

TE POU A HAOKAI

Comprising:

Te Aitanga a Mahaki

Whānau a Kai

NgāAriki Kaiputahi

Te Whānau a Wi Pere

Te Whānau a Rangihakataetaea

NGAI TAMANUHIRI

RONGOWHAKAATA

Including:

Ngā Uri o Te Kooti Rikirangi

and

HER MAJESTY THE QUEEN

in right of New Zealand

**Agreement in Principle
for the Settlement of the Historical Claims of
Tūranganui-a-Kiwa**

29 August 2008

Pōpō!

Popo! E tangi ana Tama ki te kai mana

Popo! The sacred being seeks sustenance and sustainability

The ancient wisdom expressed in the oriori *Pōpō!* has shaped the way in which Turanga Manu Whiriwhiri has chosen to participate in the negotiations process with the Crown. Turanga Manu Whiriwhiri participate in a manner that gives voice to the words of our tipuna, that brings forth the aspirations of the descendants of those tipuna, and that give rise to the inculcation of powerful, innovative and creative thinking in order to resolve the historical claims regarding the acts and omissions of the Crown in breaching the Treaty. This oriori informs and illuminates the relationship between that which Turanga Manu Whiriwhiri may wish to create, and that which is actually possible to be created. This knowledge provides a sense of precedence, and therefore a sense of what Turanga Manu Whiriwhiri may prefer, as a way of solving the historical grievances, as a way of moving forward, and essentially affording the opportunity to be able to contribute more effectively and more powerfully as citizens in our local community, as citizens of Aotearoa New Zealand, and ultimately, as citizens of the world. These aspirations are expressed more succinctly, in this manner:

Mana Whenua – the ability to enact tikanga regarding whenua

Mana Moana – the ability to enact tikanga regarding moana

Mana Tangata – the ability to enact tikanga regarding tangata

Mana Rangatira – the ability to enact tikanga regarding rangatira

Mana Tipuna – the ability to enact tikanga regarding tipuna

Mana Atua – the ability to enact tikanga regarding atua

Hence the extrapolation of a definition of culture covering the widest range of expression from the metaphysical origin to the physical being, from the individual presence to the societal or collective consciousness, from the temporal realm to the spiritual cosmology. *Pōpō!* is the vehicle of expression that gives voice to that extrapolation. Turanga Manu Whiriwhiri will apply this thinking to all areas of negotiation, to this Agreement in Principle and to the Deed of Settlement.

Agreement in Principle for the Settlement of the Historical Claims of Tūranganui-a-Kiwa

Negotiations to date

- 1 The Crown has a strong preference to negotiate with large natural groupings. On 17 August 2005, the Crown recognised the mandates of the Rongowhakaata Claims Committee (including Ngā Uri o Te Kooti Rikirangi who themselves have the mandate of their people), Te Pou a Haokai Central Progression Team (comprising Whānau a Kai, NgāAriki Kaiputahi and Te Aitanga-ā-Mahaki all of whom themselves have the mandate of their people and Te Whānau a Rangiwakataetaea and Te Whānau a Wi Pere) and Ngai Tamanuhiri Whānui Charitable Trust to negotiate collectively on behalf of Tūranganui-a-Kiwa (as defined in paragraph 88 below), an offer for the settlement of their Historical Claims.
- 2 On 29 May 2007, the parties entered into Terms of Negotiation, which set out the scope, objectives and general procedure for negotiations.
- 3 Negotiations have now reached a stage where the parties wish to enter this Agreement in Principle recording that they are willing to settle the Historical Claims by entering into a Deed of Settlement on the basis set out in this Agreement in Principle.

General

- 4 This Agreement in Principle contains the scope and nature of the Crown's offer to settle the Historical Claims.
- 5 Crown settlement policy limits the redress that is available to Tūranganui-a-Kiwa in this Agreement in Principle. The redress offered to Tūranganui-a-Kiwa to settle the Historical Claims comprises three main components. These are:
 - a. Historical Account, Crown Acknowledgements and Crown Apology;
 - b. Cultural Redress; and
 - c. Financial and Commercial Redress.
- 6 Following the signing of this Agreement in Principle, the parties will work together in good faith to develop, as soon as reasonably possible, a Deed of Settlement, or Deeds of Settlement if it is agreed that there will be more than one. The Deed of Settlement will include the full details of the redress the Crown is to offer to settle the Historical Claims and all other necessary matters. The Deed of Settlement will be conditional on the matters set out in paragraph 97 of this document.
- 7 The Crown and Tūranga Manu Whiriwhiri each reserve the right to withdraw from this Agreement in Principle by giving written notice to the other party.
- 8 This Agreement in Principle is entered into on a without prejudice basis. It:
 - a. is non-binding and does not create legal relations; and

- b. cannot be used as evidence in any proceedings before, or presented to the Courts, the Waitangi Tribunal and any other judicial body or tribunal.
- 9 The Terms of Negotiation between the mandated groups and the Crown continue to apply to the negotiations except to the extent affected by this Agreement in Principle.
- 10 Tūranga Manu Whiriwhiri is yet to decide if one or more Governance Entities will be required to hold and manage some or all of the settlement redress. Accordingly, references to the Governance Entity(ies) in this Agreement in Principle and the Deed of Settlement will be read accordingly.
- 11 Key terms used in this document are defined in paragraph 103 below.

Section 1: Historical Account, Crown Acknowledgments, and Crown Apology

- 12 The Historical Account, Crown Acknowledgements and Apology are the cornerstone of the Crown's settlement offer. The Deed of Settlement will contain an agreed Historical Account that outlines the historical relationship between the Crown and Tūranganui-a-Kiwa.
- 13 On the basis of the Historical Account, the Crown will acknowledge in the Deed of Settlement that certain actions or omissions of the Crown were a breach of Te Tiriti o Waitangi/the Treaty of Waitangi and its principles. The Crown will then offer an apology to Tūranganui-a-Kiwa in the Deed of Settlement for the acknowledged Crown breaches of Te Tiriti o Waitangi/the Treaty of Waitangi and its principles. The Crown Apology will be developed following the signing of this Agreement in Principle.
- 14 A draft of a substantively agreed Historical Account is attached as **Attachment 2**. The attached Historical Account may be subject to further editing and amendments, and additional sections may be added, as the Crown and Tūranga Manu Whiriwhiri agree is necessary.
- 15 The Crown agrees to provide Ngā Uri o Te Kooti Rikirangi with a specific account appended to the Historical Account and a specific apology in relation to stigmatisation of Te Kooti Rikirangi and his descendants. This account and apology will be negotiated as part of the wider negotiations with Tūranga Manu Whiriwhiri.
- 16 The Crown also agrees to provide NgaAriki Kaiputahi, Te Aitanga-ā-Makahi, Whānau a Kai, Ngai Tamanuhiri and Rongowhakaata with a specific account and apology, to be appended to the Historical Account, for issues pertaining specifically to these groups and that are not reflected in the Historical Account.

Section 2: Cultural Redress

Overview

- 17 The Cultural Redress package is based on factors such as the nature and extent of claims, the redress sought by Tūranga Manu Whiriwhiri and the instruments available to the Crown. Certain cultural redress instruments are designed to recognise the historical and cultural interests of Tūranganui-a-Kiwa.
- 18 There are three main components of this package:
 - a Mana Tangata (Identity and Heritage) redress;
 - b Mana Whenua/Mana Moana (Protection and Use of Land and Sea) redress; and
 - c Mana Rangatira (Enhancement of Relationships) redress.
- 19 Some key components being provided in this Agreement in Principle are unique and have arisen from the Tūranganui-a-Kiwa cultural relief framework, aspirations and desires, which are based on the principles that are derived from the oriori, *Pōpō!*, and as articulated by Tūranga Manu Whiriwhiri to the Crown during these negotiations.
- 20 All items of cultural redress are subject to the following being resolved before a Deed of Settlement is signed:
 - a the Crown confirming that any overlapping claim issues in relation to any item of cultural redress have been addressed to the satisfaction of the Crown; and
 - b any other conditions set out below relating to specific items of cultural redress.
- 21 Unless otherwise specified, the value of the cultural redress is not off-set against the Financial and Commercial Redress Amount.
- 22 An overview map showing the location of all cultural redress sites referred to in this section and individual map sites are included in **Attachment 3**.

Mana Tangata (Identity and Heritage) redress

- 23 The objective of Mana Tangata redress is to assist Tūranganui-a-Kiwa to reclaim and promote their identity, tikanga and history and consists of the following elements:
 - a Te Hau ki Tūranga – recognition and promotion of Ngāti Kaipoho (hapū of Rongowhakaata), Rongowhakaata and Tūranganui-a-Kiwa identity through the Museum of New Zealand Te Papa Tongarewa (Te Papa Tongarewa), by way of:
 - i recognition of ownership over Te Hau ki Tūranga; and
 - ii an enhanced kaitiaki role;

- b pūtea for cultural revitalisation – provision of funds to assist with the preparation and implementation of a cultural revitalisation plan; and
- c pūtea for a memorial – provision of funds to assist with the erection of a memorial to those Tūranga who lost their lives due to Crown actions.

Te Hau ki Tūranga

- 24 Te Hau ki Tūranga is one of the oldest surviving carved whareniui (meeting house) in New Zealand. The whareniui is elaborately carved in the Ngāti Kaipoho or Tūranga style of carving and is one of the most significant taonga tuku iho for Ngāti Kaipoho, Rongowhakaata and Tūranganui-a-Kiwa. The whareniui is currently on display at Te Papa Tongarewa.
- 25 The Deed of Settlement and Settlement Legislation (as required) will recognise that Rongowhakaata never relinquished ownership over Te Hau ki Tūranga, and will provide for:
- a the recording of the Crown's apology for the circumstances in which the Crown assumed control of Te Hau ki Tūranga in 1867 and its removal from Orakaiapu Pa, Manutuke;
 - b recognition of ownership over Te Hau ki Tūranga; and
 - c a relationship instrument to be entered into between Rongowhakaata and Te Papa Tongarewa that addresses the ongoing care, display and maintenance of the whareniui while it remains on display at Te Papa Tongarewa.
- 26 Further to paragraph 25b above, the Crown will actively explore with Te Papa Tongarewa and Rongowhakaata options to give effect to ownership of Te Hau ki Tūranga, including investigation into legal title.

Preparation and implementation of a cultural revitalisation plan

- 27 The Deed of Settlement will provide that the Crown will, on Settlement Date, provide to the Governance Entity \$1,000,000 to assist with the preparation and implementation of a cultural revitalisation plan.
- 28 The scope of the cultural revitalisation plan and the use of the funding in paragraph 27 above will be determined by Tūranga Manu Whiriwhiri prior to the initialling of a Deed of Settlement for ratification by Tūranganui-a-Kiwa.

Pūtea for a memorial recognising Tūranganui-a-Kiwa loss

- 29 The Deed of Settlement will provide that the Crown will, on settlement date, provide \$100,000 as a contribution towards the erection of a memorial to those Tūranganui-a-Kiwa who lost their lives as a result of past Crown actions. The Crown is willing to facilitate discussions between Tūranga Manu Whiriwhiri and the Gisborne District Council on an appropriate site for the placement of the memorial.
- 30 The amounts referred to in paragraphs 27 and 29 above will be provided in addition to the Commercial and Financial Redress Amount. The Crown will transfer the amounts referred to in paragraphs 27 and 29 (totalling \$1,100,000)

prior to Settlement Date, subject to the Crown being satisfied that Tūranga Manu Whiriwhiri has obtained a mandate through ratification of this proposal, following the initialling of a Deed of Settlement.

Mana Whenua/Mana Moana (Protection and Use of Land and Sea) redress

Cultural Redress Properties

GIFTED CULTURAL REDRESS PROPERTIES

- 31 Neither the site of the former Gisborne Abattoir nor Watson Park is owned by the Crown. The Crown has entered into discussions with the Gisborne District Council for the Crown to purchase, at fair market value, 4.9794 hectares of the Gisborne Abattoir Site and part of Watson Park for gifting to the Governance Entity. The purchase and therefore the vesting of the properties in the Governance Entity will be subject to the Crown agreeing terms and conditions with the Gisborne District Council that are acceptable to the Crown, and to Tūranga Manu Whiriwhiri. The Crown and Tūranga Manu Whiriwhiri have discussed the possible purchase value of these sites.
- 32 In addition, the vesting will be subject to any existing rights or encumbrances and satisfactory arrangements with the Gisborne District Council in respect of subdivision, and will be for a total value of no more than \$10 million. Maps of the Gifted Cultural Redress Properties are included in **Attachment 3**.

TABLE 1 – GIFTED CULTURAL REDRESS PROPERTIES

Site	Iwi	Description	Specific conditions or encumbrances (Known at the time of this AIP)
Gisborne Abattoir Site	Tūranganui-a-Kiwa	An area of approx 4.9794 ha more or less being Lot 1, DP 6263, Section 35, Block VI, Tūranganui Survey District, Part Awapuni 1B Block, Part Awapuni 1 1C Block and Part Awapuni 1 1K Block, as shown on Map 1 in Attachment 3	Crown to pay for land to be physically cleared before vesting
Part Watson Park	Rongowhakaata	An area of approximately 5 ha being Lot 2, DP 6263 and Parts of Waiohiharore A, B and C Blocks, as shown on Map 2 in Attachment 3	Location of vesting area yet to be agreed Subject to Gisborne District Council consultation with the public

VESTED CULTURAL REDRESS PROPERTIES

- 33 In addition to the Gisborne Abattoir Site and part of Watson Park, the Deed of Settlement and Settlement Legislation (as required) will provide for the vesting in the Governance Entity of nine Cultural Redress Properties, in fee simple estate for nil consideration on Settlement Date, as set out in Table 2 (Vested

Cultural Redress Properties). The vesting will be subject to the specific conditions and encumbrances noted in Table 2. Maps of the Cultural Redress Properties are included in **Attachment 3** (Maps 1-11). Identification of a particular iwi does not exclude wider Tūranganui-a-Kiwa interests in the Cultural Redress Properties identified in Tables 1 and 2.

TABLE 2 – VESTED CULTURAL REDRESS PROPERTIES

Site	Iwi	Description	Specific conditions or encumbrances (Known at the time of this AIP)
Te Kuri a Paoa (Young Nick's Head Historic Reserve)	Ngai Tamanuhiri	38.370 ha more or less being Lot 1 DP 319260, as shown on Map 3 in Attachment 3	<p>Subject to the site being vested under section 26 of the Reserves Act for Ngai Tamanuhiri to hold and administer as an historic reserve</p> <p>To be declared a national reserve under section 13 of the Reserves Act</p> <p>The Crown will provide Ngai Tamanuhiri with a contribution of \$50,000 towards the management of the site, to be primarily used for fencing and planting, and if appropriate, towards the recognition of Ngai Tamanuhiri's association with the site</p> <p>Subject to consultation with the Young Nicks Head Trust (of which Ngai Tamanuhiri are members), on existing management plans to fence and plant the area, and any other matters as appropriate</p>
Mangapoike	Ngai Tamanuhiri	62.6605 ha more or less being Part Nuhaka 2B2A2 and all computer freehold register HBP4/1288, as shown on Map 4 in Attachment 3	Nil
Gisborne Bus Depot Site	Te Pou a Haokai	0.4815 ha more or less being Section 395 Town of Gisborne and all computer freehold register GS5B/1401 as shown on Map 5 in Attachment 3	Nil

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Site	Iwi	Description	Specific conditions or encumbrances (Known at the time of this AIP)
Old Army Hall Site (16 Fitzherbert Street property)	Te Pou a Haokai	0.3236 ha more or less being Lots 19, 20, 29 and 41 Blk A, DP 209 as shown on Map 6 in Attachment 3	
Patutahi Health Clinic Site (Atkins Street property)	Te Whanau a Kai	0.1012 ha more or less being Section 31 Town of Patutahi as shown on Map 7 in Attachment 3	The Crown will contribute \$250,000 to assist Te Whanau a Kai with establishing a cultural base
Rakaukaka (Rakaukaka Scenic Reserve)	Rongowhakaata	5.6921 ha more or less being Section 26 Block VIII, Patutahi Survey District, as shown on Map 8 in Attachment 3	Subject to the existing scenic reserve status (including public access) The Crown will contribute \$50,000 to assist Rongowhakaata with the development and implementation of a 4-5 year noxious weed eradication programme The Crown, through the Department of Conservation, will provide information on the ecological values and possible management options for the site prior to transfer of the land
Ex-Railway Land Site	Rongowhakaata	1.2772 ha more or less being Lot 1 DP 9549 and all computer freehold register GS6C/1000, as shown on Map 9 in Attachment 3	Subject to a development plan for archaeological sites held in consent notice G.226426.3 Subject to a right to drain sewage specified in easement certificate G.230659.3
Matawhero (Matawhero Government Purpose Reserve (Wildlife Management))	Rongowhakaata and Nga Uri o Te Kooti Rikirangi	48.7254 ha more or less being Lot 2, 3, 4, 5, 6 and 7 DP 4751, Section 23 Block I Tūranganui Survey District and Sec 50 Blk I Turanganui Survey District as shown on Map 10 in Attachment 3	To be jointly vested (on terms to be agreed between Rongowhakaata, Nga Uri o Te Kooti Rikirangi and the Crown), in Rongowhakaata and Nga Uri o Te Kooti Rikirangi, with a larger area to be vested in Rongowhakaata Subject to the site being reclassified as a recreation reserve Subject to the existing

WITHOUT PREJUDICE
TŪRANGANUI-A-KIWA AGREEMENT IN PRINCIPLE

Site	Iwi	Description	Specific conditions or encumbrances (Known at the time of this AIP)
			<p>lease with Ecoworks (NZ) Limited</p> <p>The Crown will contribute \$50,000 to assist Rongowhakaata and Nga Uri o Te Kooti Rikirangi with the regeneration of the area for flax planting, weed control, restoring eel habitats including fish passage, fencing and fixing the weir</p> <p>The Crown, through the Department of Conservation, will provide information on the ecological values and possible management options for the site prior to transfer of the land</p> <p>The Crown is also willing to explore a reserve name change for part of the site to reflect Te Kooti's strong association with the land</p>
<p>Te Whare Rakei o Te Kooti Rikirangi</p> <p>(75 Birrell Street or such other cultural redress property (if any) as agreed by Turanga Manu Whiriwhiri and the Crown)</p>	<p>Nga Uri o Te Kooti Rikirangi</p>	<p>0.0783 ha more or less being Lot 5 DP 7625 as shown on Map 11 in Attachment 3</p>	<p>The Crown will contribute \$250,000 to assist Nga Uri o Te Kooti Rikirangi with establishing a dedicated facility for the memory, taonga, cultural, spiritual and intellectual return of Te Kooti Rikirangi to Tūranga</p>

The Old Police Station Site (98 Childers Road)

- 34 The Old Police Station Site at 98 Childers Road is currently a non-surplus Crown property that has been included in the Crown's settlement redress package to Tūranganui-a-Kiwa as a Right of First Refusal property (refer property 40 in **Attachment 4, Table 4**). The Crown aim is to ensure that prior to the Settlement Date that property will be added into the Gisborne Landbank prior to Settlement Date, and vested in the Governance Entity, in fee simple estate for nil consideration. The vesting will be subject to any existing rights or encumbrances. Should it become surplus following Deed of Settlement, the Crown will offer Tūranga Manu Whiriwhiri a right of first refusal over the Old Police Station.

