that is consistent with the cultural redress contemplated by this agreement in principle, including entering into, and giving effect to, another settlement that provides for the same or similar cultural redress. However prior to finalising such redress to another group the Crown will consult with the Hapū.

5.46 The Crown must not enter into another settlement with another iwi or hapū that provides for the same redress where that redress has been made available exclusively for the Hapū.

5.47 Clause 5.45 is not an acknowledgement by the Crown or the Hapū that any other iwi or group has interests in relation to land or an area to which any of the non-exclusive cultural redress relates.

## Ongoing work

5.48 The Crown agrees to continue work on a number of matters of importance to Maungaharuru-Tangitu Incorporated between the signing of the agreement in principle and the initialling of the deed of settlement. Such matters include, but are not limited to, the Crown exploring in good faith -

5.48.1 a relationship agreement between Ngāti Kahungunu Iwi Incorporated and Ministry of Agriculture and Forestry in relation to fisheries which provides for the governance entity to be a secondary party to the relationship;

5.48.2 a relationship with the Ministry of Economic Development;

5.48.3 the creation of new or altered names for certain Crown places and facilities within the Hapū area of interest that the Hapū wishes to have changed;

5.48.4 statutory acknowledgements for the areas subject to an overlay classification;

5.48.5 a statutory acknowledgement and deed of recognition over the Moeangiangi Stream;

5.48.6 the scope of redress over rivers and tributaries (including definition of such) over the adjacent river banks and marginal lands, subject to Crown ownership, including as a part of the partnership agreement with the Minister of Conservation referred to in schedule 3; and

5.48.7 discussion of what resources Maungaharuru-Tangitu Incorporated will require to support their involvement in the Joint Planning Committee as provided for in schedule 4 and what contribution the Crown will make to these resources.

5.49 Maungaharuru-Tangitu Incorporated has identified several pieces of land currently administered by local authorities as key sites in the recognition of the mana whenua of the Hapū and reconnection to their tribal lands. The parties will therefore explore the acquisition of these properties for transfer to the governance entity on the settlement date.

5.50 The Crown will, in good faith, use its best endeavours to achieve the acquisition of such properties. But if, after exploring options to acquire any of the agreed properties there is no other option agreeable to the parties, the parties will explore all other options to provide suitable or equivalent redress which may include the parties agreeing -

5.50.1 to substitute another Crown property for that property; or

5.50.2 to explore alternative redress; or

5.50.3 that the Crown purchases such property from the local authority prior to settlement date. In such a case, the provisions of section 40(1) of the Land Act 1948 will apply.

5.51 For the purposes of clause 5.50.1, the Crown will use its best endeavours to provide a substitute property if necessary, but is not under an obligation to do so.

5.52 For the purposes of clause 5.50.3, negotiations will proceed on the basis of a market valuation and the cost of any such purchase will be deducted from the financial and commercial redress amount.

## 6 FINANCIAL AND COMMERCIAL REDRESS

### Financial and commercial redress amount

6.1 The deed of settlement is to provide that the Crown will pay the governance entity on the settlement date the financial and commercial redress amount of \$23 million less the agreed transfer values of –

6.1.1 any other commercial redress properties agreed by the parties for transfer on settlement date (including properties held in the Office of Treaty Settlements Landbank); and

6.1.2 Crown forest licensed land.

### Commercial redress properties

6.2 The deed of settlement is to provide that the Crown must transfer to the governance entity on the settlement date those of the properties described in Table 6 as commercial redress properties that the parties agree are to be commercial redress properties.

**Table 6: Commercial Redress properties**

Agency	Property Name	Legal Description	Area
Crown	Balance of the Opouahi Station after selection of 250ha by the Hapū		
Crown	One Ministry of Education School		
OTS	Waikoau Road	Lots 1 & 2 DP 25891	3.8534 ha
OTS	State Highway 5	Sec 40 SO 5665	0.0050 ha

- 6.3 Subject to agreement on the list of properties, the Crown will explore transfer and leaseback arrangements on any properties to be continued in use by the Crown on similar terms to those agreed in recent Treaty settlements.

**Crown forest licensed land**

- 6.4 The deed of settlement will provide for the governance entity to have a right to purchase that part of the Esk Forest licensed land listed in Table 7 that is within the area of interest.

**Table 7: Crown forest licensed land:**

Agency	Property Name	Legal Description
LINZ	Part Esk Forest	<p>Lot 1 DP 21637</p> <p>Part Lot 1 &amp; Lot 2 DP 21753</p> <p>Lot 1 DP 21875</p> <p>Lot 1 DP 21937</p> <p>Lots 1-4 DP 21993</p> <p>Lot 1 DP 21994</p> <p>Lots 1-4 DP 21995</p>

- 6.5 If such licensed land is to be transferred to the governance entity, the settlement documentation is to provide -

- (a) such licensed land is to -

- (i) be transferred together with, for no consideration, any New Zealand emission units/carbon credits created in relation to it; and
- (ii) cease to be Crown forest land upon registration of the transfer; and

- (b) from the settlement date, the governance entity is to be, in relation to such licensed land -

- (i) the licensor under the Crown forestry licence in relation to the licensed land; and
- (ii) a confirmed beneficiary under clause 11.11 of the Crown Forestry Rental Trust deed; and

- (iii) entitled to the rental proceeds under the Crown forestry rental licence in relation to the licensed land since the commencement of the licence,