Funding associated with Cultural Redress Properties

- 35 As listed in Table 2 above, the Crown will contribute:
- a \$50,000 to assist Ngai Tamanuhiri with the management of Te Kuri a Paoa, to be primarily used for fencing and planting, and if appropriate, towards the recognition of Ngai Tamanuhiri's association with the site;
 - b \$250,000 to assist Te Whanau a Kai with establishing a cultural base at Patutahi;
 - c \$50,000 to assist Rongowhakaata with the development and implementation of a 4-5 year noxious weed eradication programme at Rakaukaka;
 - d \$50,000 to assist Rongowhakaata and Ngā Uri o Te Kooti Rikirangi with the regeneration of the area for flax planting, weed control, restoring eel habitats including fish passage, fencing and fixing the weir at Matawhero; and
 - e \$250,000 to assist Ngā Uri o Te Kooti Rikirangi with establishing a dedicated facility for the memory, taonga, cultural, spiritual and intellectual return of Te Kooti Rikirangi to Tūranga at Te Whare Rakei o Te Kooti Rikirangi.
- 36 The Crown will transfer the amount referred to in paragraph 35 above (totalling \$650,000) at Settlement Date, subject to the Crown being satisfied that Tūranga Manu Whiriwhiri has obtained a mandate through ratification of this proposal, following the initialling of a Deed of Settlement.

Conditions for Cultural Redress Properties

- 37 The vesting of the Cultural Redress Properties is subject to (where relevant):
- a final negotiations with the Gisborne District Council on the transfer of the Gisborne Abattoir Site and part of Watson Park;
 - b further identification and survey of sites;

- c obtaining any necessary consents, as may be required, to undertake the specific purpose the funding is provided for (particularly in relation to funding for Te Kuri a Paoa, Rakaukaka, and Matawhero);
 - d confirmation that no prior offer back or other third party right, such as those under the Public Works Act 1981, exists in relation to the site and that any other statutory provisions that must be complied with before the site can be transferred are complied with;
 - e any specific conditions or encumbrances included, or referred to, in Tables 1 and 2 above;
 - f any rights or encumbrances (such as a tenancy, lease, licence, easement, covenant or other right or interest whether registered or unregistered) in respect of the site to be transferred, either existing at the date the Deed of Settlement is signed, or which are advised in the disclosure information as requiring to be created;
 - g the rights or obligations at the Settlement Date of third parties in relation to fixtures, structures or improvements;
 - h Part 4A of the Conservation Act 1987 and the creation of marginal strips except as expressly provided;
 - i sections 10 and 11 of the Crown Minerals Act 1991;
 - j any other specific provisions relating to the Cultural Redress Properties that are included in the Agreement in Principle and/or Deed of Settlement; and
 - k the Crown confirming the nature and extent of overlapping interests to the sites, and that those interests have been addressed to the satisfaction of the Crown.
- 38 Unless otherwise specified, after transfer of the Cultural Redress Properties, the Governance Entity will be responsible for the maintenance of the Cultural Redress Properties, including any future pest control (including flora and fauna), fencing, interpretation material, required bio security responses, and removal of refuse if required, and the preparation of reserve management plans under the Reserves Act 1977 (section 41) on the land transferred with a reserve status.
- 39 The Governance Entity will also be responsible for any rates that become payable after transfer of the Cultural Redress Properties to the Governance Entity.
- 40 Following the signing of the Agreement in Principle, the Crown and Tūranga Manu Whiriwhiri will discuss disclosure information requirements. Following that discussion the Crown will prepare disclosure information in relation to each site, and will provide such information to Tūranga Manu Whiriwhiri. If any sites are unavailable for transfer for any of the reasons given in paragraph 37 above the Crown and Tūranga Manu Whiriwhiri will explore the possibility of other ways to maintain the cultural value of the settlement package.

Right of First Refusal over Tūranga Conservation Lands

- 41 The Crown will explore with Tūranga Manu Whiriwhiri, for inclusion in the Deed of Settlement, a mechanism requiring the Crown to offer Tūranganui-a-Kiwa the opportunity to acquire surplus conservation land within a specified area to be known as the Tūranga Conservation Lands for a period of 100 years from Settlement Date. The final land area agreed between the Crown and Tūranga Manu Whiriwhiri will take into account the interests of overlapping groups.

Statutory Acknowledgements

- 42 The Deed of Settlement and the Settlement Legislation will provide for statutory acknowledgments to be made in relation to:
- a Gray's Bush Scenic Reserve (as shown on **Map 12 in Attachment 3**);
 - b Part of the Waioweka Conservation Area (as shown on **Map 13 in Attachment 3**), in which Te Turi o Kahutapere and Te Rimuroa are located;
 - c the following waterways within the Area of Interest (as shown on **Map 14 in Attachment 3**):
 - i Tūranganui River;
 - ii Taruheru River;
 - iii Waipaoa River (including Karaua Stream);
 - iv Waimata River;
 - v Hangaroa River;
 - vi Te Arai River; and
 - vii Waikanae Stream; and
 - d the Tūranga Coastal Marine Area adjoining the Area of Interest (as shown on **Overview Map A in Attachment 3**).
- 43 Statutory acknowledgements provide for the Crown to acknowledge in the Settlement Legislation a statement by Tūranganui-a-Kiwa of their cultural, spiritual, historical and traditional association with a particular area. They further provide for:
- a relevant consent authorities, the New Zealand Historic Places Trust and the Environment Court to have regard to the statutory acknowledgments for certain purposes;
 - b relevant consent authorities to forward to the Governance Entity summaries of resource consent applications for activities within, adjacent to, or impacting directly on, the area in relation to which a statutory acknowledgment has been made; and
 - c the Governance Entity and any member of Tūranganui-a-Kiwa to cite to consent authorities, the New Zealand Historic Places Trust and the

Environment Court the statutory acknowledgment as evidence of the association of Tūranganui-a-Kiwa with the area in relation to which the statutory acknowledgement has been made.

- 44 The statutory acknowledgment provided to the Governance Entity will, in substance, be provided on similar terms to those provided in previous Treaty settlements. In particular, the statutory acknowledgements:
- a will not affect the lawful rights or interests of a person who is not a party to the Deed of Settlement;
 - b in relation to waterways, will not include:
 - i a part of the bed of the waterway that is not owned by the Crown; or
 - ii land that the waters of the waterway do not cover at its fullest flow without overlapping its banks; or
 - iii an artificial watercourse; or
 - iv a tributary flowing into the waterway; and
 - c will not prevent the Crown from providing a statutory acknowledgment to persons other than Tūranganui-a-Kiwa or the Governance Entity with respect to the same area.

Deeds of Recognition

- 45 The Deed of Settlement and the Settlement Legislation will provide for the Crown and the Governance Entity to enter into a deed of recognition in relation to the following:
- a Gray's Bush Scenic Reserve (as shown on **Map 12 in Attachment 3**); and
 - b Part of the Waioeka Conservation Area (as shown on **Map 13 in Attachment 3**), in which Te Turi o Kahutapere and Te Rimuroa are located.
- 46 Deeds of recognition provide for the Governance Entity to be consulted on matters specified in the deed of recognition, and regard had to its views. A deed of recognition provided to Tūranganui-a-Kiwa will, in substance, be provided on similar terms to those provided in previous Treaty settlements.
- 47 A deed of recognition with the Governance Entity will not prevent the Crown from entering into a deed of recognition with persons other than Tūranganui-a-Kiwa or the Governance Entity with respect to the same area.

Place Name Changes

- 48 The Crown will explore, for inclusion in the Deed of Settlement, the possibility of amending or assigning a list of agreed place names of significance to Tūranganui-a-Kiwa. The New Zealand Geographic Board Ngā Taunaha o Aotearoa will be consulted, and any amendment or assignment of place names

will be in accordance with the process and conventions of the New Zealand Geographic Board Ngā Taunaha o Aotearoa.

Reserve Name Change

- 49 The Crown will explore, for inclusion in the Deed of Settlement, the possibility of amending or assigning the following reserve names for lands administered by the Department of Conservation, in consultation with the New Zealand Geographic Board Ngā Taunaha o Aotearoa, Tūranganui-a-Kiwa and other relevant iwi:
- a a dual name change of Young Nicks Head Historic Reserve to Te Kuri a Paoa/Young Nick's Head National Historic Reserve; and
 - b assigning a reserve name to part of the Matawhero Site to reflect Te Kooti Rikirangi's strong association with the land.

Mana Rangatira (Enhancement of Relationship) redress

- 50 Mana Rangatira redress contributes towards the protection and recognition of the right of Tūranganui-a-Kiwa to exercise mana rangatira, mana tangata, mana tipuna, mana atua, mana whenua and mana moana, and consists of the following redress:
- a the establishment of a local leadership body between Tūranganui-a-Kiwa and the Gisborne District Council;
 - b the establishment of a central leadership group to assist the development of an iwi management plan that focuses on resource management, fisheries and conservation issues and a range of other matters to be agreed before settlement;
 - c protocols between the Governance Entity and the Minister of Conservation, Minister of Fisheries and Minister for Arts, Culture and Heritage and a relationship agreement with the Ministry for the Environment;
 - d promotion of relationships with local authorities; and
 - e promotion of relationships with New Zealand and international museums.

Local Leadership Body

- 51 The Crown is willing to facilitate discussions between Tūranga Manu Whiriwhiri and the Gisborne District Council on the establishment of a local leadership body that provides Tūranganui-a-Kiwa the opportunity to have meaningful input 'at the top table level' on common issues (to be agreed) that affect the Tūranga region. The Crown will explore assisting, in a non-monetary way, with the establishment of that local leadership body with a view to it being a statutory body if Tūranga Manu Whiriwhiri and the Gisborne District Council request such assistance.

Central Leadership Group

- 52 The Crown is also willing to assist with the establishment of a central leadership group that aims to help Tūranganui-a-Kiwa develop:
- a an iwi management plan (in terms of the Resource Management Act 1991) that focuses on resource management, fisheries and conservation issues; and
 - b a range of other relevant matters to be agreed between Agreement in Principle and Deed of Settlement.
- 53 The Crown is willing to provide a facilitator for the inaugural meeting of the Central Leadership Group, and contribute up to \$35,000 to the Governance Entity for set-up costs.
- 54 The key role of the Central Leadership Group is to ensure that the principles of the Treaty of Waitangi are implemented in a coordinated manner to the extent consistent with relevant legislation. The key participants in the Central Leadership Group will be representatives from Tūranganui-a-Kiwa, the Ministry of Fisheries, the Department of Conservation, the Ministry of Agriculture and Forestry (as appropriate), the Ministry for the Environment, other relevant Crown agencies as agreed and, if invited and agreed, the Gisborne District Council.
- 55 The Crown proposes that the Central Leadership Group meets annually. The Crown further proposes that the Central Leadership Group should be reviewed after five years of operation.

Protocols

- 56 A protocol is a statement issued by a Minister of the Crown setting out how a particular government agency intends to:
- a exercise its functions, powers and duties in relation to specified matters within its control in the claimant group's protocol area; and
 - b consult and interact with the claimant group on a continuing basis and enable that group to have input into its decision-making processes.
- 57 The Deed of Settlement and the Settlement Legislation will provide for the following Ministers to issue protocols to the Governance Entity:
- a the Minister of Conservation;
 - b the Minister for Arts, Culture and Heritage; and
 - c the Minister of Fisheries.
- 58 The Crown proposes that the protocols will be on similar terms, in substance, to those provided in previous Treaty settlements. The content of the protocols will be drafted and agreed between the parties for inclusion in the Deed of Settlement. All protocols will be developed to comply with the applicable legislation. In each case, the protocol areas will be the same as the Area of Interest (as shown in **Attachment 1**), together with adjacent coastal waters, to

the extent that adjacent waters are covered by the applicable legislation. The matters that the Crown proposes each of the protocols will cover are set out below.

CONSERVATION PROTOCOL

59 The Conservation Protocol could cover matters such as:

- a input into business planning (subject to consideration against other priorities) at the Area Office level;
- b access to, and the use of, cultural materials gathered from public conservation land for traditional purposes;
- c the management of cultural and historic heritage sites, including wāhi tapu and wāhi taonga, and other places of historical and cultural significance to Tūranganui-a-Kiwa on public conservation land;
- d visitor and public information, in particular, opportunities for input into visitor appreciation;
- e input by the Governance Entity into the Department's species management work;
- f co-operation on freshwater fisheries;
- g co-operation on advocacy under the Resource Management Act 1991, particularly in relation to the protection and restoration of wetlands;
- h consultation with the Governance Entity on conditions for protection of wāhi tapu and taonga when considering concession applications;
- i participation by the Governance Entity in any name changes instituted by the Department;
- j identification of special projects by the Governance Entity for inclusion in the Department's business planning process;
- k confidentiality mechanisms for the protection of culturally sensitive information; and
- l specific sites relating to Te Kooti Rikirangi including sites outside the Area of Interest (as part of the wider negotiations with Tūranga Manu Whiriwhiri).

TAONGA TŪTURU PROTOCOL

60 The Taonga Tūturu Protocol could cover the following matters:

- a newly found taonga tūturu;
- b the export of taonga tūturu; and
- c the Protected Objects Act 1975 and any amendment or substitution thereof.

FISHERIES PROTOCOL

- 61 The Fisheries Protocol could cover the following matters:
- a recognition of the interests of Tūranganui-a-Kiwa in taonga fish species and marine aquatic life;
 - b development of sustainability measures, fisheries regulations and fisheries plans;
 - c management of customary non-commercial fisheries;
 - d research planning;
 - e consultation on the Ministry of Fisheries annual business plan;
 - f consultation on contracting for services; and,
 - g where relevant and appropriate, consultation on employment of staff with non-commercial fisheries responsibilities.
- 62 The Crown acknowledges the establishment of the Gisborne Iwi Regional Forum within the Area of Interest, and that Tūranganui-a-Kiwa is represented on this Forum. When consultation is required on an issue within the Area of Interest, consultation between the Ministry of Fisheries and the Governance Entity will take place through the Gisborne Iwi Regional Forum.

Relationship Agreement with the Ministry for the Environment

- 63 The Deed of Settlement will provide that following Settlement Date, the Ministry for the Environment will meet annually with the Governance Entity, or as otherwise agreed between the Ministry and the Governance Entity, to discuss the performance of local government in implementing the Treaty of Waitangi provisions of the Resource Management Act 1991 and other resource management issues, within the Area of Interest.

Promotion of relationship with Local Authorities

- 64 The Deed of Settlement will note that the Minister in Charge of Treaty of Waitangi Negotiations will write to the Gisborne District Council to encourage the Council to enhance its relationship with Tūranganui-a-Kiwa by, for example, entering into a memorandum of understanding (or a similar document) with the Governance Entity in relation to the interaction between the Council and the Governance Entity.

Promotion of relationships with Museums

- 65 The Deed of Settlement will note that the Minister in Charge of Treaty of Waitangi Negotiations will write to an agreed list of:
- a New Zealand museums encouraging them to enhance their relationship with Tūranganui-a-Kiwa, particularly in relation to Tūranganui-a-Kiwa taonga; and

- b international museums introducing them to Tūranganui-a-Kiwa and identifying any key issues of relevance to both Tūranganui-a-Kiwa and the museum.

Section 3: Financial and Commercial Redress

Financial and Commercial Redress Overview

- 66 The Financial and Commercial Redress Amount is \$59 million. If Turanga Manu Whiriwhiri decide to establish more than one Governance Entity to receive the Financial and Commercial Redress Amount, the Crown would prefer, as agreed in the Terms of Negotiation, that Te Pou a Haokai, Rongowhakaata and Ngai Tamanuhiri agree upon a split of the Financial and Commercial Redress Amount. If no such agreement can be reached, and following receipt of written notice from Tūranga Manu Whiriwhiri that agreement has not been able to be reached, the Crown has agreed to determine the Financial and Commercial Redress Amount split. Arriving at that split will take place through discussions between the Crown and Turanga Manu Whiriwhiri between the signing of the Agreement in Principle and the initialling of a Deed of Settlement.
- 67 The Deed of Settlement and the Settlement Legislation will provide for the Crown to transfer to the Governance Entity on Settlement Date:
- a selected Landbank Properties for nil consideration;
 - b selected Commercial Redress Properties (with the total value of the selected properties not exceeding the Financial and Commercial Redress Amount); and
 - c the Cash Settlement Amount (being the total value of the Financial and Commercial Redress Amount less the Transfer Value of the Commercial Redress Properties).
- 68 The Deed of Settlement will also provide the Governance Entity with a right to deferred purchase of:
- a certain surplus Crown properties for six months after Settlement Date; and
 - b certain non-surplus Crown properties under a sale and leaseback arrangement (land only) for two years after Settlement Date.
- 69 Further details are specified in paragraphs 70 to 84 below. An overview map showing the general location of all Crown properties referred to in this section is included in **Attachment 4 (Map B)**.

Commercial Redress Properties

Landbank Properties

- 70 The Deed of Settlement and Settlement Legislation will provide for the vesting in the Governance Entity of the Landbank properties, in fee simple estate for nil consideration on Settlement Date, as set out in **Attachment 4, Table 5** (Landbank Properties).

Licensed Crown Forest Land

- 71 Te Pou a Haokai will have the opportunity to select for transfer to the Governance Entity on Settlement Date, parcels of land from within the Licensed Crown Forest Land identified on **Map 1 in Attachment 4**.
- 72 Ngai Tamanuhiri Whanui Trust and Te Iwi o Rakaipaaka Incorporated have agreed to determine their respective mana whenua interests and draft an accord based on the processes agreed as part of the Central North Island Deed of Settlement, in the Licensed Crown Forest Land identified on **Map 2 in Attachment 4**. The Crown will abide by this agreement, as set out in the Memorandum dated 30 July 2008 (refer **Attachment 5**), subject to the signing of a Deed of Settlement.
- 73 The Transfer Value for the Licensed Crown Forest Lands will be at a fair market value and determined in accordance with the valuation process in a similar form to that set out in **Attachment 6**. The effective date of valuation will be the date of the Deed of Settlement. The Governance Entity may pay the Transfer Value of the Licensed Crown Forest Land direct to the relevant Crown agency, in which case the Transfer Value will not be deducted from the Cash Settlement Amount.
- 74 If either Te Pou a Haokai or Ngai Tamanuhiri selects for purchase only parts of the parcels of land identified on **Maps 1 and 2 in Attachment 4**, the exact configuration of forest land to be transferred will need to be agreed respectively by Te Pou a Haokai, Ngai Tamanuhiri and the Crown for inclusion in the Deed of Settlement. In establishing those parts of land, the Crown will need to take into account whether the balance of the respective parcels will be:
- a devalued by the selection; and
 - b commercially and practically viable for forestry operations.
- 75 Appropriate legal access and other rights required between the parts of the Licensed Crown Forest Land that Te Pou a Haokai and Ngai Tamanuhiri choose to take and the balance of the land will need to be further defined and agreed. In this regard, the transfer of Licensed Crown Forest Land will be subject to:
- a. reciprocal easements in compliance with Section 17.4 of the relevant Crown forestry licences as are necessary to provide for ongoing legal access for forestry operations; and
 - b. provision for access to, and protection of, wāhi tapu of other iwi/hapū.
- 76 The Settlement Legislation will provide for the accumulated rentals (held by the Crown Forestry Rental Trust), associated with the Licensed Crown Forest Land selected for transfer to Te Pou a Haokai and Ngai Tamanuhiri, to be paid to Te Pou a Haokai and Ngai Tamanuhiri in accordance with the trust deed of the Crown Forestry Rental Trust dated 30 April 1990 (as if the Waitangi Tribunal had made a final recommendation for the return of that land to the Governance Entity) on Settlement Date. The accumulated rentals are in addition and separate to the Financial and Commercial Redress Amount.

- 77 Any Licensed Crown Forest Land within the Area of Interest that is not selected for transfer to Te Pou a Haokai and Ngai Tamanuhiri will be available to the Crown to retain (for use in future settlements with other claimant groups) or dispose of as it chooses. The Settlement Legislation will therefore remove all statutory protections for Tūranganui-a-Kiwa in relation to such land.
- 78 In the event of the Settlement Systems Futures and Emissions Units Bill regarding New Zealand Units (relating to Units being made available to Licensed Crown Forest Land owners) being enacted prior to Settlement Date, the Units will be allocated to Te Pou a Haokai and Ngai Tamanuhiri for nil consideration.
- 79 Licensed Crown Forest Land will be valued on the basis that New Zealand Units will not transfer with the land.
- 80 Furthermore, property 6 in **Attachment 4, Table 2** will be added to the Wharerata Forest legal description for convenience and will form part of the Tūranganui-a-Kiwa settlement package subject to the resolution of overlapping claims and agreement on other terms of transfer including whether all or part of that property has a Transfer Value.

Right of Deferred Selection: Surplus and Sale and Leaseback Properties

- 81 The Deed of Settlement will provide for the Governance Entity with a right of deferred selection for Surplus and Sale and Leaseback Properties and the opportunity to exercise the right of deferred selection once within:
- a the period of six months after Settlement Date over any or all of the Surplus Properties identified in **Attachment 4, Table 2**;
 - b the period of six months after Settlement Date over properties 26 and 29 from **Attachment 4, Table 4** if they become surplus and pass into the Office of Treaty Settlements Landbank prior to signing a Deed of Settlement; and
 - c the period of two years after Settlement date over any or all of the Sale and Leaseback Properties identified in **Attachment 4, Table 3** to be leased back to the Crown, subject to agreement between Tūranga Manu Whiriwhiri and the relevant Crown agency of the lease terms and conditions.
- 82 The transfer and leaseback to the Crown of the Sale and Leaseback Properties will relate to the land only and not any improvements on the land.
- 83 The Deed of Settlement will set out the terms and conditions of the right of deferred selection. The Transfer Value for the properties selected under the deferred selection process will be at a fair market value and determined in accordance with an agreed valuation process, such as that outlined in **Attachment 7**. The effective date of valuation will be the date the deferred selection is exercised.

Conditions for Commercial Redress Properties

- 84 The transfer of the Commercial Redress Properties will be subject to (where relevant):
- a the consent of the relevant Crown agency;
 - b confirmation that no prior offer back or other third party rights and obligations, such as those under the Public Works Act 1981, exist in relation to the property or asset; and any other statutory provisions which must be complied with before the property or asset can be transferred are able to be complied with;
 - c any express provisions relating to specified properties and assets that are included in the Deed of Settlement;
 - d standard terms of transfer and specific terms of transfer applicable to the specified property or asset;
 - e standard terms of leaseback and specific terms of leaseback applicable to the specified property or asset;
 - f any rights or encumbrances (such as a tenancy, lease, licence, easement, covenant or other right or interest whether registered or unregistered) in respect of the property or asset to be transferred, either existing at the date the Deed of Settlement is signed, or which are advised in the disclosure information to be provided to Tūranga Manu Whiriwhiri as being required;
 - g Part 4A of the Conservation Act 1987 and the creation of marginal strips except as expressly provided;
 - h sections 10 and 11 of the Crown Minerals Act 1991; and
 - i the Crown confirming the nature and extent of overlapping claims to the properties or assets, and the Crown being satisfied that these interests have been appropriately safeguarded.

Right of First Refusal

- 85 The Deed of Settlement will provide the Governance Entity with a right of first refusal over the Right of First Refusal Properties identified in **Attachment 4, Table 4**, and any of the Sale and Leaseback Properties that are not selected by Tūranga Manu Whiriwhiri as one of the Sale and Leaseback Properties within the two year period. The right of first refusal will be on similar terms and conditions as in other recent settlements and for a period of 169 years from Settlement Date.
- 86 In respect of Landcorp Farming Limited and Ontrack properties in the Area of Interest the Crown will, between the signing of the Agreement in Principle and the initialling of a Deed of Settlement, explore with the relevant Minister/s

opportunities for Tūranga Manu Whiriwhiri in respect of those Landcorp Farming Limited and Ontrack properties, including a right of first refusal.

Section 4: Other Issues

Claimant Definition

87 The Deed of Settlement will specify who is covered by the settlement, that is, whose claims are being settled and therefore who can benefit from the settlement.

88 The definition of Tūranganui-a-Kiwa comprises the following:

- a Rongowhakaata includes Ngā Uri o Te Kooti Rikirangi and are:
 - i the collective group composed of persons:
 - A who descend from:
 - (a) the eponymous ancestor Rongowhakaata and in particular Rongowhakaata's wives Turahiri and Moetai and their issue; and
 - (b) any other ancestor of the hapū/descent groups listed below who exercised customary interests within the Rongowhakaata areas after 6 February 1840; and
 - B who are members of one or more of the following principal hapū of Rongowhakaata:
 - (a) Ngāti Maru;
 - (b) Ngāi Tawhiri;
 - (c) Ngāti Kaipoho; and
 - C every whānau, hapū or group of persons to the extent that that whānau, hapū or group includes persons referred to in paragraph 88ai above; and
 - D every person referred to in paragraph 88ai above;
 - b Te Pou a Haokai comprises Te Aitanga a Mahaki, Whanau a Kai, NgaAriki Kaiputahi, Te Whanau a Wi Pere and Te Whanau a Rangiwahakataetaea, and are:
 - i the collective group composed of persons:
 - A who descend from one or more of the following ancestors:
 - (a) Mahaki, Kaikoreaunei, Rawiri Tamanui, Te Rangiwahakataetaea Tarahau; and
 - (b) any other recognised ancestor of the hapu/descent groups listed below who exercised customary interests within the areas of Te Aitanga a Mahaki, Whanau a

Kai, NgaAriki Kaiputahi, Te Whanau a Wi Pere and Te Whanau a Rangiwahakataetaea after 6 February 1840; and

- B who are members of one or more of the following hapu/descent groups:
 - (a) Ngāti Wahia, Ngā Potiki, Te Whanau a Kai, Te Whanau a Iwi, NgaAriki Kaiputahi, Te Whanau a Wi Pere, Te Whanau a Rangiwahakataetaea – Ngāti Matepu, Te Whanau a Taupara, Ngai Tamatea, Ngai Tuketenui, Ngāti Whakauaki, Ngāti Hikarongo, Ngai Tawhiri, Ngapuhi, Te Whanau a Eria, Ngati Titinui, Te Whanau a Tamarau, Te Whanau Takuwha, Ngai Te Kohu, Ngai Tu Te Aritonga, Ngai Tama, Ngāti Rangituamaro, Ngāti Hine, Ngāti Ruawairau, Ngai Te Pokigawaho, Ngāti Kohuru, Ngāti Kaia, Ngariki Po, Ngariki Rotoawe, Ngāti Rua (Ruarapua), Te Whanau a Te Atipu; and
 - C every whānau, hapū or group of persons to the extent that that whānau, hapū or group includes persons referred to in paragraph 88; and
 - D every person referred to in paragraph 88bi above;
- c Ngāi Tamanuhiri are:
- i the collective group composed of persons:
 - A who descend from the following ancestor:
 - (a) Tamanuhiri; or
 - (b) Any other recognised ancestor of the hapū/descent groups listed below who exercised customary interests within the Ngāi Tamanuhiri area after 6 February 1840; and
 - B who are members of one or more of the following hapū/descent groups:
 - (a) Ngāti Rangiwaho Matua, Ngāti Rangiwaho, Ngāti Kahutia, Ngāti Rangitauwhiwhi, Ngāti Tawehi; and
 - C every whānau, hapū or group of persons to the extent that that whānau, hapū or group includes persons referred to in paragraph 88ci above; and
 - D every person referred to in paragraph 88ci above.

89 The format for the definition of Tūranganui-a-Kiwa will be discussed in the process of finalising a draft Deed of Settlement and will use a format similar to that used for recent settlements.

Scope of Settlement

- 90 The Deed of Settlement will settle all the Historical Claims of Tūranganui-a-Kiwa. "Historical Claims" means every claim made by Tūranganui-a-Kiwa (in accordance with the definition in paragraph 88 above) or by a representative entity of Tūranganui-a-Kiwa:
- wherever the claim occurs, including any claims relating to matters outside the Area of Interest;
 - whether or not the claim has arisen or been considered, researched, registered, or notified;
 - whenever the claim is made (either before, on, or after Settlement Date) that:
 - a is founded on a right arising from the Treaty of Waitangi or the principles of the Treaty of Waitangi; under legislation, at common law (including aboriginal title or customary law), from a fiduciary duty, or 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 any legislation;
 - c accordingly includes (without limiting the general wording of paragraphs 90a and 90b above):
 - i every claim to the Waitangi Tribunal that relate specifically to Tūranganui-a-Kiwa, including:
 - A Wai 283, Wai 684, Wai 856, Wai 337, Wai 878, insofar as these relate to Rongowhakaata (including Nga Uri o Te Kooti Rikirangi);
 - B Wai 274, Wai 323, Wai 499, Wai 507, Wai 703, Wai 874, Wai 892, Wai 895, Wai 995, Wai 997, Wai 283, Wai 878, Wai 915, Wai 957, insofar as these relate to Te Pou a Haokai (Te Aitanga a Mahaki, Whanau a Kai, NgaAriki Kaiputahi, Te Whanau a Wi Pere and Te Whanau a Rangiwakataetaea); and
 - C Wai 129, Wai 163, Wai 917, Wai 283, Wai 878, insofar as these relate to Ngai Tamanuhiri.
- 91 The term 'Historical Claims' does not include any claim that a member of Tūranganui-a-Kiwa may have that is founded on a right arising as a result of being descended from an ancestor to whom paragraphs 88a, 88b and 88c above do not apply.

Proposed Terms of the Deed of Settlement

Acknowledgements concerning the settlement and the redress

- 92 The Crown and Tūranganui-a-Kiwa will acknowledge in the Deed of Settlement that:
- a the settlement represents the result of intensive negotiations conducted in good faith and in the spirit of co-operation and compromise;
 - b on the basis of current Crown Settlement policy it is not possible to fully compensate Tūranganui-a-Kiwa for all the loss and prejudice so suffered;
 - c this forgoing of full compensation is intended by Tūranganui-a-Kiwa to further contribute to the development of New Zealand over and above the contribution already made as a result of historical and current use of Tūranganui-a-Kiwa land and resources in breach of the Treaty to the detriment of Tūranganui-a-Kiwa themselves; and
 - d taking all matters into consideration (some of which are specified in this clause) the settlement is fair in the circumstances.

Acknowledgements concerning the settlement and its finality

- 93 The Crown and Tūranganui-a-Kiwa will acknowledge (amongst other things) in the Deed of Settlement that the settlement of the Historical Claims:
- a is intended to enhance the ongoing relationship between the Crown and Tūranganui-a-Kiwa (both in terms of Te Tiriti o Waitangi/the Treaty of Waitangi and otherwise);
 - b except as expressly provided in the Deed of Settlement, will not limit any rights or powers the Crown or Tūranganui-a-Kiwa might have arising from Te Tiriti o Waitangi/the Treaty of Waitangi or the principles of Te Tiriti o Waitangi/the Treaty of Waitangi, legislation, common law (including aboriginal title and customary law), fiduciary duty or otherwise;
 - c does not extinguish any aboriginal title, or customary rights, that Tūranganui-a-Kiwa may have;
 - d does not imply an acknowledgement by the Crown that aboriginal title, or any customary rights, exist; and
 - e is not intended to affect any actions or decisions under the:
 - i deed of settlement between Māori and the Crown dated 23 September 1992 in relation to Māori fishing claims; and
 - ii the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992, the Māori Fisheries Act 2004, the Māori Commercial Aquaculture Claims Settlement Act 2004, the Fisheries Act 1996, the Foreshore and Seabed Act 2004, the Resource Management Act 1991 or the Marine Reserves Act 1971.