#### **Potential deferred selection properties**

- 6.6 The deed of settlement is to provide that the governance entity may, for three years after the settlement date, purchase at an agreed transfer value surplus core Crown properties identified as being available for purchase that the parties agree are to be deferred selection properties.
- 6.7 The deed of settlement is to provide that the governance entity may, for one year after the settlement date, purchase at an agreed transfer value surplus core Crown properties in the Office of Treaty Settlements landbank identified as being available for purchase that the parties agree are to be deferred selection properties.
- 6.8 If a deferred selection property is subject to a leaseback to the Crown, the deed of settlement is to provide that, if the property is purchased by the governance entity, the property is to be leased back by the governance entity to the Crown from the date of its purchase –
- 6.8.1 ~~on the terms and conditions provided by a registrable ground lease for that property (ownership of the Crown's improvements remaining with the Crown) incorporated in the deed of settlement; and~~
- 6.8.2 at an initial market rental determined under the valuation process specified in the deed of settlement; and
- 6.8.3 (if the property is a leaseback to the Ministry of Education) at an initial annual rental determined in accordance with the lease to be entered into by the governance entity and the Crown.

#### **Right of First Refusal (RFR)**

- 6.9 The settlement documentation is to provide that –
- 6.9.1 ~~the governance entity has a RFR in relation to a disposal by the Crown of any of the land within an area to be agreed if, on the settlement date, it is owned by the Crown and the Crown is able to offer such a right; and~~
- 6.9.2 ~~the RFR will apply for 172 years from the settlement date; and~~
- 6.9.3 ~~the terms of the RFR will be agreed between the parties as part of the preparation of the deed of settlement and will be consistent with recent Treaty settlements.~~

#### **Valuation**

- 6.10 The process for determining the valuation of commercial redress properties will be agreed by the parties before signing the deed of settlement.

## **7 INTEREST AND TAX**

### **Interest**

7.1 The deed of settlement is to provide for the Crown to pay to the governance entity, on the settlement date, interest on the financial and commercial redress amount:-

7.1.1 ~~for the period—~~

(a) ~~beginning on the date of this agreement in principle; and~~

(b) ~~ending on the day before the settlement date; and~~

7.1.2 ~~at the rate from time to time set as the official cash rate by the Reserve Bank, calculated on a daily basis but not compounding.~~

7.2 The interest is to be -

7.2.1 ~~subject to any tax payable; and~~

7.2.2 ~~payable after withholding any tax required by legislation to be withheld.~~

### **Tax**

7.3 Subject to the Minister of Finance's consent, the deed of settlement is to provide that the Crown must indemnify the governance entity for -

7.3.1 ~~any GST or income tax payable in respect of the provision of Crown redress; and~~

7.3.2 ~~any gift duty payable in respect of—~~

(a) ~~cultural redress; or~~

(b) ~~the right to purchase deferred selection properties; or~~

(c) ~~the right to purchase RFR land.~~

7.4 The governance entity agrees that neither it, nor any other person, will claim with respect to the provision of Crown redress -

7.4.1 ~~an imputed credit for GST purposes; or~~

7.4.2 ~~a deduction for income tax purposes.~~

## **8 NEXT STEPS**

### **Disclosure information**

**8.1** The Crown will, as soon as reasonably practicable, prepare, and provide to Maungaharuru-Tangitu Incorporated, disclosure information in relation to -

- 8.1.1** each cultural redress property; and
- 8.1.2** each commercial redress property; and
- 8.1.3** each potential deferred selection property.

### **Resolution of outstanding matters**

**8.2** The parties will work together in good faith to agree, as soon as reasonably practicable, all matters necessary to complete the deed of settlement, including, but not limited to, agreeing on or determining, as the case may be -

- 8.2.1** the terms of -
  - (a) the historical account; and
  - (b) the Crown's acknowledgement and apology; and
- 8.2.2** the cultural redress properties, the commercial redress properties, the deferred selection properties, and the RFR land; and
- 8.2.3** the transfer values of the commercial redress properties; and
- 8.2.4** the terms of a registrable ground lease for any leaseback property; and
- 8.2.5** the initial market rental for any commercial redress property subject to a leaseback to the Crown or annual rental for Ministry of Education leaseback properties; and
- 8.2.6** a partnership agreement with the Minister of Conservation, based on and incorporating the principles outlined in schedule 3;
- 8.2.7** the new and altered geographic names; and
- 8.2.8** the terms of the following (which will, where appropriate, be based on the terms provided in recent Treaty settlements);
  - (a) the cultural redress;
  - (b) the transfer of the commercial redress properties;

- (c) the right to purchase a deferred selection property, including the process for determining the agreed transfer value and, if it is a leaseback property, its initial market rental or annual rental for Ministry of Education leaseback properties;
- (d) the RFR, including the circumstances in which RFR land may be disposed of without the RFR applying;
- (e) the tax indemnity referred to in clause 7.3 and to be provided in the deed of settlement; and

8.2.9 the following documents -

- (a) the statement of the Hapū's values, and the protection principles, in relation to the overlay classification sites;
- (b) the Hapū's statements of association with the relevant areas;
- (c) the deeds of recognition;
- (d) the protocols;
- (e) the Ministry of Agriculture and Forestry Letter of Recognition regarding fisheries;
- (f) the settlement legislation; and

8.2.10 all other necessary matters.

#### **Development of governance entity and ratification process**

8.3 Maungaharuru-Tangitu Incorporated will, as soon as reasonably practicable -

- 8.3.1 form a single governance entity that the Crown is satisfied meets the requirements of clause 9.1.2(a); and
- 8.3.2 develop a ratification process referred to clause 9.1.2(b) that is approved by the Crown.

## **9 CONDITIONS**

### **Entry into deed of settlement conditional**

9.1 The Crown's entry into a deed of settlement is subject to -

- 9.1.1 Cabinet agreeing to the settlement and the redress; and



9.1.2 the Crown being satisfied the Hapū has –

(a) established a governance entity that –

(i) ~~is appropriate to receive the redress; and~~

(ii) ~~provides, for the Hapū –~~

(I) appropriate representation; and

(II) transparent decision-making and dispute resolution processes; and

(III) full accountability; and

(b) ~~approved, by a ratification process approved by the Crown –~~

(i) the governance entity to receive the redress; and

(ii) the settlement on the terms provided in the deed of settlement; and

(iii) signatories to sign the deed of settlement on behalf of the Hapū.

#### **Settlement conditional on settlement legislation**

9.2 The deed of settlement is to provide that the settlement is conditional on settlement legislation coming into force.

9.3 Some of the provisions of the deed of settlement may be binding from its signing.

## **10 GENERAL**

### **Nature of this agreement in principle**

10.1 This agreement in principle –

10.1.1 is entered into without prejudice; and

10.1.2 may not be used as evidence in proceedings before, or presented to, the Waitangi Tribunal, any court, or any other judicial body or tribunal; and

10.1.3 is non-binding; and

10.1.4 does not create legal relations.

### **Termination of this agreement in principle**

- 10.2 The Crown or Maungaharuru-Tangitu incorporated, on behalf of the Hapū, may terminate this agreement in principle by notice to the other.
- 10.3 Before terminating this agreement in principle, the Crown or Maungaharuru-Tangitu Incorporated, as the case may be, must give the other at least 20 business days' notice of an intention to terminate.
- 10.4 This agreement in principle remains without prejudice even if it is terminated.

### **Definitions**

- 10.5 In this agreement in principle –

- 10.5.1 the terms defined in schedule 1 have the meanings given to them by that schedule;
- 10.5.2 the terms indicated in bold in schedule 1 are intended to be defined terms; and
- 10.5.3 all parts of speech, and grammatical forms, of a defined term have a corresponding meaning.

### **Interpretation**

- 10.6 In this agreement in principle -

- 10.6.1 headings are not to affect its interpretation; and
- 10.6.2 the singular includes the plural and vice versa.

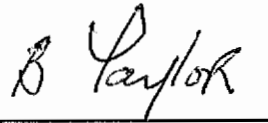
- 10.7 Provisions in –

- 10.7.1 the schedules to this agreement in principle are referred to as paragraphs; and
- 10.7.2 other parts of this agreement in principle are referred to as clauses.

## AGREEMENT IN PRINCIPLE

SIGNED on 22 September 2011

SIGNED for and on behalf of  
the Hapū  
by MAUNGAHARURU-TANGITU INCORPORATED



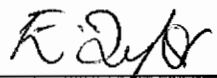
Bevan Taylor  
Chairperson



Tania Hopmans  
Deputy Chairperson



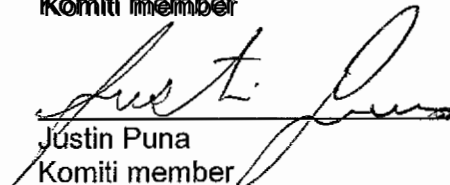
Charmaine Butler  
Komiti member



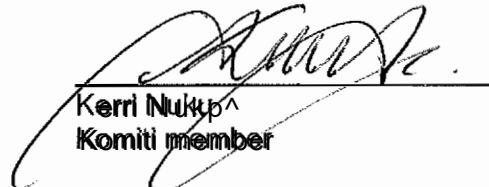
Elaine Taylor  
Komiti member



Frederick Reti  
Komiti member



Justin Puna  
Komiti member



Kerri Nukup  
Komiti member



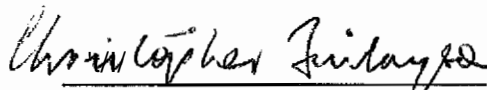
Sabre (Thursday) Puna  
Komiti member

## AGREEMENT IN PRINCIPLE

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**SIGNED for and on behalf of THE CROWN by -**

**The Minister for Treaty of Waitangi Negotiations**

  
Hon Christopher Finlayson

M. Harvey  
Heena ~~EA~~

Panna. D. ORA Brown

Muzumma Taraka - Telfata.

Tanger

Mooney, F. & J. D. Taylor (Mrs. Bessie Taylor)

Amelia Smith.

Memorial RNA-SMITH



Kangaroo

Example:  
(ACCG + TACG) RNA (UACGACU)

Rangki Spengler

Ngānīe Kōwhiri o Te Rangi

David Permy

mucky \$50K/10%

R. A. Thilo

J. Murewa & Kureti Reti

Yok Kanda Taylor

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(Mary<sup>A</sup> Spencer Hunt) (Ngaité R. Bayart)

Natalia Spooner.

Caroline Henning

Joseph. R. H.