- 94 Tūranganui-a-Kiwa will acknowledge and agree (amongst other things) in the Deed of Settlement, and the Settlement Legislation will provide that, with effect from the Settlement Date:
- a the Historical Claims are settled;
 - b the settlement of the Historical Claims is final;
 - c the Crown is released and discharged from any obligations, liabilities and duties in respect of the Historical Claims;
 - d the Courts, the Waitangi Tribunal and any other judicial body or tribunal do not have jurisdiction (including the jurisdiction to inquire into or to make a finding or recommendation) in respect of:
 - i the Historical Claims;
 - ii the Deed of Settlement;
 - iii the redress provided to Tūranganui-a-Kiwa and the Governance Entity in the settlement; and
 - iv the Settlement Legislation,
(except in respect of the interpretation and enforcement of the Deed of Settlement and the Settlement Legislation); and
 - e any proceedings in relation to the Historical Claims will be discontinued.
- 95 The Deed of Settlement will provide for Tūranganui-a-Kiwa by acknowledging and agreeing the following:
- a the Crown has acted honourably and reasonably in respect to the settlement;
 - b it is intended that the settlement is for the benefit of Tūranganui-a-Kiwa and may be for the benefit of particular individuals or any particular iwi, hapū, or group of individuals as is determined appropriate between Tūranganui-a-Kiwa and the Crown; and
 - c the settlement is binding on Tūranganui-a-Kiwa and the Governance Entity (and any representative entity of Tūranganui-a-Kiwa).

Removal of statutory protections and termination of landbanking arrangements

- 96 The Deed of Settlement will provide for Tūranganui-a-Kiwa by acknowledging and agreeing the following:
- a the Settlement Legislation will provide that the following legislation does not apply to land in the Specified Area (including Cultural and Commercial Redress Properties), namely:
 - i Sections 8A-8HJ of the Treaty of Waitangi Act 1975;
 - ii Sections 27A to 27C of the State Owned Enterprises Act 1986;

- iii Sections 211 to 213 of the Education Act 1989;
 - iv Part III of the Crown Forests Assets Act 1989; and
 - v Part III of the New Zealand Railways Corporation Restructuring Act 1990;
- b the Settlement Legislation will provide for the removal of all resumptive memorials from land in the Specified Area;
 - c the landbank arrangements in relation to Tūranganui-a-Kiwa will cease;
 - d that neither Tūranganui-a-Kiwa nor any representative entity of Tūranganui-a-Kiwa have, from the Settlement Date, the benefit of the legislation referred to in paragraph 96a above in relation to land outside the Specified Area; and
 - e that neither Tūranganui-a-Kiwa nor any representative entity of Tūranganui-a-Kiwa will object to the removal by legislation of the application of the legislation referred to in paragraph 96a above in relation to any land outside the Specified Area, or to the removal of memorials with respect to such land.

Conditions

- 97 The Agreement in Principle and/or the Deed of Settlement (as appropriate) will be subject to the following conditions:

Overlapping Interests

- a the Crown confirming that overlapping interests from other tribal groups in relation to any part of the settlement redress have been addressed to the satisfaction of the Crown in respect of that item of redress;

Cabinet agreement

- b Cabinet agreeing to the settlement and the redress to be provided to Tūranganui-a-Kiwa;

Ratification

- c Tūranga Manu Whiriwhiri obtaining mandate from the members of Tūranganui-a-Kiwa (through a process agreed by Tūranga Manu Whiriwhiri and the Crown) authorising it to:
 - i enter into the Deed of Settlement on behalf of Tūranganui-a-Kiwa; and
 - ii in particular, settle the Historical Claims on the terms provided in the Deed of Settlement;

Governance Entity(ies)

- d the establishment of an entity(ies) (the **Governance Entity(ies)**) prior to the introduction of Settlement Legislation that the Crown is satisfied:

- i is an appropriate entity(ies) to which the Crown will provide the settlement redress;
- ii has a structure that provides for:
 - A appropriate representation of Tūranganui-a-Kiwa;
 - B transparent decision-making and dispute resolution processes; and
 - C full accountability to all of part of Tūranganui-a-Kiwa as appropriate; and
- iii has been ratified by the members of Tūranganui-a-Kiwa (through a process agreed by Tūranga Manu Whiriwhiri and the Crown) as an appropriate entity to receive the settlement redress;
- e the Governance Entity(ies) signing a Deed of Covenant to provide for it, among other things, to be bound by the terms of the Deed of Settlement.

Settlement Legislation

- 98 The Agreement in Principle and the Deed of Settlement will be subject to:
- a the passing of Settlement Legislation to give effect to parts of the settlement; and
 - b Tūranganui-a-Kiwa supporting the passage of Settlement Legislation.
- 99 The Crown will propose Settlement Legislation for introduction into the House of Representatives only after the Governance Entity has been established and ratified and has signed a Deed of Covenant.
- 100 The Crown will ensure that Tūranga Manu Whiriwhiri or the Governance Entity has appropriate participation in the process of drafting the Settlement Legislation and such drafting will commence once the Deed of Settlement has been signed.

Taxation

- 101 The Deed of Settlement will also include the following taxation matters:
- a subject to obtaining the consent of the Minister of Finance, the Governance Entity will be indemnified against income tax and Goods and Services Tax (GST) arising from the transferring, crediting or payment of Financial and Commercial Redress by the Crown to the Governance Entity;
 - b this indemnity does not extend to any tax liability arising in connection with the acquisition of property by the Governance Entity after Settlement Date, whether it uses its own funds or uses the Financial and Commercial Redress for such acquisition;
 - c again, subject to obtaining the consent of the Minister of Finance, the Governance Entity will also be indemnified against income tax, GST and

gift duty arising from the transfer of Cultural Redress by the Crown to the Governance Entity; and

- d neither the Governance Entity nor any other person shall claim a GST input credit or tax deduction in respect of any Cultural Redress or Financial and Commercial Redress provided by the Crown to the Governance Entity.

Interest

- 102 The Deed of Settlement will provide for the Crown to pay the interest on the Financial and Commercial Redress Amount for the period from (and including) the date of this Agreement in Principle to (but excluding) Settlement Date. Interest will be calculated and provided on the same basis as in recent settlements, i.e. based, among other things, on the Official Cash Rate, will be non-compounding, and subject to normal taxation law.

Definitions

- 103 Key terms used in this document are defined as follows:

Agreement in Principle means this Agreement in Principle entered into between the Crown and Tūranga Manu Whiriwhiri on 29 August 2008 setting out the redress the Crown and Tūranga Manu Whiriwhiri have agreed to, in principle, for the settlement of the Historical Claims.

Area of Interest means the area shown in **Attachment 1**.

Commercial Redress Properties means those properties referred to in paragraph 70 to 83.

Crown means:

- a the Sovereign in right of New Zealand; and
- b includes all Ministers of the Crown and all Departments; but
- c does not include:
 - i an Office of Parliament; or
 - ii a Crown Entity; or
 - iii a State Enterprise named in the First Schedule to the State-Owned Enterprises Act 1986.

Cultural Redress Properties means those properties referred to in paragraph 32, Table 1 and paragraph 33, Table 2.

Deed of Settlement means the Deed of Settlement to be entered into between the Crown and Tūranganui-a-Kiwa setting out the full detail of the final settlement of the Historical Claims.

Financial and Commercial Redress means the redress offered for the settlement of the Historical Claims as set out in paragraphs 66 to 86.

Financial and Commercial Redress Amount means the total dollar value of the financial and commercial redress offered for the settlement of the Historical Claims as set out in paragraph 66.

Governance Entity means an entity established in accordance with paragraph 97d.

Historical Claims has the meaning set out in paragraph 90 and 91.

Licensed Crown Forest Land means that land referred to in paragraphs 71 to 80.

Right of First Refusal Properties means those properties referred to in paragraph 85.

Sale and Leaseback Properties means those properties referred to in paragraph 81c and identified in **Attachment 4**, Table 3.

Settlement Date means the date that is 20 business days after the date the Settlement Legislation comes into force, being the date on which the settlement redress is to be transferred to the Governance Entity.

Settlement Legislation means the Bill or Act, if the Bill is passed, to give effect to the Deed of Settlement.

Specified Area means the area referred to in paragraph 96a, which is yet to be agreed between the parties, but:

- a will include the Cultural and Commercial Redress Properties; and
- b may include other lands if the Crown is satisfied that Tūranganui-a-Kiwa have exclusive customary interests in those lands.

Surplus Properties means those properties referred to in paragraphs 81a and identified in **Attachment 4**, Table 2.

Transfer Value means the amount referred to as such, and determined by, the process set out in **Attachments 6 and 7** for the Commercial Redress Properties.

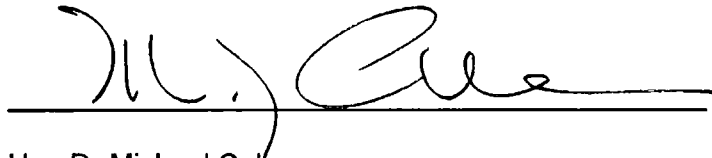
Tūranga Coastal Marine Area means the coastal marine area as defined under section 2 of the Resource Management Act 1991 that adjoins the Tūranganui-a-Kiwa Area of Interest (as shown on **Overview Map A in Attachment 3**).

Tūranga Manu Whiriwhiri means the negotiators who have been appointed by the mandated bodies in paragraph 1 to negotiate the settlement of Tūranganui-a-Kiwa Historical Claims.

Tūranganui-a-Kiwa means the collective group, and groups and individuals who descend from a recognised ancestor, or a members of one or more hapu of Rongowhakaata (including Ngā Uri o Te Kooti Rikirangi), Te Pou a Haokai (comprising Te Aitanga a Mahaki, Whanau a Kai, NgaAriki Kaiputahi, Te Whanau a Wi Pere and Te Whanau a Rangiwahakataetaea), and Ngai Tamanuhiri.

SIGNED this 29 day of August 2008

For and on behalf of the Crown:



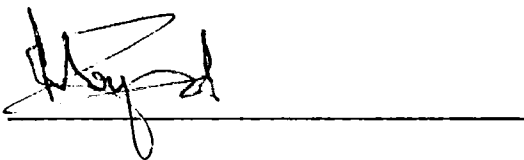
Hon Dr Michael Cullen
Minister in Charge of Treaty of Waitangi Negotiations



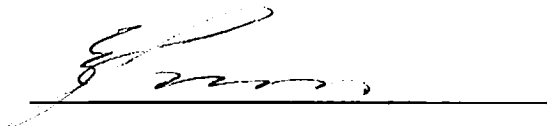
Hon Parekura Horomia
Minister of Māori Affairs

Hon Mita Ririnui
Associate Minister in Charge of Treaty of
Waitangi Negotiations


For and on behalf of Turanganui-a-Kiwa:



Owen Lloyd
Representative – NgaAriki Kaiputahi



John Ruru
Representative –Te Aitanga a Mahaki



David Hawea
Chairman – Te Whanau a Kai Trust



Na Rongowhakaata Raihania
Chairperson – Ngai Tamanuhiri Whanui Trust



Rapiata Darcy Ria
Kaumatua - Rongowhakaata



Peter Moeau
Manu Taki – Ngā Uri o Te Kooti Rikirangi

WITNESSES:

WITNESSES:

Hiri Brown
Georgina Brown
Justine Brown
Nancy Lunn

Dinah Matenga
Charlotte Tamami

Pauline Hill

A. Nepe
A. Rene Keraka

Diana Taiarangi Potae

Louisa Tomoana

Olivia Roxenia Goodwin

Jamora Teepa Hainui Horia

Julie O'Connell (nee Brown)
Lynn Parsons

Diana Kemp, Nellie H. Kanga

Leah

Yakima Smith

Yakima Smith

Dolly Mop
Marianne Ecker

[Signature]

[Signature]

Hope Tupaea

[Signature]

Jim Brown

Clayton R. Shaan Hayward
Danie Kordak (Brewer) Yungie

W. W. (Lupata)
J. E. Karaitara
Diane (Tamaru) Murray

Te Te Wana
Mawana

C. MOETARA
Kaana Waitai Kay R. C.
Piata Waitai Joli Wala
Aio-Bebe Hollis
Huia Tangira

Bruce
Iga Aritei
Raiputahi

Aroha Keneke

Te Wharau A Kai So Hinasa (Sellybrens)
Honey Moeau

Meredith Ruru

Te Whanau-a-Taupari
Te Aitanga-a-Mahaki

Wini Ruru
9/10/20

Te Aitanga-a-Mahaki

Brown
D. Yennie

Wahana Kaiti Rutea

Te Karakuru Hapuku-Rutea

"nga hapi katea"

Maele Moeau
Tara Unu Moeau
Hopp
Kiriwani
Eric Tuhia
VAUGHAN
1/10/20

Vakie & Johnny Grace

Pakaka Moko o Ruapani
delantou Pam

Kiriwani
Punga

Eric Tuhia

VAUGHAN
1/10/20

(Moeau)

Utebome Moeau

WITNESSES:

Kanwani
Anthony

Jacque Akuhata-Nickerson

Elizabeth Moeau

Tumanako Moeau-Punga

Karen Tavehi Taylor

Waka Taylor

Julia

Sharon
Maynard
Mauritake

Uta Punga

M. Hanka

Wipere

John Moeau
Ngareme

Shirley

David
Dennis

Alicia
Ngareme

Rishaan Hauaki

Elizabeth
Hauaki

Philip Gully
Janelle Hauaki

Betty Hauaki (Moeau)

Lallean Hauaki

Robert Tavehi Whaitiri

Lady Renata

Matékiro Kiriwera Nepia

Margaret A. Nepe

Ewen
Gwyn

Rehana
Waheng

Wally Boudis

Wally
Boudis

Section 5: Attachments

Attachment 1

Area of Interest Map



Attachment 2

Historical Account

Iwi and Hapū of Tūranga

1. The iwi and hapū of the Tūranga area include Rongowhakaata (including Ngā Uri o Te Kooti Rikirangi), Ngāi Tamanuhiri, and Te Aitanga ā Mahaki, Te Whānau ā Kai, and Nga Ariki Kaiputahi. They describe the areas where they have ancestral and customary connections as including from Paritu in the south to Pouawa in the north, and inland as far as the headwaters of the Mōtū, Waipāoa and Waiōeka rivers, stretching towards Lake Waikaremoana. The people of Tūranganui a Kiwa trace descent from a number of common ancestors, including Kiwa, after whom the district is named, Pāwa, who explored the hinterland, and Ruapani, from whom many important lines of descent converge.
2. The fertile plains of Tūranga and ample supply of kai moana made it a place of great abundance. Some of the ancestral connections, richness and vitality of Turanga is summed up in the local saying:

Ko Tūranga-a-Mua	<i>Tūranga the ancient</i>
Ko Tūranga Ararau	<i>Tūranga the pathway of many</i>
Ko Tūranga Makaurau	<i>Tūranga of a thousand lovers</i>
Ko Tūranga Tangata-rite	<i>Tūranga the meeting place of people</i>
Ko Tūranganui-a-Kiwa	<i>The long waiting place of Kiwa</i>

Tūranganui a Kiwa to 1865

3. Tūranganui a Kiwa iwi and hapū traditionally held their land and resources in customary tenure under collective tribal and hapū custodianship. The kin groups of Tūranganui a Kiwa were linked through whakapapa and shared use of resources, but also had their own independent mana born out of strong leadership, distinct whakapapa lines and resource use.
4. The first encounter between Europeans and the iwi, hapū and whānau of Tūranga was Captain Cook's visit to the area in October 1769 on board the Endeavour. Miscommunication between Cook's party and local Māori led to skirmishes, with nine Māori left dead or wounded. Following these tense encounters Cook named the area Poverty Bay.
5. Sustained contact with Pākehā did not begin until the 1830s. From the 1830s onwards, Tūranganui a Kiwa iwi, hapū and whānau sought out trading relationships with Pākehā and hosted small numbers of shore-based whalers and traders on their lands. Initially European residents relied upon the patronage and protection of particular chiefs, who provided them with land to

live upon, encouraged marriages between high ranking women and settlers and in return expected to reap various advantages from 'their' Pākehā.