NRV

Anika

Marewa Te Ao Marama King : Maranga-ti-he-tana  
Rangi Spooner. //

Mary Spaul Mauts (Ngai Te Runter)

Norden LeDoran Taylor (Mrs Bess Taylor)

Whakia Hopu.

Carrie Brown

Moko Puna.

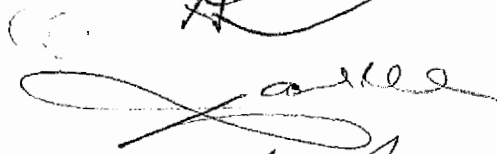
Abraham Kahi

Josua Meneze

Natasha

Mae Sme







Pauline Taurima

Ruby Kende

Anesia Taurima

Rawinia Taurima-Makua

Tane James Thomas

Charlene Taurima-Thomas

Shirley Taurima-Kaosa Darian

Shirley Taurima-Kaosa Darian

Shirley Taurima-Kaosa Darian

Mackay Smith  
Whanaka Thomas (nee Tura)  
Daniel Pura

 (Curtis Whanaka)



Patrick Sullivan

Morven Leona Taylor  
(Mrs Bevan Taylor)

WSP  
Adrian May (ne Taylor)

Kelley May (ne Taylor)

Anna Grace Emma Reihana Kai Kai Kapa Mjaka

W J W O V A + E O Y E

W J W O V A + E O Y E  
Thomas (ne Pura)

Anna Kay Pura (Smith)

David Pura

Natalia Spooner

Caroline Aserini

Abraham Red

M. J.

Hewere

Pili te ora Reti

Ramon Pura

Anika Smith

Karenna Brown

Mattie Nibbles Em

Rangi Spooner

Ngāi te Pūnaka o te Rangi  
Pahiri Hiki i Saina Ngāi te Pūnaka o te Rangi  
Ngāi te Pūnaka o te Rangi

Ngāi te Pūnaka o te Rangi

NGAATI TU

Morgan Spooner Naiter (Ngāi te Pūnaka)

Hiri Pūnaka Te Aomarama Wairua

Phil

Steve Jasin

Lee Taylor.

D.W. Jones

Manuela  
Taylor.

(1) Kahurangi

~~Phil~~

Phil

R.B. Spooner

St. Peter

Dr. Puma

(1) H.A. Stet

Mack

Kathleen Thomas (nee Puma)

David Quora

Natalia Spooner

St. Peter

Phil

Carolyn Thomas

## SCHEDULE 1-DEFINITIONS

### Historical claims

1. The deed of settlement will provide that **historical claims** -

1.1 means every claim (whether or not the claim has arisen or been considered, researched, registered, notified, or made by or on the settlement date) that the Hapū, 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 or its principles; or

(ii) under legislation; or

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

(iv) from fiduciary duty; or

(v) otherwise; and

(b) arises from, or relates to, acts or omissions before 21 September 1992 -

(i) by, or on behalf of, the Crown; or

(ii) by or under legislation; and

1.2 includes every other claim to the Waitangi Tribunal to which paragraph 111.1.1 applies, so far as it relates to the Hapū or a representative entity, including the following claims:

(a) Wai 201 - (Wairoa ki Wairarapa claims / Ngā Kāhuna generic claim);

(b) Wai 299 - (Mohaka-Waikare Raupatu/Confiscation claim);

(c) Wai 400 - (Ahuriri Purchase claim); and

(d) such other Wai claims identified by the Hapū in the course of negotiations;

1.3 does not include the following claims:

## AGREEMENT IN PRINCIPLE

- (a) Wai 55 – (Te Whanganui a Orotu claim) (this claim has been negotiated by Mana Ahuriri Incorporated on behalf of Marangatuhetaua and Ngāi Te Ruruku ki Tangoio);
- (b) WAI 692 – (Napier Hospital and Health Services claim) (this claim has been negotiated by Mana Ahuriri Incorporated on behalf of the Hapū); or
- (c) a claim that a member of the Hapū, or a whānau, hapū, or group referred to in paragraph 3.2, 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 paragraph 4.3:

- 2 The deed of settlement will, to avoid doubt, provide paragraph 1.1 is not limited by paragraphs 1.2.

### Maungaharuru-Tangitū Hapū

3. The deed of settlement will provide that Maungaharuru-Tangitū Hapū and Hapū means-

3.1 the collective group composed of individuals who descend from one or more of the Hapū ancestors in accordance with paragraph 4.3; and

3.2 every whānau, hapū, or group to the extent that it is composed of individuals referred to in paragraph 3.1, including the following groups -

- (a) Ngāti Kurumōkīhi (formerly known as Ngāi Tātara);
- (b) Marangatuhetaua (also known as Ngāti Tu);
- (c) Ngāti Whakaari;
- (d) Ngāi Tauira;
- (e) Ngāi Te Ruruku ki Tangoio; and
- (f) Ngāi Taihu; and

3.3 every individual referred to in paragraph 3.1.

4. The deed of settlement will provide, for the purposes of paragraph 3.1, -

4.1 a person is descended from another person if the first person is descended from the other by birth; or

4.2 legal adoption; and

4.3 Hapū ancestor means an individual who descends from one or more of the following source tīpuna:

- (a) Tātaramoa (for Ngāti Tātara and Ngāti Kurumōkīhi);

## AGREEMENT IN PRINCIPLE

- (b) Tukapua I (for Marangatuhetaua (Ngāti Tu));
- (c) Whakaari (for Ngāti Whakaari);
- (d) Tauira and Mateawha (for Ngāi Tauira);
- (e) Te Ruruku through Hemi Puna and Taraipene Tuaitu (for Ngāi Te Ruruku ki Tangoio); or
- (f) Tahumatua II (for Ngāi Tahu) and the tipuna named in one of paragraphs (a) to (e) above;

### Other definitions

5. In this agreement in principle –

**area of interest** means the area identified as the area of interest in Attachment 1; and

**business day** means a day that is not –

- (g) a Saturday or Sunday; or
- (h) Waitangi Day, Good Friday, Easter Monday, ANZAC Day, the Sovereign's Birthday, or Labour day; or
- (i) a day in the period commencing with 25 December in any year and ending with 15 January in the following year; or
- (j) a day that is observed as the anniversary of the province of –
  - (i) Wellington; or
  - (ii) Hawke's Bay; and

**coastal marine area** has the meaning given to it in section 2 of the Resource Management Act 1991; and

**commercial redress property** includes but is not limited to each property described in Table 6; and

**conservation document** means a national park management plan, conservation management strategy, or conservation management plan; and

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

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

## **AGREEMENT IN PRINCIPLE**

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

**Crown Forestry Rental Trust deed** means the trust deed made on 30 April 1990 establishing the Crown Forestry Rental Trust under section 34(1) of the Crown Forest Assets Act 1989; and

**Crown leaseback** in relation to a leaseback commercial redress property, means the lease to be entered into by the governance entity and the Crown; and

**Crown redress -**

(a) means redress –

- (i) provided by the Crown to the governance entity; or
- (ii) vested by the settlement legislation in the governance entity that was, immediately prior to the vesting, owned by or vested in the Crown; and

(b) includes any right of the governance entity under the settlement documentation –

- (i) to acquire a deferred selection property; or
- (ii) of first refusal in relation to RFR land; but

(c) does not include -

- (i) an obligation of the Crown under the settlement documentation to transfer a deferred selection property or RFR land; or
- (ii) a deferred selection property or RFR land; or
- (iii) any on-account payment of the financial and commercial redress; and

**cultural redress** includes, but is not limited to, the redress outlined in clause 5; and

**cultural redress property** includes but is not limited to each property described in Table 1; and

**customary rights** means rights according to tikanga Māori (Māori customary values and practices), including -

- (k) rights to occupy land; and
- (l) rights in relation to the use of land or other natural or physical resources associated with that land.

## AGREEMENT IN PRINCIPLE

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**deed of settlement** means the deed of settlement to be developed under clause 2.1.2; and

**deferred selection property** means each property described as a deferred selection property in the deed of settlement; and

**Department** means Department of Conservation; and

**disclosure information** means-

- (a) in relation to a redress property, the information provided by the Crown to Maungaharuru-Tangitu Incorporated under clause 8.1; and
- (b) in relation to a purchased deferred selection property, the disclosure information about the property the deed of settlement requires to be provided by the Crown to the governance entity; and

**encumbrance**, in relation to a property, means a lease, tenancy, licence, easement, covenant, or other right affecting that property; and

**financial and commercial redress** means the redress to be provided under the settlement documentation referred to in clause 6; and

**financial and commercial redress amount** means the amount referred to as the financial and commercial redress amount in clause 6.1; and

**governance entity** means the governance entity to be formed by the Hapū under clause 8.3.1; and

**Hapū** has the meaning ascribed to that term in paragraph 3.1 of Schedule 1; and

**Kawenata** means partnership agreement for the purposes of clause 5.28;

**leaseback property** means each commercial redress property and each deferred selection property which is subject to a leaseback to the Crown; and

**licensed land** means the Crown forest licensed land listed in Table 7, and which is subject to a Crown forestry licence but excluding –

- (a) all trees growing, standing, or lying on the land; and
- (b) all improvements that have been acquired by a purchaser of trees on the land or made, after the acquisition of the trees by the purchaser, or by the licensee; and

**Maungaharuru Tangitu Hapū** has the meaning ascribed to that term in paragraph 3.1 of schedule 1;

**Maungaharuru-Tangitu Incorporated** is the entity the Crown has recognised that holds the mandate to represent the Hapū in negotiations to settle the historical claims

## **AGREEMENT IN PRINCIPLE**

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as set out in Terms of Negotiation between Maungaharuru-Tangitu Incorporated and the Crown signed on 26 June 2010; and

**on-account payment** means a payment, made prior to settlement date, that the parties agree is provided in part settlement of the historical claims; and

**party** means each of Maungaharuru-Tangitu Incorporated and the Crown; and

**potential deferred selection property** means a property referred to in clause 6.6 and 6.7; and

**protocol** means a protocol referred to in clause 5.25; and

**purchased deferred selection property** means each deferred selection property in relation to which the governance entity and the Crown are to be treated under the deed of settlement as having entered into an agreement for its sale and purchase; and

**redress** means the following to be provided under the settlement documentation –

(a) the Crown's acknowledgment and apology referred to in clause 3.1;

(b) ~~the financial and commercial redress~~;