6. Missionaries arrived in the Tūranganui a Kiwa area in the wake of the whalers and traders. A mission station was established at Tūranganui (the site of modern day Gisborne) in 1838 and schools were set up in kāinga. Early Māori converts, played an important role in spreading the Christian faith. Interest in the new religion was already high, partly because of practical advantages including literacy, when William Williams of the Church Missionary Society arrived at Tūranga in 1840 to take up residency at the mission station. Soon after his arrival in Turanga, Williams expressed concern to Māori that land purchasers intended to buy large areas of land from them.
7. In May 1840 William Williams discussed and presented a copy of the Treaty of Waitangi to some Tūranga Maori. Twenty two local rangatira signed the Treaty on this occasion. There is no record of the discussion which took place prior to this signing. Article Two of the Treaty recorded the Crown's intention to protect Māori in the possession of their lands, villages and treasures. It also gave the Crown the sole right to purchase Maori land.
8. By the late 1840s there were approximately 2400 Māori living in the Tūranga district and about 40 Pākehā traders and their wives, with some 50 children of Pākehā and dual descent. Tūranga iwi, hapū and whānau took advantage of new trading opportunities created by Pākehā settlement in New Zealand. Produce exported from Tūranga reached as far as Auckland and Australia. One Tūranga based missionary described the 1850s as a "season of great material prosperity for the Maori population."
9. The Crown made limited attempts to purchase land in the Tūranga district between the 1840s and 1860s. They only acquired a 57 acre block known as the 'Government paddock'. Tūranga iwi, hapū and whānau saw a strong connection between Crown purchases and the Crown's right to exercise substantive authority over them.
10. From the early 1850s a movement had emerged among some Tūranga Maori to reclaim or 'redeem' lands that settlers claimed to have purchased before the Treaty. Following the petitions of some settlers to have their claims to own land in the Tūranga region investigated, the Crown sent a Land Claim Commissioner to the area. Many of the claims for 2,200 acres were repudiated by Tūranga Maori, and most settlers withdrew their claims. The Commissioner reported that most of these transactions had been entered into by settlers after the introduction of a prohibition on private transactions. He also pointed out the 'absurdity of their calling upon the Governor to protect them' when their claims involved transactions after private purchasing had been prohibited. The Commissioner did not make any recommendations. Although some Tūranga Māori continued to press for these lands to be returned, the settlers remained in possession of the disputed lands.
11. Before 1865 Tūranga iwi, hapū and whānau remained largely in control of their own affairs. Early in the 1850s they had formed a runanga to develop policies for administering their affairs and by the late 1850s it was playing an important

part in the administration of the district. The only Crown official stationed in the area before 1865 was a Resident Magistrate who was present between 1855 and 1860. He was withdrawn following an 1860 visit to the district by Governor Thomas Gore Browne. The Governor reported that the Maori he met in Tūranga objected to the hoisting of the British flag during his visit, and refused to recognise the Queen. He also informed the Colonial Office that he was advised that 'unless I visited them for the purpose of restoring the lands which the Europeans had cheated them... out of, they did not wish to see me'. After being withdrawn from the district the former Resident Magistrate subsequently reported that Māori there 'denied the right of the Government to send a Magistrate amongst them, on the ground that, as they had not sold their land to the Queen, the Government had no authority over them'. Nevertheless, Tūranga iwi, hapū and whānau wrote to government officials at times seeking advice and economic assistance.

Waerenga-a-Hika, 1865

12. In the early 1860s fighting broke out between the Crown and Māori in a number of locations across the North Island in what later became known as the New Zealand Wars. In 1864-5 the Crown began confiscating land in areas where fighting had occurred. It acquired extensive areas in Taranaki, the Waikato, Hauraki and the Bay of Plenty under the New Zealand Settlements Act 1863.
13. Tūranga iwi, hapū and whānau decided not to get involved in the fighting, declaring at the outbreak of war in Taranaki that it was 'necessary for them to remain at home and take care of their own land'. In July 1861 the Tūranga rangatira Raharuhi Rukupo wrote to the Superintendent of Hawke's Bay Province on behalf of the Tūranga Rūnanga, to express their concern at reports soldiers were being sent to Napier. They questioned the Governor's intentions in the light of this development, and predicted that their possession of land would be the cause for which a fight would be brought against them, stating that 'we have the land in possession from which flows fatness, and from the fatness of our land we derive what we now are possessed of namely money.' At the same time the Runanga called for the fighting elsewhere to cease and for lands wrongly taken from them to be restored so that they could again have confidence in the government's intentions.
14. In 1862 the Taranaki prophet Te Ua Haumene founded the Pai Mārire (Good and Peaceful) religion. Based on the Christian bible, Pai Marire promised the achievement of Maori autonomy. A number of North Island Māori had converted to the new faith by the end of 1864, when Te Ua Haumene sent a group of Pai Marire teachers to Tūranga. Some of their party were involved in the murder of the missionary Carl Volkner in Opotiki early in March 1865. Although Te Ua Haumene instructed the emissaries not to commit murder, rumours spread to Tūranga that he had ordered the killing of Pākehā.
15. Upon receiving news of the events at Opotiki, many Tūranga Maori assured the Reverend William Williams and the other settlers that they would protect them. They rejected a proposal to seize the Pai Marire party upon their arrival at Tūranga, telling Williams that 'they had not had any shedding of blood here and

they did not wish to have any.' However, some advised the settlers to leave the area. The Tūranga chiefs were initially wary of the new religion, but once the Tūranga emissaries arrived in March 1865 their teachings won a large number of new converts. One of the emissaries' two leaders' threatened to kill all settlers, but this threat was disavowed by the other leader. Leading Tūranga chiefs continued to assure the settlers of their protection. The settlers remained concerned however, and some began leaving the area.

16. The spread of Pai Marire and the murder of Volkner alarmed the Government. Donald McLean, the Superintendent of the Hawke's Bay Province was appointed to co-ordinate the Government's response. In April 1865 Governor Grey issued a proclamation condemning the 'fanatical sect, commonly called Paimarire' and declaring the Government's intention to resist and suppress movements such as Pai Mārire, if necessary by force of arms. The Government took no immediate action to enforce the April proclamation. The Government's capacity to enforce this proclamation was limited, and it called on all 'well-disposed' people to aid this effort to the best of their ability. McLean was instructed to capture the Pai Marire leaders if this was practical. Settlers initially asked the Government to send them firearms but they came round to the view that it would complicate the situation and the guns could potentially be used against them in any conflict.
17. In April 1865 a group of Tūranga iwi, hapū and whānau leaders visited McLean in Napier to assure him that they would protect the settlers in Tūranga and not interfere in any war in Opotiki. They urged McLean not to send any soldiers to Tūranga. McLean noted the friendly reception Pai Marire had received from many Tūranga iwi, hapū and whānau and doubted the sincerity of the promise to protect the settlers. In early May McLean informed the Colonial Secretary that Tūranga chiefs appeared apprehensive that the Crown might take military possession of the area because of the reception they had given the Pai Mārire emissaries.
18. In May 1865 a representative of the Governor brought a rangatira from a neighbouring iwi to Tūranga to promote opposition to Pai Marire. He planted a Union Jack, and urged Tūranga Maori to join the Government in opposing Pai Marire. Tūranga Maori disputed this chief's rights to the land on which the flag was planted, and the incident greatly added to the tension in the district.
19. Pai Marire emissaries carried the religion to the East Coast north of Tūranga in June 1865. From June until October fighting took place between Pai Marire adherents and other East Coast Māori, who received ammunition and logistical support from the Crown. The Crown also sent soldiers who participated in the fighting. The Pai Marire adherents were defeated. Some fled to Tūranga from where they had received some assistance during the fighting. In consequence some East Coast chiefs were willing to travel south to fight against Pai Marire adherents. Those in Tūranga who adhered to Pai Marire and those who supported the Crown both wanted to avoid such an outcome.
20. In September 1865 the Tūranga rangatira Hirini Te Kani asked the Government to send soldiers and weapons. He assured Pai Marire adherents that the

soldiers would remain on the defensive. The Crown force was strengthened the following month. At the end of October 1865 tensions were greatly exacerbated when a small number of East Coast Māori arrived in pursuit of Pai Marire refugees from the East Coast fighting. Tūranga iwi, hapū and whānau urged them to return home and 'not to bring fighting and bloodshed into this district'. Some settlers left and Tūranga Pai Mārire looted some abandoned farms. Raharuhi Rukupo, one of the senior Pai Mārire chiefs, promised to restore goods to their owners or replace them, senior Crown officers declined to meet with him until McLean arrived. On 1 November 1865 the government issued orders for its troops who had been engaged in the East Coast conflict to march to Tūranga to enforce peace and expel or take the Pai Marire emissaries prisoner.

21. Donald McLean arrived in Tūranga on 9 November 1865 to enforce peace and require the submission of Tūranga Pai Marire to the Crown. He brought a substantial government and allied Māori military force. The Crown issued Tūranga Pai Marire with an ultimatum. They were required to surrender anyone who had been involved in murder or other serious crime, give up their arms, swear the oath of allegiance, submit to the rule of British law, compensate settlers for their losses and immediately expel Pai Marire emissaries. If these terms were not met, the Crown would confiscate land and establish military settlements in the area. On 10 November, many of those Pai Marire who had fled from the conflict on the East Coast departed Tūranga. Raharuhi Rukupo and the other Pai Marire leaders informed McLean of their desire for peace and offered to negotiate in order to avoid conflict, but McLean refused to meet them. McLean's only concession was to extend the deadline for compliance with the Crown's terms upon being told that some Pai Mārire might be willing to comply with his terms.
22. The Crown's ultimatum expired on 16 November 1865. Colonial forces and their Māori allies, including a small contingent from Tūranga marched on the Pai Marire pa at Waerenga-a-Hika on 17 November 1865. The Government attacked this Te Aitanga a Mahaki pa because McLean believed this iwi particularly required chastisement. Some 200 Rongowhakaata and Te Whanau a Kai reinforcements soon joined the pa's defenders. They advanced on the British line but lost some 34 in close range battle before withdrawing inside the pa. On 22 November some 400 inhabitants of Waerenga-a-Hika, including some 200 women and children decided to surrender requesting that their lives be spared and they not be sent to jail. They were told they would not be imprisoned, but that the worst characters would be sent out of the district. Meanwhile another group, numbering up to several hundred, escaped to Lake Waikaremoana. At least 71 of the pa's occupants were killed during the five-day siege.

Imprisonment on the Chatham Islands, 1865-68

23. In the immediate aftermath of the conflict some of the government's allies proceeded to indiscriminately loot and raid settler and Māori homes and property in the district. One settler wrote that this looting did far more damage than the earlier Pai Mārire looting. Looting, neglect of crops during the fighting

and people being removed from the district resulted in acute food shortages for Tūranga iwi, hapū and whānau, some of whom were reported to have died of starvation as a consequence.

24. In the first six months of 1866 approximately 116 Tūranga men who had been captured at Waerenga-a-Hika, or were suspected of assisting the Pai Marire forces were taken to the Chatham Islands, where the Crown imprisoned them for taking up arms against it. In December 1867 the premier Edward Stafford referred to the prisoners as 'native political offenders'. These men were never tried for any offence. Approximately 49 women and 38 children accompanied the men to the Chatham Islands. The removal of over 200 Maori from Turanga, including leaders, had a severe impact on the iwi, hapu and whanau who remained in Turanga. Other Māori prisoners from Hawke's Bay were sent to the Chatham Islands later in 1866.
25. Crown officials advised chiefs in Tūranga in March 1866 that the length of the prisoners' detention would be determined by their behaviour on the Chathams. When the prisoners later asked to be sent home they were told they would be held until peace had been securely established in Tūranga. Another important factor influenced the Government's detention of the prisoners. The Defence Minister wanted 'to have them out of the way until the question of the confiscation of land should be settled". In June 1867 the prisoners were told that some of them would be released as soon as the arrangements for the confiscation in Tūranga were completed. The behaviour of the detainees while on the Chathams was considered generally good, but the Government released only a handful of prisoners prior to the return of the main body in July 1868.
26. Te Kooti Arikirangi Te Turuki was one of the Tūranga people taken to the Chatham Islands. Te Kooti was among the Government's allies at Waerenga-a-Hika but was accused of spying and supplying Pai Marire forces with ammunition. He was detained, questioned and then released for lack of evidence. In March or April 1866, Te Kooti was again arrested and detained before being sent to the Chatham Islands. On 4 June 1866, Te Kooti wrote to McLean requesting that he be brought to trial. Te Kooti questioned why he was being held and made a number of other requests to be tried but these were unsuccessful.
27. The Government's inability to complete confiscation arrangements at Tūranga caused the detention of the prisoners to drag on into 1868. The Government required the prisoners to live in miserable conditions. The Chatham Islands could get much colder than what the prisoners were used to and they did not have adequate clothing. The detainees were expected to build their own accommodation and provide at least part of their own food. At least nine Tūranga prisoners died from illness, along with approximately ten of the women and children who had accompanied them. It is likely that there were more deaths which went unrecorded. Some of the guards sent to accompany the prisoners were physically and verbally abusive towards them, and the Crown had to rebuke the doctor appointed to look after them for inappropriate behaviour.

The Pursuit of Te Kooti and the Whakarau, 1868-1869

28. In June 1867 the Crown informed the prisoners being held on the Chatham Islands that they would not be allowed to leave until all arrangements for the confiscation of their lands had been finalised. This came as a severe blow for many, and the mood amongst the prisoners began to change. Te Kooti led 298 Māori in a successful escape in July 1868. They seized a ship, and reached the mainland south of Tūranga at Whareongaonga. Te Kooti wished to lead his followers, who became known as the Whakarau, peacefully to Taupo. However, government forces, supported by Maori allies soon set out to apprehend them. Once the Whakarau's intention to head inland was clear, the Crown troops sought to block their only route of escape towards Waikaremoana. Te Kooti defeated the government forces and their Māori allies at several engagements in July and early August 1868. Following this the Whakarau remained at Puketapu for several months while Te Kooti considered his options. Some people came from Tūranga to join the Whakarau as did parties from several other iwi.
29. In September 1868 the government offered peace terms to be conveyed to the Whakarau, on the basis that no further action would be taken against them if they laid down their arms and surrendered. The Government also promised to find them land to live on. Some kind of peace offer reached the Whakarau but it is unclear whether the full extent of the government's terms were communicated.
30. Angry at his treatment by the Government, Te Kooti led a Whakarau attack on Matawhero in the early hours of 10 November 1868. They executed Captain Biggs and many men, women and children, both Maori and Pākehā. Those killed who lived on lands claimed by Te Kooti, Pākehā militiamen and Maori who had been involved in land dealings or the exile of Te Kooti. Members of their families were also executed. Many houses were stripped and burnt or ransacked, but churches and schools were spared. There were more executions in the following days during Whakarau raids on Patutahi and Oweta. Following these attacks several hundred Tūranga iwi, hapū and whānau were taken prisoner by the Whakarau.

War: The Battle of Ngatapa, December 1868 – January 1869, and its Aftermath

31. The Government quickly responded to public horror and fear of further attacks as news spread of the attack on Matawhero in October 1868 by assembling a force from Tūranga and neighbouring iwi to apprehend the Whakarau. They fought several engagements, and killed at least 57 of the Whakarau in November and December 1868. By early December the Whakarau had retreated to Ngatapa, a pa located in a strong defensive position at the top of a steep hill.
32. Colonel Whitmore and a force of Armed Constabulary arrived in Tūranga in December 1868. In early January they besieged Ngatapa in conjunction with Māori allies. On 5 January 1869 Te Kooti and some of his followers escaped down an unguarded cliff. They were pursued for several days by the

Government's Māori allies. The Crown offered a £1,000 bounty for Te Kooti dead or alive, and £5 for each member of the Whakarau captured alive.

33. Colonel Whitmore reported that at least 136 of Ngatapa's defenders were killed during the battle before he returned to Tūranga. Some accounts state that more were killed, but other evidence suggests that Whitmore's estimate of the losses he inflicted was too great. Some of those taken prisoner were executed without trial, with the acquiescence of the senior Crown military and civilian representatives present. The exact number of executions is unclear and has been heavily debated amongst historians. There are estimates that up to 128 such executions took place, but other estimates suggest the number could be considerably lower. Despite descriptions of the executions appearing in newspapers, there was never any official inquiry into the events at Ngatapa. It is likely that some of those killed in the fighting at Ngatapa may have been captured by Te Kooti during his raid on Turanga and some of these prisoners may have been among those summarily executed.
34. In September 1869, five Māori men captured at Ngatapa were charged with offences relating to the attacks carried out by Te Kooti and the Whakarau in the Tūranga area in 1868. Three were convicted and sentenced to death, but later had their sentences commuted to imprisonment. A fourth committed suicide. Hamiora Pere was convicted of high treason. An additional charge of murder against him was dropped. He was executed in November 1869. The Nga Ariki Kaiputahi rangatira Pera Te Uatuku was captured by Crown forces in 1870. He pleaded guilty to a charge of treason stating that the government had promised him clemency. Te Uatuku was sentenced to death, but his sentence was commuted, and he was released from prison in 1873.
35. Following the fall of Ngatapa pa, Te Kooti and surviving members of the Whakarau made their way to the Urewera district. Crown forces continued to pursue them throughout much of the central North Island until 1872. In that year Te Kooti sought shelter in the King Country, where he advocated peace and adherence to the law. In 1883 Te Kooti (along with other Māori who had fought against the Crown during the New Zealand land wars) received a formal pardon from the government for 'offences of various kinds, more or less of a political character' committed during the fighting. Te Kooti was promised land by the Crown on two occasions. One block was not provided because it was unsuitable for living on. Te Kooti lived on the second block at Ohiwa. Te Kooti died in April 1893 as a result of an accident while travelling to Ohiwa. The land at Ohiwa was subsequently granted to the Ringatu Church. Te Kooti's descendants did not receive any land.

Confiscation and Cession in Turanganui a Kiwa, 1866-1868

36. After the fighting at Waerenga-a-Hika the Crown sought to carry to fruition the treat made in its ultimatum before the fighting that it would confiscate land in Tūranga if the terms of the ultimatum were not complied with. It wanted to implement a scheme of colonisation on this land. Confiscation of land would also allow it to recover some of the costs of its military actions.

37. Initially the Crown considered using the New Zealand Settlements Act 1863, which had been used elsewhere in the North Island, to confiscate Turanga land. This would have the effect of confiscating all the land within a defined area and then providing those Maori who owned the land and could prove they had not been in rebellion with compensation. The Crown delayed acting however, and in the meantime other factors including the discovery of oil springs in the Waipaoa Valley increased interest in the region from provincial governments and commercial operators.
38. The East Coast Land Titles Investigation Act 1866 was enacted to provide for the Native Land Court to determine who the Māori owners of Turanga land were before any was confiscated. The Government would then have to demonstrate to the Court that Māori had been in rebellion before their land was forfeited to the Crown. The Government amended the East Coast Land Titles Investigation Act in 1867 to extend the area of land covered. This legislation was replaced by the East Coast Act 1868. This gave the Native Land Court discretion to award the interests of rebels to either the Crown or loyal Māori.
39. Captain Reginald Biggs, a settler who had fought at Waerenga-a-Hika, was appointed to represent the Crown in Court hearings under the 1866 Act. Biggs attempted to negotiate the cession of a defined block of land before any application was made to the Native Land Court. The Government proposed to pay compensation to any loyal Māori whose land was included in the block to be ceded. However, negotiations stalled because the Crown wanted the cession of more land than Māori were willing to give up. The Government threatened Tūranga iwi, hapū and whānau that it would revert to using the New Zealand Settlements Act, but ultimately decided against such a move.
40. In July 1867 large numbers of Māori assembled for a scheduled Native Land Court sitting at Tūranga. It was ultimately adjourned without adjudicating upon any lands in order to allow the Crown the opportunity to amend technical defects in the 1866 Act. Shortly after this 256 Tūranga iwi, hapū and whānau signed a petition complaining of the intimidating tactics used by the Crown to secure all the flat land in the district. In light of the short duration of the fighting in 1865 and the length of time since it ended, they argued they should not have to give up any land.
41. In February 1868 Donald McLean joined the negotiations to help Biggs secure a cession of land. McLean advised against seeking a cession of land until the war was settled. However, they were largely unsuccessful, only securing agreement to the purchase of the 741 acre Turanganui No.2 block, which was later surveyed as the site of the Gisborne township. When the Land Court opened the Crown unsuccessfully sought to have it investigate title to the whole of the Tūranga district. Local Māori then withdrew most of their claims on the basis that they did not have confidence in the Land Court operating under the East Coast Land Titles Investigation Act.

Crown's Acquisition of Te Hau ki Tūranga, 1867

42. Early in 1867, Cabinet Minister J. C. Richmond arrived at Tūranga to assist with Biggs' negotiations. While in Tūranga he arranged for the Government to take

possession of Te Hau ki Tūranga, an elaborately carved meeting house of Rongowhakaata. It was constructed in the 1840s under master carver Raharuhi Rukupo's instruction in memory of his older brother. Te Hau ki Tūranga was disassembled by Crown troops on Richmond's instructions and taken to Wellington.

43. The sum of £100 was paid to some unidentified Māori at the site on the removal of the house. However in April 1867 Richmond described "the confiscation and carrying off of a beautiful carved house with a military promptitude" in a private letter. Following criticism of his actions in removing the whare, and in response to a petition on the subject, he later told a Parliamentary Committee that a large gathering of Tūranga iwi, hapū and whānau had agreed to gift the house to the government so that it could be repaired and preserved.
44. In July 1867, Rukupo and others petitioned the Crown about the removal of the house. The petition stated it had been taken away, without their consent. Evidence was presented that Tūranga iwi, hapū and whānau had made lengthy protests as the meeting house was being forcibly removed. However, the Native Affairs Committee relied on J. C. Richmond's evidence in reaching a conclusion that no redress was required. It concluded that the house had been forfeited to the government by virtue of its ownership by 'rebels', notwithstanding which a 'considerable' sum of money had been paid.
45. In 1878 Wi Pere and others petitioned for the return of Te Hau ki Tūranga or for additional compensation to be paid for it. Captain Fairchild, who had overseen the removal of the whare, told the Native Affairs Committee that Māori had objected the entire time it was being removed and that he 'had to take the house by force'. The Native Affairs Select Committee recommended, on the basis of the inadequacy of the £100 payment, that the Crown pay £300 to the owners, once established, to settle all claims about the meeting house. The money was subsequently paid to the petitioners, but there was no inquiry into whether they were the customary owners.
46. Te Hau ki Tūranga has been held in various national museums since 1867. During that time, the surviving carved pieces have been altered and maintained. Such work has largely been carried out without any consultation with, or involvement by, Rongowhakaata. Te Hau ki Tūranga is currently on display at Te Papa Tongarewa. It is the oldest extant meeting house in New Zealand and is considered the finest example of the Tūranga school of carving.

Deed of Cession, November-December 1868

47. Little progress was made in the Crown negotiations for a cession of land until after the arrival of the Whakarau in July 1868. The pursuit of Te Kooti and the Whakarau by the Crown and allied forces raised tensions in the Tūranga district, causing both Māori and settlers to fear for their security. Captain Biggs had advised his superiors on the eve of the attacks on Tūranga in November 1868 that he expected to be offered 10,000-15,000 acres of flat land by Tūranga iwi, hapū and whānau and recommended that the Crown accept this offer.

48. The attacks on Tūranga exacerbated the existing pressure for a settlement. Although Donald McLean advised against seeking a cession of land until the war was settled, the government remained determined to press on with its plans. J. C. Richmond, who had reached Tūranga by early December 1868 warned local Māori that the government was prepared to withdraw its troops and leave Tūranga if Māori did not give it all the land it wanted.
49. From 18 December 1868, 279 Tūranga Maori reluctantly signed a Deed ceding about 1.195 million acres to the Crown. Although many Tūranga Māori were not present to sign the deed, the Crown subsequently treated all of the land it described as having been conveyed to the Crown. The deed did not purport to convey the interests of the non-signatories. The deed provided for a commission to be set up to investigate the ownership of this land, and return most of it to Māori who were not labelled 'rebels' by the Crown. It was agreed that the Governor would reserve some land for a military settlement in Tūranga, but the quantity of this was not specified in the Deed. The effect of the deed was therefore to confiscate the interests of 'rebels'.
50. The definition of the land to be retained by the Government proved extremely contentious. The Government finally retained approximately 56,000 acres of land in the Patutahi, Te Muhunga and Te Ārai blocks, located near modern-day Gisborne. However the agreement for this was not recorded in writing. Tūranga Māori consistently maintained that they had only agreed for the Government to retain 15,000 acres. Upon survey in 1873 the combined Patutahi and Te Arai blocks were found to contain 31,301 acres. Considering this inadequate, Crown officials extended the boundaries to the Hangaroa River, thereby including a further 19,445 acres. It was originally intended that the Poverty Bay Commission would include a process to compensate loyal Māori who lost land on the Patutahi, Te Muhunga and Te Ārai blocks. However this did not occur. The Crown established a military settlement at Ormond, on the Te Muhunga block, on 5415 acres of the retained land and kept the remaining 51,000 acres for its own purposes. Some of this land was awarded to the Government's allies in earlier fighting who subsequently sold it to the Crown.
51. Tūranga Maori who were party to the 1869 agreement and following generations consistently complained from the 1870s that the Crown has retained significantly more land at Patutahi and Te Muhunga than they had agreed to give up. In response a 1920 Commission of Inquiry concluded that Māori had only consented for the Crown to retain 30,000 acres. . It recommended that the Crown pay compensation. The Crown considered compensating Tūranga iwi, hapū and whānau for the Patutahi block between the 1920s and 1940s, culminating in the payment of £38,000 in 1950 to mostly Rongowhakaata. This was contested by Te Whānau a Kai, who received 58 pounds for their interests in the block. They had earlier received a 500-acre portion of land in response to complaints that they were landless and destitute. However, the land granted them was steep and unusable for human settlement, and part of it was used as a quarry. No compensation was ever paid in respect of the Te Muhunga block.

The Poverty Bay Commission

52. The Poverty Bay Commission was set up under the terms of the 1868 Deed of Cession to investigate the ownership of the portion of the ceded land that would be returned to Māori. The Commission was to exclude those found to have been in rebellion against the Crown from the titles it awarded. The Commission, made up of two Native Land Court judges, was also empowered to investigate settler land transactions entered into with Māori over previous decades. Nearly all of these land deals had taken place after the proclamation of Crown pre-emption in 1840, and officials privately acknowledged they were irregular under the existing legislation for dealing with old land claims.
53. The Commission sat at Tūranga in 1869 for 33 days, awarding 101,000 acres to Māori and 1,230 acres to settlers. In 1870 a new government attempted to transfer the Commission's functions to the Native Land Court, but the Court's jurisdiction was successfully challenged after it had heard a few cases. The few decisions it did make were subsequently validated by an Act of Parliament.
54. When the Poverty Bay Commission briefly reconvened in 1873 it faced significant opposition. Following the first sitting in 1869 a further 37,278 acres were awarded to Māori by either the Commission or the Native Land Court, sitting in its place. In total, 138,278 acres were awarded by the Commission over a period of four years. No reserves were set aside for those excluded from the titles because they were considered rebels. This Commission did not develop a consistent approach for determining who rebels were. The Commission heard evidence put to it on this issue, but did not carry out any further investigations.
55. At the end of the hearings Wi Pere asked the Commission to vest the adjudicated lands in the ownership of twelve trustees to act on behalf of the tribes. The Commission did not take up this request. The Poverty Bay Lands Act 1874 provided that all future title investigations for land in the ceded block were to be conducted under the Native Land Act 1873.
56. Those found to have engaged in acts of rebellion were excluded from the titles issued, and had their customary interests confiscated. There were also many informal exclusions from title, in which cases the question of participation in rebellion was not investigated. No provision was made for returned 'rebels', who may have been rendered landless as a consequence.
57. The titles issued by the Poverty Bay Commission differed from those issued through the normal Native Land Court processes in that they were joint tenancies, rather than tenancies in common. It assumed all interests were equal rather than recognising potentially different levels. It also meant that owners were unable to leave their interests to their descendants. Instead, upon the death of an owner, their interests reverted to the remaining owners. The Native Grantees Act 1873 was introduced to remedy this grievance, but did not apply to land already leased, sold or mortgaged or to the interests of those who had already passed away.

Introduction of the Native Land Laws, 1860s and 70s

58. Concern about perceived failures in the existing system of dealing with Māori land prompted the Crown to introduce a new system in the early 1860s. The Crown established the Native Land Court, under the Native Land Acts of 1862 and 1865, to determine the owners of Māori land "according to native custom", as well as to convert customary title into title derived from the Crown.
59. The Crown aimed to provide a means by which disputes over the ownership of lands could be settled and to facilitate the opening up of Māori customary lands to colonisation. The Crown's pre-emptive right to purchase land was set aside, giving individual Māori the same rights as Pākehā to lease and sell their lands to private parties and the Crown. Bringing customary lands under the British title system would also give adult male Māori landowners the right to vote. However, it was the perceived failure of the pre-emption purchase system that provided the immediate impetus for Parliamentary action in 1862.
60. The native land laws introduced a significant change to the Māori land tenure system. Customary tenure among Tūranga iwi, hapū and whānau was able to accommodate multiple and overlapping interests to the same land. The Native Land Court was not designed to accommodate the complex and fluid customary land usages of Māori within its processes, because it assigned permanent ownership. In addition, land rights under customary tenure were generally communal but the new land laws gave rights to individuals. It was expected that land title reform would eventually lead Māori to abandon the tribal and communal structures of traditional land holdings.
61. Māori were not represented in Parliament, when the 1862 and 1865 Native Land Acts were enacted. The Crown had generally canvassed views on land issues at the 1860 Kohimarama Conference, but did not consult with Tūranga whānau and hapū on the legislation before its enactment.
62. Māori had no alternative but to use the Court if they wanted a titled that would be recognised by the Pākehā legal system and that would enable them to integrate the land in question to the modern economy. A freehold title from the Court was necessary if they wanted to sell or legally lease land, or to use it as security to enable development of the land. However, the nature of the titles issued by the Court meant these were not widely accepted as security. The Court's investigation of title for land could be initiated with an application to the Court in writing from any individual Māori. There was no requirement to obtain wider consent before an application was lodged, but once it had been accepted by the Court all those with customary interests were obliged to participate in the investigation of title, or lose their interests. In some instances surveys or investigations of title proceeded without the support of all of the hapū who claimed interests in the lands.

Tūranga experience of the Native Land Court, 1875-1894

63. The first Native Land Court hearings in Tūranga took place in 1867 and 1868, but no titles were determined. In 1870 the Court, sitting in place of the Poverty Bay Commission, adjudicated upon titles to approximately 758 acres in fourteen

blocks, mostly located in the Manutuke area. The Court did not begin sustained work in Tūranga until 1875.

64. The majority of Tūranga land that passed through the Court was investigated under the Native Land Act 1873. The Act required all owners be listed on a memorial of ownership. No owner could independently sell their interest unless all the owners consented. If the owners were not unanimous the block would be subdivided between sellers and non sellers. The portion of the block awarded to the sellers could then be sold.
65. Tūranga Maori quickly made extensive use of the Court. Between 1875 and 1883 the Court adjudicated title to some 440,000 acres in the Tūranga area. Tūranga iwi, hapū and whānau attempted to manage the Court's processes to avoid costly and contested cases. Tūranga leaders generally initiated the survey of land and resolved lists of owners out of court before seeking confirmation of those owners from the Court. This approach was encouraged by the Tūranga Court and most title investigations in Tūranga were settled quickly by the adoption of out of Court settlements. The Court did, however, occasionally have to adjudicate on contested hearings. The 1881 title investigation to the 160,360 acre Mangatu block proved contentious. The Court rejected the arguments of Pera Te Uatuku that Ngariki Kaiputahi had not been conquered by others. As a result although they lived on the block Ngariki Kaiputahi received only minimal interests in this block. The list of owners for this block was not finalised until 1923 in what became a bitterly contested process.
66. Although they used the Court in the absence of any legal alternative, many Tūranga iwi, hapū and whānau opposed the native land laws. In 1873 some Tūranga leaders supported a Hawke's Bay Repudiation Movement petition criticising the native land laws and the operation of the Court. A key criticism was that the laws took control away from Māori, who wanted to use their own processes to administer their own lands.
67. By the mid 1870s support was growing for the establishment of Māori institutions that would function in parallel with Pākehā institutions. Some Tūranga Maori began to form unofficial komiti after the final sitting of the Poverty Bay Commission. In 1877 Tūranga iwi, hapū and whānau joined together to form the Turanganui a Kiwa komiti, which was intended to deal with civil and criminal cases as well as carry out land title determinations. Tūranga hapū and whānau sought legal empowerment to administer their own local affairs through komiti but this was not given, making komiti less effective as institutions.
68. Survey charges and other costs involved in securing title through the Court varied but could be a burden on Tūranga iwi, hapū and whānau. While some blocks were surveyed for as little as one penny per acre the Waiwhakaata block cost one shilling and sixpence an acre to survey. In some cases land was used to pay for survey costs. Attending Native Land Court hearings could be expensive for Māori with claims to the land if the hearings were contested, as occurred in the case of the Maraetaha 2 block. Many of those attending court

hearings had to travel to attend and could have the expense of staying there during the hearings.

Land Alienation – Crown and Private Purchasing to 1909

69. The Government sent its first land purchase agent to Tūranga in 1873. The Crown preferred to purchase land but initially some Tūranga iwi, hapū and whānau would only agree to lease their lands. The Crown therefore leased a number of blocks of Tūranga land. The lease agreements usually included clauses that prohibited the Māori lessors from selling the land to anyone other than the Crown. By 1881 the Crown had withdrawn from all the leases it had previously agreed to.
70. Crown agents also entered into negotiations to purchase land from 1873. The Crown's instructions to its agents were to negotiate openly and with tribal leaders. New legislation enacted in 1877 provided that the Crown could apply to the Native Land Court to award it any interests it had acquired. Negotiations with individuals became increasingly common after this point. The first Crown purchase of land from Tūranga iwi, hapū and whānau was not completed until 1880. By 1897 the Crown had acquired well over 200,000 acres of land from Tūranga Maori.
71. The Crown enacted legislation which it used to prohibit private parties from also negotiating for the same blocks the Crown sought to purchase. It frequently made payments on blocks before the Native Land Court had determined ownership. The Native Minister ordered this practice to stop in 1879, though it continued in some cases. Sometimes these advances could bind the recipients into the sale of the land before a price had been agreed on.
72. Private parties acquired nearly 300,000 acres in Tūranga by 1897. Many private purchasers leased land before its title was determined by the Native Land Court, as a preliminary step to purchase. It was also common for private purchasers to acquire individual interests over time. For example, one private purchaser negotiated 106 separate deeds for one block. In some cases private purchasers took advantage of Māori debt to acquire land despite some legislative provisions that prohibited the acquisition of Māori land in satisfaction of debt.
73. The native land laws required buyers and sellers to comply with a number of technical requirements before transactions for Māori land could be completed. For example, a certificate from the Trust Commissioner was required confirming that Māori owners understood the transaction and had received the consideration promised. Some of these were intended to protect Māori interests. The native land laws were frequently amended and some facets of the laws were complex. By the 1890s, a number of land transactions that had been entered into were incomplete due to their failure to comply with all technical requirements of the native land laws.
74. In 1893, the Government established a special court to validate such transactions. The Validation Court perfected title to nearly 50,000 acres in

Tūranga. The sometimes burdensome costs may have contributed to low Maori attendance at Validation Court hearings.