(c) ~~the cultural redress~~; and

**redress property** means-

(a) ~~each cultural redress property~~; and

(b) ~~each commercial redress property~~; and

**redress rivers** means the rivers listed in clause 5.13 and their tributaries;

**Regional Council** means Hawke's Bay Regional Council; and

**representative entity** means a person or persons acting for or on behalf of the Hapu; and

**resumptive memorial** means a memorial entered on a certificate of title or computer register under any of the following sections:

(a) 27A of the State-Owned Enterprises Act 1986;

(b) 211 of the Education Act 1989;

(c) 38 of the New Zealand Railways Corporation Restructuring Act 1990; and

**RFR** means the right of first refusal referred to in clause 6.9; and



## **AGREEMENT IN PRINCIPLE**

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**RFR land** is land subject to a right of first refusal as provided in clause 6.9; and

**settlement** means the settlement of the historical claims under the settlement documentation; and

**settlement date** means the date that is 20 business days after the date on which the settlement legislation comes into force; and

**settlement documentation** means a document to be entered into by the Crown to give effect to the deed of settlement and includes the deed of settlement and the settlement legislation; and

**settlement legislation** means the legislation giving effect to the deed of settlement; and

**statement of association** means each statement of association referred to in clause 5.10; and

**statutory acknowledgement** means each acknowledgement referred to in clause 5.10; and

**transfer value** means the amount payable upon the transfer of a commercial redress property to the governance entity; and

**Treaty of Waitangi** means the Treaty of Waitangi as set out in schedule 1 to the Treaty of Waitangi Act 1975.

## **SCHEDULE 2 - SETTLEMENT TERMS**

### **Rights unaffected**

- 1.1 The deed of settlement is to provide that, except as provided in the settlement documentation, the rights and obligations of the parties will remain unaffected.
- 1.2 Without limiting paragraph 1.1, nothing in the deed or the settlement legislation will -
- 1.2.1 extinguish or limit any aboriginal title, or customary right, that the Hapū may have; or
  - 1.2.2 constitute or imply an acknowledgment by the Crown that any aboriginal title or customary right exists; or
  - 1.2.3 except as provided in the deed or settlement legislation -
    - (a) affect a right that the Hapū may have, including a right arising -
      - (i) from the Treaty of Waitangi or its principles; or
      - (ii) under legislation; or
      - (iii) at common law (including in relation to aboriginal title or customary law); or
      - (iv) from a fiduciary duty; or
      - (v) otherwise; or
    - (b) be intended to affect any action or decision under the deed of settlement between Maori and the Crown dated 23 September 1992 in relation to Maori fishing claims; or
    - (c) affect any action or decision under any legislation and, in particular, under legislation giving effect to the deed of settlement including -
      - (i) the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992; or
      - (ii) the Fisheries Act 1986; or
      - (iii) the Maori Fisheries Act 2004; or
      - (iv) the Maori Commercial Aquaculture Claims Settlement Act 2004.

### **Acknowledgments**

- 1.3 Each party to the deed of settlement is to acknowledge in the deed of settlement that -

- 1.3.1 the other parties have acted honourably and reasonably in relation to the settlement; but
  - 1.3.2 it is not possible to compensate the Hapū fully for all the loss and prejudice suffered; and
  - 1.3.3 the Hapū intends their foregoing of full compensation to contribute to New Zealand's development; and
  - 1.3.4 the settlement is intended to enhance the ongoing relationship between the Hapū and the Crown (in terms of the Treaty of Waitangi, its principles, and otherwise).
- 1.4 The Hapū is to acknowledge in the deed of settlement that –
- 1.4.1 taking all matters into consideration in paragraph 1.3, the settlement is fair in the circumstances; and
  - 1.4.2 the redress –
    - (a) is intended to benefit the Hapū collectively; but
    - (b) may benefit particular members, or particular groups of members, of the Hapū if the governance entity so determines in accordance with the governance entity's procedures.

### **Implementation**

- 1.5 The deed of settlement is to provide the settlement legislation will, on terms agreed by the parties (based on the terms in recent settlement legislation), –
- 1.5.1 settle the historical claims; and
  - 1.5.2 exclude the jurisdiction of any court, tribunal, or other judicial body in relation to the historical claims and the settlement; and
  - 1.5.3 require any resumptive memorials to be removed from the certificates of title to, or the computer registers for, the settlement properties; and
  - 1.5.4 provide that the rule against perpetuities and the Perpetuities Act 1964 does not apply to any settlement document; and
  - 1.5.5 require the Secretary for Justice to make copies of the deed of settlement publicly available.
- 1.6 The deed of settlement is to provide –
- 1.6.1 the governance entity must use its best endeavours to ensure every historical claim is discontinued by the settlement date or as soon as practicable afterwards; and
  - 1.6.2 the Crown may, after the settlement date advise the Waitangi Tribunal (or any other tribunal, court, or judicial body) of the settlement; and

- 1.6.3 ~~the Crown may cease any land bank arrangement in relation to the Hapu, the governance entity, or any representative entity, except to the extent necessary to comply with its obligations under the deed of settlement.~~

**Redress maintenance and transfer**

- 1.7 Until the settlement date, the Crown must:

1.7.1 continue to manage and administer each redress property in accordance with its existing practices for the property; and

1.7.2 maintain each redress property in substantially the same condition that it is in at the date of this agreement.