Attempts for community management of Māori owned land

75. Some Tūranga Māori sought a legal mechanism to deal with title issues by facilitating tribal control over the administration and alienation of Māori land in Tūranga. In 1878 the Tūranga leader Wi Pere and his lawyer, William Rees proposed a scheme to achieve this. They established trusts to manage and develop Māori-owned land. They intended to develop and dispose of some Māori land in order to bring more settlers to Tūranga. They envisaged that Māori would benefit from the profitable disposal of developed land and that tribal control of the alienation process would ensure that Māori derived benefit from economic activity generated by new settlers. The trust scheme would also have prevented some of the difficulties such as the fragmentation that would later plague Maori land tenure.
76. The Rees-Pere scheme attracted considerable support in Tūranga. Some 74,000 acres in Tūranga were vested in the trusts by 1881. However the trusts soon ran into insurmountable financial and legal difficulties. Heavy costs were incurred developing land, and purchasing land Māori had previously sold. The Supreme Court ruled in 1881 that land could not be vested in trust if the title to the land had been determined under the Native Land Act 1873. This had a major impact on the Rees-Pere scheme.
77. Pere and Rees reacted to these difficulties by forming a company as the vehicle to administer their scheme. The Company failed financially. Māori requested that the Government intervene but it was generally not government policy to intervene in the private debts of a company. In 1891 the Bank of New Zealand, which was the principal creditor, proceeded with the mortgagee sale of 36,300 acres of Company lands.
78. A new trust was established in 1892 to redeem lands encumbered with debt as a consequence of the Company's failure. This trust was also overwhelmed by debt, and in 1902 the Government established a statutory trust to take over the indebted lands in order to avoid a further planned mortgagee sale of these.
79. What became the East Coast Māori Trust sold some land to pay off the debts it inherited, and developed a number of farms on the remaining lands. The Trust was economically successful, but the beneficiaries were only given a meaningful role in the Trust's administration in the late 1940s. Most of the Trust's assets were returned to Māori in 1955. This amounted to only about a quarter of the lands vested in trust in 1892.
80. As part of the process of winding up the trust, beneficial owners agreed to pay compensation of £96,751 to the descendants of owners of lands sold between 1892 and 1902 in order to reduce debt. They did not pay compensation for the blocks sold in the 1891 mortgagee sale.

Twentieth Century Land Administration

81. The Crown became concerned in the late nineteenth century that Māori land was often not being used profitably, due in part to multiple ownership resulting from the titles issued by the Native Land Court and a lack of access to development finance. The Crown accepted that existing procedures for managing Māori land were inadequate. It was also concerned that further alienation of Māori land might leave a reviving Māori population with insufficient land for their needs and requiring state support.
82. In response to these issues and increasing Maori pressures, the Crown introduced Māori Land Councils with a mix of Crown-appointed members and elected Māori representation. The Councils were responsible for supervising all land alienation and could administer lands voluntarily placed under their authority by Māori landowners. The Crown aimed to enable Māori to retain land while ensuring that 'idle' land was leased and the income generated was used to develop it. The Councils were also given a role in determining the ownership of Māori land with the assistance of elected Māori committees, but by this time title to most Tūranga land had already been determined by the Court.
83. Only a small quantity of Tūranga land was vested in the Tairāwhiti Māori Land Council before 1906. At this time the Councils became Government-appointed Boards. The Stout Ngata Commission set up to appraise Māori land in 1907 found that much of the Tūranga district and Cape Runaway had been purchased by the Crown and settlers, and that most of the land still owned by Tūranga Maori had already been leased. It recommended that no additional land be vested in the Tairāwhiti Board for lease.
84. Tairāwhiti was one of two land districts selected to test the efficacy of compulsory vesting of Māori land in a Land Board. By 1909, some 51,000 acres of land were vested in the Tairāwhiti Māori Land Board which had jurisdiction over the East Coast including Tūranga. The Board was authorised to lease or mortgage the lands vested in it.
85. In 1908 it was empowered to supervise alienations of other land held by Maori. The Native Land Act 1909 removed all existing restrictions on the sale of land. The Board could approve land sales that would leave Māori landless, if the land would not in any event provide sufficient income to support them, or where Māori had adequate alternative forms of income. In 1913 the requirement that there be elected Māori representation on the Board was abolished.
86. The Board was able to lease vested lands for terms of up to 50 years without consultation with the owners. Although this helped to ensure that such lands remained in Māori ownership, it also resulted in a substantial loss of control over these. In some cases land was in poor condition when it was returned to the Maori owners.
87. From the early twentieth century Tūranga iwi, hapū and whānau took advantage of legislation enabling the establishment of incorporations to manage their lands. However, some of the incorporations continued to

encounter problems accessing finance. In some cases such lands were among those leased by the Tairāwhiti Māori Land Board. Other lands were sold and in some instances the incorporations appear to have remained largely dormant. However, some of the larger incorporations were successful over time.

Consolidation Schemes

88. In the twentieth century many Tūranga iwi, hapū and whānau owned small and fragmented interests in a number of scattered land blocks as a result of individualisation and partition of interests. Some of these shares were purchased by the government under measures introduced in 1953 allowing for the compulsory acquisition of 'uneconomic' interests in Māori lands, a policy greatly resented by some of those who it affected. The Crown also attempted to address the issue by introducing consolidation schemes. The process was to group close family interests into single, or contiguous areas to encourage further development of these lands for farming purposes.
89. The main consolidation scheme in Tūranga was at Manutuke. It affected 539 land titles made up of 16,838 separate interests and was complex, time consuming and resource intensive. Between 1959 and 1969 interests in these small uneconomic land holdings covering 22,345 acres were rearranged and new blocks formed. The scheme could not have proceeded without community support but some Tūranga iwi, hapū and whānau did lose their ownership interests in land with which they had strong whakapapa associations because their interests were regrouped into other areas, causing great distress for some of those concerned.

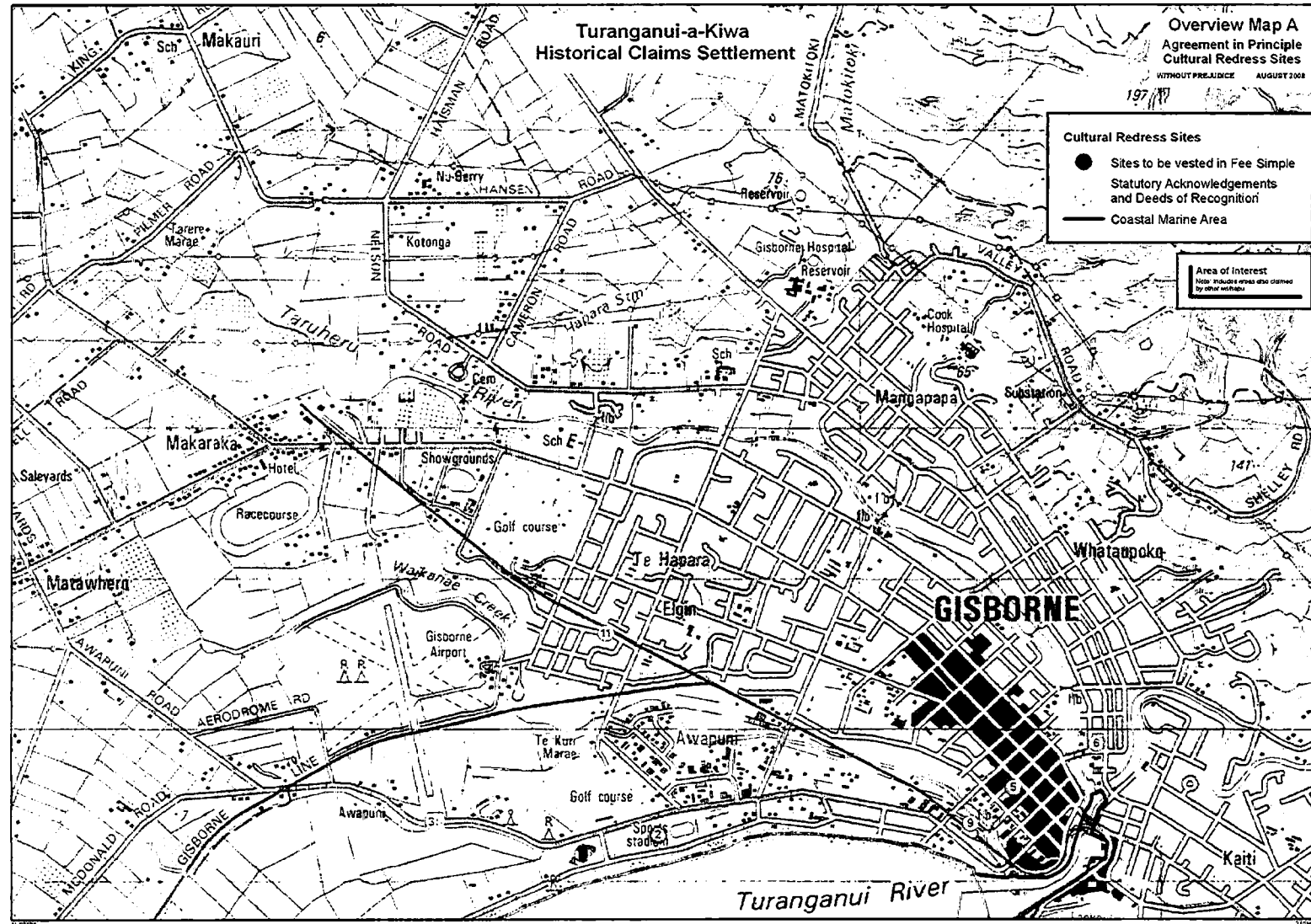
Public Works

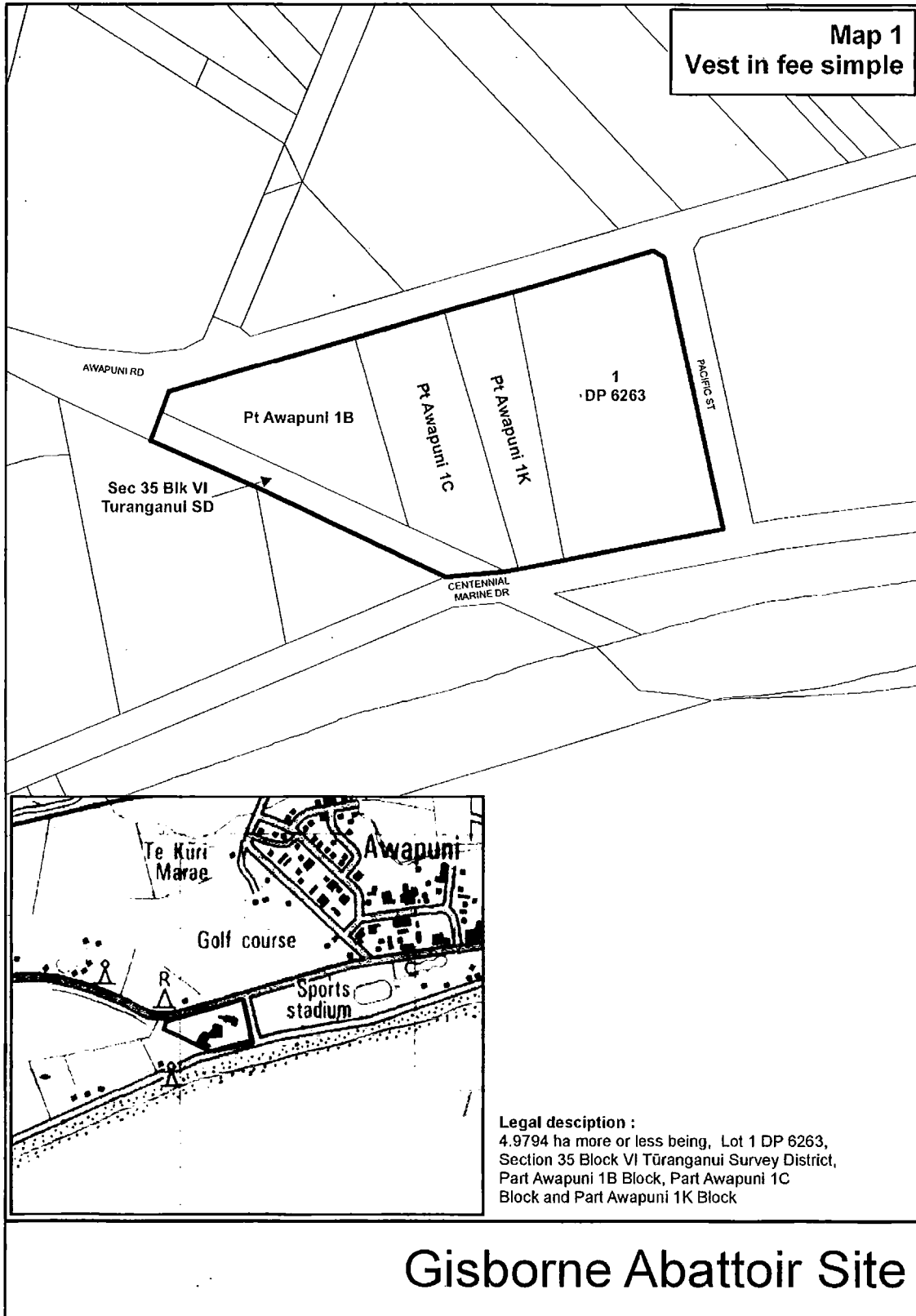
90. The Crown compulsorily acquired a number of pieces of Māori-owned land from Tūranga whānau and hapū under public works legislation in the nineteenth and twentieth centuries. Land was acquired for a range of public purposes including roads, railways, an aerodrome, harbour facilities, public sanitation, waterworks, and cemeteries. Sometimes no compensation was paid for the land where it was considered that the public works on the land taken would increase the value of the surrounding land. The Crown generally did not consult with Māori before compulsorily acquiring their land for public works prior to the middle of the twentieth century.
91. There was insufficient justification for the Crown to acquire lands it took in 1900 at Waiohiorore for public health purposes, and in 1902 at Awapuni where land was taken for a cemetery. In some cases compensation was inadequate or not even paid. The Crown did not return land to Māori that it had acquired for public works once it no longer needed those lands for the purpose for which they were taken. Much land taken in the Gisborne area was retained because the Government considered it would be needed for other public purposes connected with the city. In other cases where land was considered surplus the Crown took a long time to return the land to its former owners, such as in the case of the Paokahu lands taken for Centennial Marine Drive.