- 1.8 Until the settlement date, the Crown must consult with, and obtain the prior written consent of, Maungaharuru-Tangitu Incorporated or the governance entity, whichever is appropriate, (which will not be unreasonably withheld or delayed) before:

1.8.1 ~~agreeing to any material variation in the terms of a disclosed encumbrance affecting or benefiting a redress property; or~~

1.8.2 ~~procuring any consent, or providing any waiver, under the Resource Management Act 1991, or other legislation, that materially affects a redress property.~~

- 1.9 The deed of settlement is to provide that the Crown will have an obligation to undertake such work, survey or other pre-conditions to the transfer to the governance entity of the redress properties as required by this agreement. In particular:

1.9.1 ~~the Crown must arrange, and pay for, the preparation, approval, and where applicable the deposit, of a cadastral survey dataset of a redress property to the extent it is required to enable the issue, under the settlement legislation, of a computer freehold register for the property.~~

1.9.2 ~~the Crown will pay any registration costs of any documents required to support the vesting of the redress properties in the governance entity.~~

## **SCHEDULE 3 - RELATIONSHIP REDRESS**

### **Principles of a partnership agreement with Minister of Conservation**

- 1.2 The Crown and Maungaharuru-Tangitu Incorporated have agreed that the relationship redress offered by the Minister of Conservation will be a partnership agreement between the governance entity and the Department of Conservation.
- 1.3 The partnership agreement will be based on and incorporate the following principles and cover the scope of matters covered by a protocol.

### ***Principles of partnership between the Department and the Maungaharuru-Tangitu Hapū***

- 1.4 The relationship redress will be a partnership agreement between the Department and the governance entity, relating to the area of interest;
- 1.5 The parties recognise the existing Treaty of Waitangi obligations of the Department under section 4 of the Conservation Act 1987. The purpose of the partnership agreement is to build upon these obligations and to provide a framework for active engagement on conservation issues relating to the area of interest;
- 1.6 The Department will actively engage with the governance entity, before public consultation, and throughout the process when developing, reviewing or amending:
  - 1.6.1 statutory conservation planning documents relating to public conservation land in the area of interest, including, but not limited to, Conservation Management Strategies; and
  - 1.6.2 non-statutory conservation plans and strategies, including any business plans and action plans, relating to public conservation land in the area of interest.
- 1.7 There will be a partnership approach in relation to the management of areas identified by the Hapū as priority areas within their area of interest. This will mean:
  - 1.7.1 the partners will use best endeavours to jointly agree conservation priorities and special projects for these priority areas; and
  - 1.7.2 if, despite best endeavours, consensus is not reached within an agreed timeframe that will permit any time constraints to be met, the Department may exercise its decision making powers and functions in relation to the proposal(s) or issue(s).
- 1.8 The partnership agreement will be a living document that will be updated by the partners to provide for engagement on future issues, developments and opportunities. This will include engagement on the impact of legislative changes or changes to national policy on the Department's activities in the area of interest.

**Agreed specific content for the partnership agreement between the Department and the Waungataniwha-Tangitu Hapū**

- 1.9 The partnership agreement will include, but will not be limited to, specific provisions for engagement with the Hapū governance entity in relation to:
- 1.9.1 concessions and other statutory authorisations;
  - 1.9.2 the protection and restoration of sites of significance/wāhi tapu;
  - 1.9.3 developing and conveying public information relating to the Hapū;
  - 1.9.4 information boards and pouwhenua;
  - 1.9.5 special projects;
  - 1.9.6 species management and habitat protection;
  - 1.9.7 freshwater fisheries;
  - 1.9.8 marine mammals;
  - 1.9.9 pest control; and
  - 1.9.10 opportunities for training of Department staff and the Hapū members.
- 1.10 The partnership agreement will include provisions on consultation with the Hapū by the Department on any new national programmes, policies or issues that will have a significant impact on conservation within the area of interest.
- 1.11 The partners have agreed to develop a cultural materials plan regarding the access, restoration, enhancement and use of cultural materials. The partnership agreement will include mechanisms that will allow the Hapū to issue permits to Hapū members to take cultural materials from the priority areas on public conservation land in accordance with the cultural materials plan. Although the cultural materials plan may be reviewed from time to time, the ability to issue permits will remain.
- 1.12 The Hapū will identify taonga species for inclusion in a schedule to the partnership agreement. The partnership agreement will include provisions relating to the particular considerations to be given to the taonga species.
- 1.13 The partnership agreement will include provisions for review and amendment by agreement of the partners at two yearly intervals, and dispute resolution.

***Agreed process expectations for the preparation of the partnership agreement between the Department and the Maungaharuru-Tangitu Hapū***

- 1.14 The partnership agreement will be drafted and agreed following the signing of the agreement in principle. It will relate to the area of interest, and be consistent with all applicable legislation.
- 1.15 The preparation and content of the partnership agreement will be informed by the relevant terms of other conservation relationship redress in recent Treaty settlements.
- 1.16 The partnership agreement will be signed by the Minister of Conservation and the governance entity.

***Agreed definitions for the partnership agreement between the Department and the Maungaharuru-Tangitu Hapū***

- 1.17 For the purposes of the partnership agreement the term:

- 1.17.1 public conservation land means land administered by the Director-General of Conservation under the Conservation Act 1987 or any enactment specified in the First Schedule of that Act;

- 1.17.2 priority area means all public conservation land within the area of interest:

- (a) specified as a priority area in a schedule to the partnership agreement;
    - or

- (b) as the Hapū may subsequently notify to the Department for inclusion in the partnership agreement at any time the agreement is reviewed;

- 1.17.3 taonga species means those species:

- (c) specified as taonga species in a schedule to the partnership agreement;
    - or

- (d) as the Hapū may subsequently notify to the Department for inclusion in the partnership agreement at any time the agreement is reviewed; and

- 1.17.4 time constraints means any relevant statutory, national programme or project time constraints.

- 1.18 Where the partners to the partnership agreement are required to engage, the basic principles that will be followed by the partners in engaging in each case are:

- 1.18.1 advising the partner of the proposal(s) or issue(s) to be the subject of engagement as soon as reasonably practicable;

- 1.18.2 providing the partner with sufficient information to undertake informed discussions and make submissions on the proposal(s) or issue(s) given any time constraints relating to the proposal(s) or issue(s);
- 1.18.3 ensuring, as far as possible given any time constraints, that the partner has sufficient time to prepare for their effective participation in considerations of the proposal(s) or issue(s) in relation to any of the matters that are the subject of the engagement;
- 1.18.4 approaching the engagement with an open mind and genuinely considering the suggestions, views and/or concerns that the partner may have on the proposal(s) or issue(s);
- 1.18.5 if requested, meet with the partner to discuss possible options for resolution of the relevant matter and seek a consensus on a preferred option. The option must be consistent with the legislation and the statutory planning documents that apply to the areas under discussion;
- 1.18.6 if consensus is not reached within an agreed timeframe that permits any time constraints to be met, the Department may exercise its decision making powers and functions in relation to the proposal(s) or issue(s); and
- 1.18.7 where the Department has engaged with the Hapū and exercised its decision making powers under paragraph 1.18.6 the Department will promptly report back to the Hapū on the decision made as a result of the engagement.



## **SCHEDULE 4 - HAWKE'S BAY REGIONAL COUNCIL JOINT PLANNING COMMITTEE**

- 1.1** The parties agree to establish a planning committee in conjunction with the Hawke's Bay Regional Council the role of which will relate to planning processes that affect the region of the Regional Council.

### **Background**

- 1.2** The Regional Council, Maungaharuru-Tangitu Incorporated, other Hawke's Bay iwi and hapū, and the Crown have been working together to establish the Hawke's Bay Regional Council Joint Planning Committee (the Committee).
- 1.3** Maungaharuru-Tangitu Incorporated is now working with the Regional Council, other Hawke's Bay iwi and hapū, and the Crown to develop terms of reference for the committee.
- 1.4** It is intended that:
- 1.4.1** the committee will comprise an equal number of elected members of the Regional Council and of representatives of Treaty settlement claimant groups (whether or not in any case the group has established a post-settlement governance entity) with interests in the management of natural resources in the Regional Council's region;
  - 1.4.2** the committee's role will relate to natural resource planning processes that affect the region, in particular, the redress rivers, and include drafting, and recommending to the Regional Council, plan and policy changes that affect natural resources in the region;
  - 1.4.3** the committee's role will be consistent with the Regional Council retaining final decision-making powers; and
  - 1.4.4** legislation is required to ensure that the committee, as appointed, is permanent and to establish its role and procedures.

### **Establishment of the committee**

- 1.5** Paragraph 1.6 applies if the Crown is satisfied that Maungaharuru-Tangitu Incorporated, the Crown and the Regional Council have agreed the details of the committee consistent with paragraph 1.4,
- 1.6** As soon as reasonably practicable after this paragraph applies, the Crown must propose a bill for introduction to the House of Representatives that, if enacted, will give effect to the committee referred to in paragraph 1.4.

## **Exploring alternative arrangements**

### **1.7 Paragraphs 1.7 and 1.8 apply if either:**

- 1.7.1** the Regional Council resolves not to appoint a committee that addresses the matters set out in paragraph 1.4; or
- 1.7.2** the bill has not been introduced under paragraph 1.5 before 30 June 2013; or
- 1.7.3** the bill has been introduced by that date, but it is not enacted by 30 June 2015.

### **1.8 As soon as reasonably practical after this paragraph applies the Crown must, in good faith, enter into negotiations with Maungaharuru-Tangitu Incorporated or the governance entity, as appropriate, in an attempt to establish alternative participation arrangements in respect of the redress rivers.**

### **1.9 As part of the good faith negotiations the parties will, in consultation with relevant local authorities, develop a regime that, to the extent possible, recognises the:**

- 1.9.1** aspirations of the Hapū for their meaningful and effective participation in the management of the natural resources within their area of interest; and
- 1.9.2** the attributes of the committee described in paragraph 1.4.

## **General**

### **1.10 The Crown affirms its preference for the committee to be established under paragraph 1.5 and that negotiations towards a participation regime are included only as an alternative if the committee cannot be established.**

### **1.11 Maungaharuru-Tangitu Incorporated acknowledges that:**

#### **1.11.1 the redress under paragraphs 1.11 to 1.9 is the Crown's commitment to:**

- (a)** introduce legislation under paragraph 1.5 if it applies; and
- (b)** negotiate in good faith under paragraph 1.7 if it applies; and

#### **1.11.2 the Crown is not in breach of its commitment if:**

- (a)** the legislation introduced is not enacted; or
- (b)** if an effective participation regime has not been established by any particular date if the Crown is still negotiating in good faith at that date.

### Area of Interest

## Attachment 1