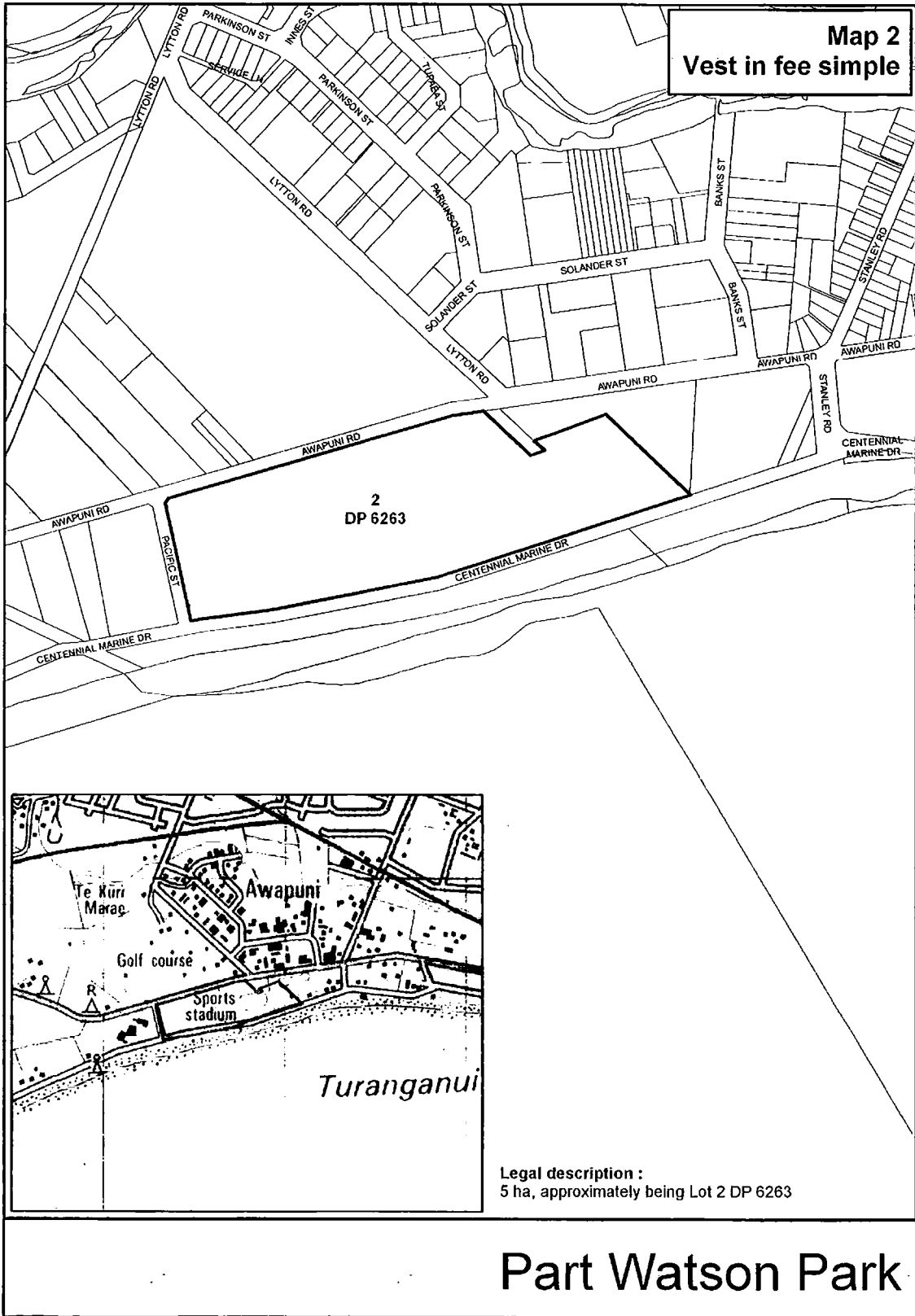
Attachment 3

Maps of Cultural Redress Sites

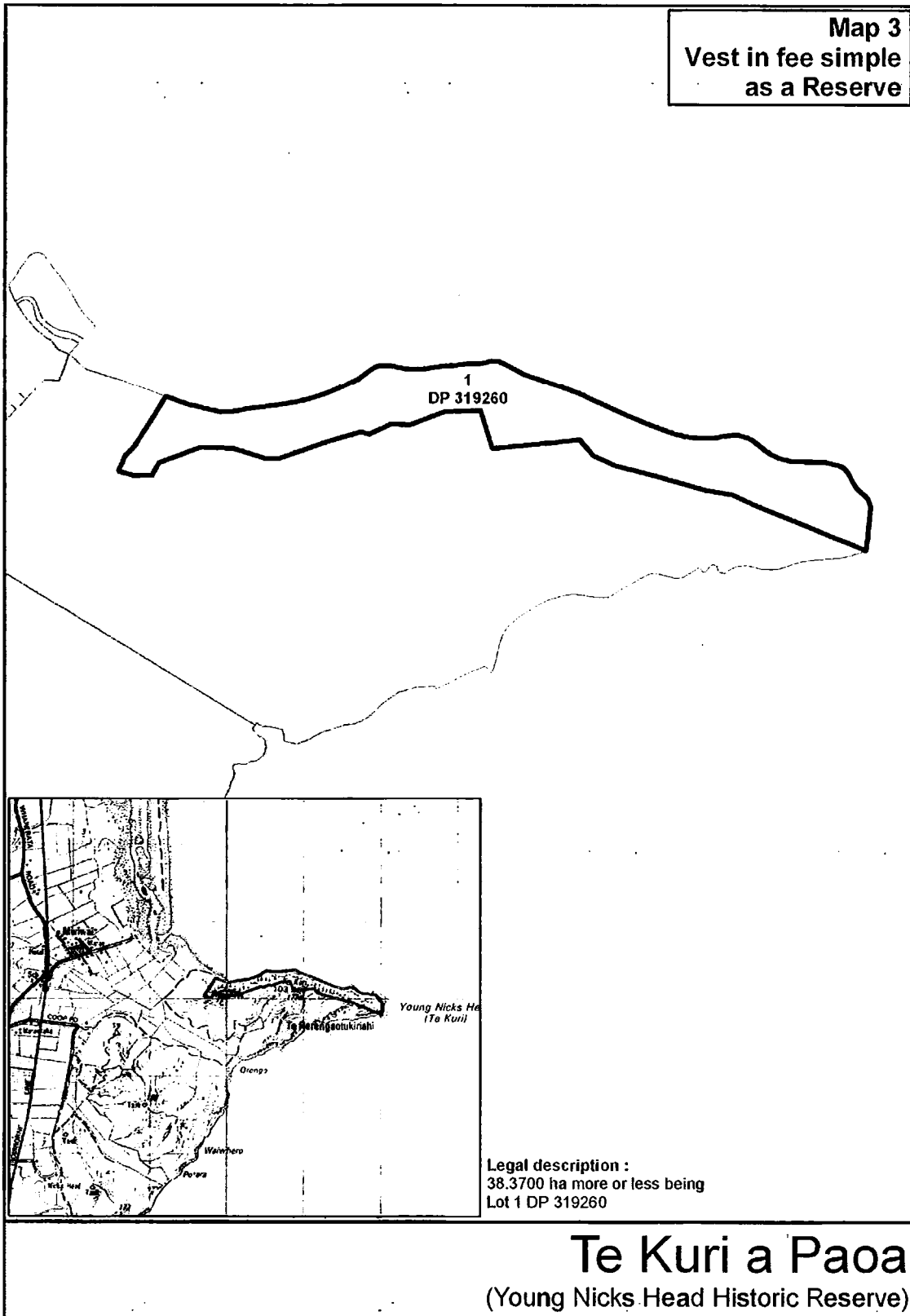
Number	Redress Site	Description of redress
Map A	Overview of Cultural Redress Properties	Not applicable
Map 1	Former Gisborne Abattoir	Vest fee simple
Map 2	Part Watson Park	Vest fee simple
Map 3	Te Kuri a Paoa	Vest fee simple as a reserve
Map 4	Mangapoike	Vest fee simple
Map 5	Gisborne Bus Depot	Vest fee simple
Map 6	Old Army Hall Site	Vest fee simple
Map 7	Patutahi Health Clinic Site	Vest fee simple
Map 8	Rakaukaka	Vest fee simple as a reserve
Map 9	Ex-Railway Land Site	Vest fee simple
Map 10	Matawhero	Vest fee simple as a reserve
Map 11	Te Whare Rakei o Te Kooti Rikirangi	Vest fee simple
Map 12	Gray's Bush Scenic Reserve	Statutory Acknowledgement/ Deed of Recognition
Map 13	Waioweka Conservation Area	Statutory Acknowledgement/ Deed of Recognition
Map 14	Waterways of Significance	Statutory Acknowledgement



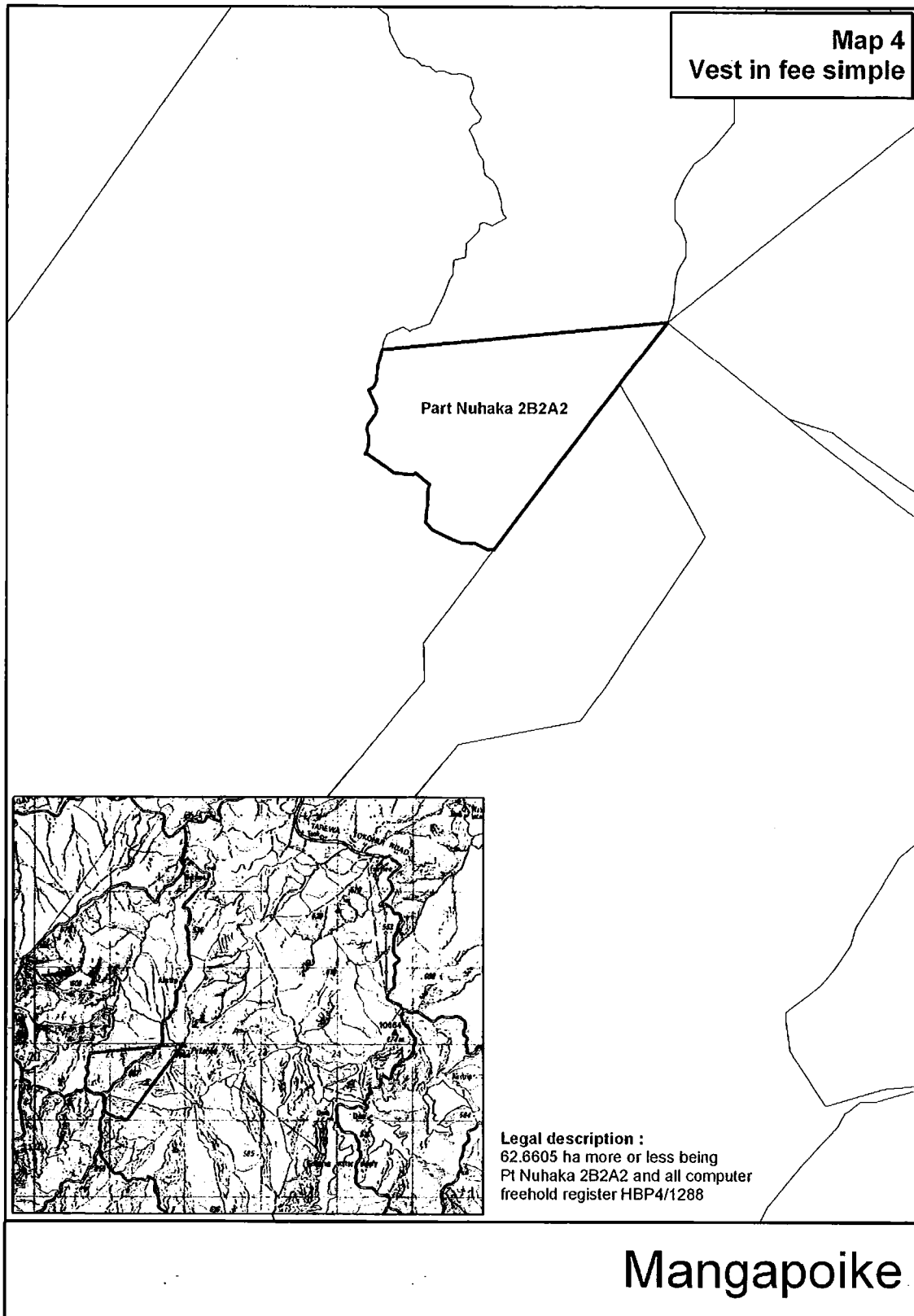


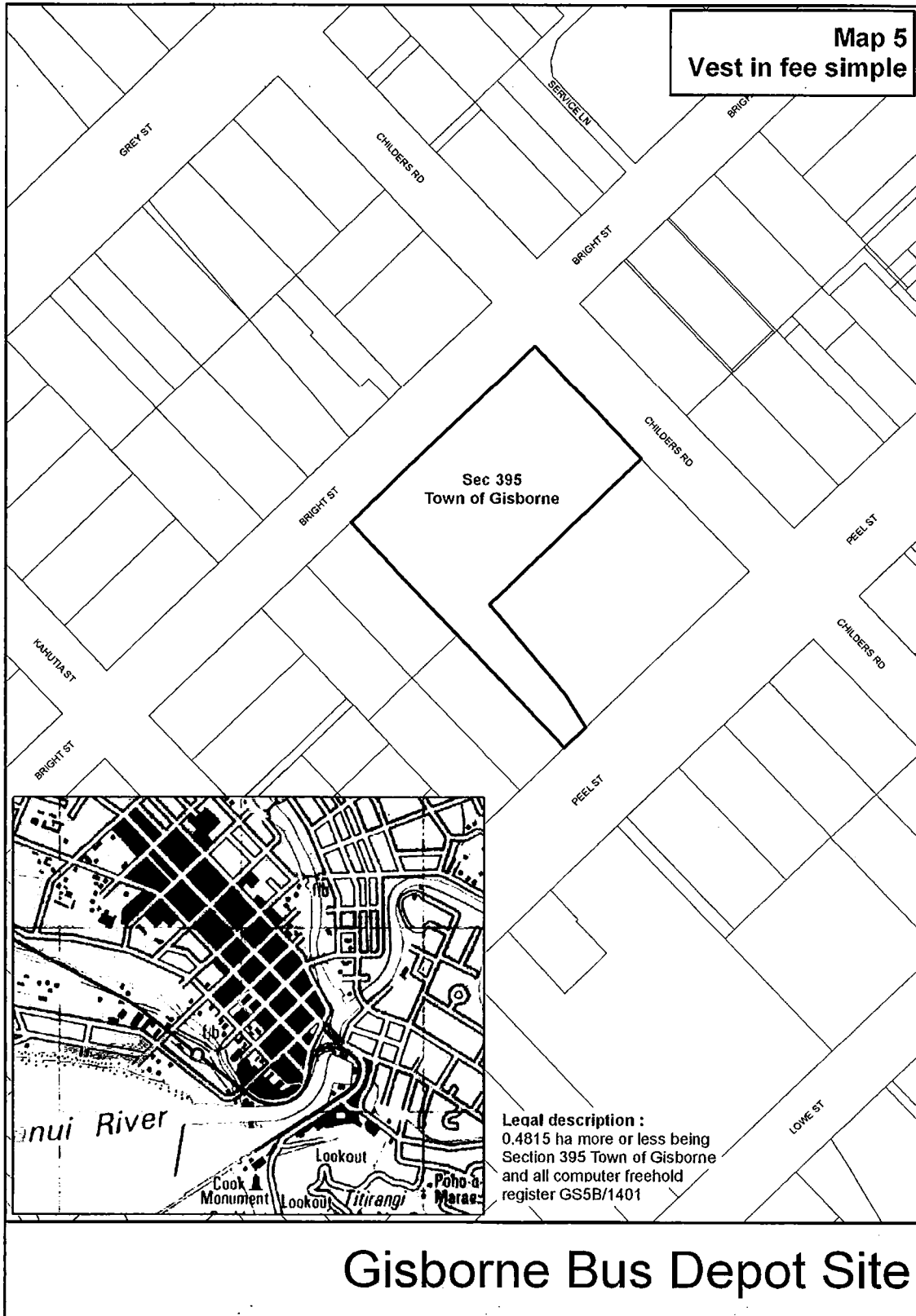


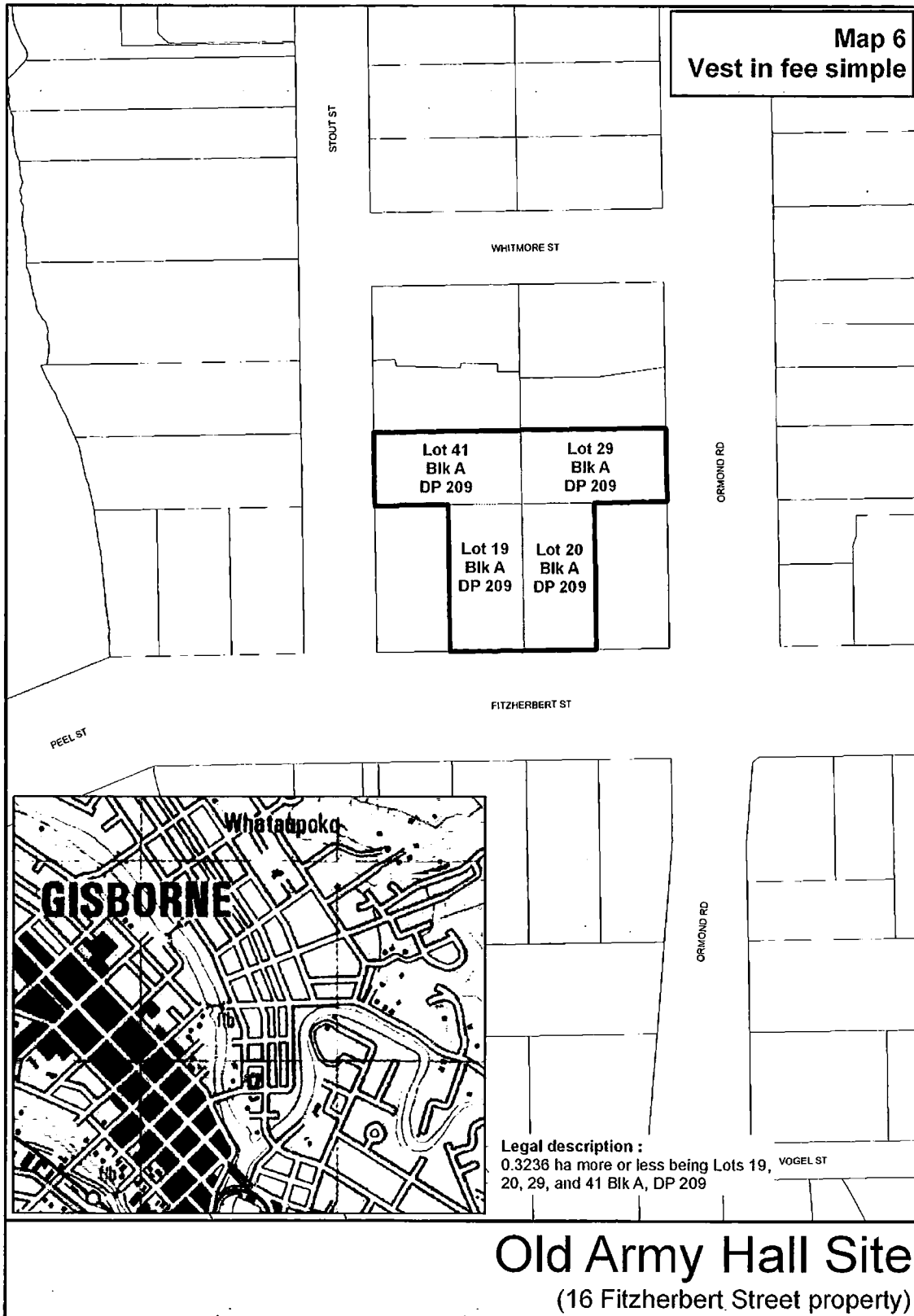
Map 3
Vest in fee simple
as a Reserve

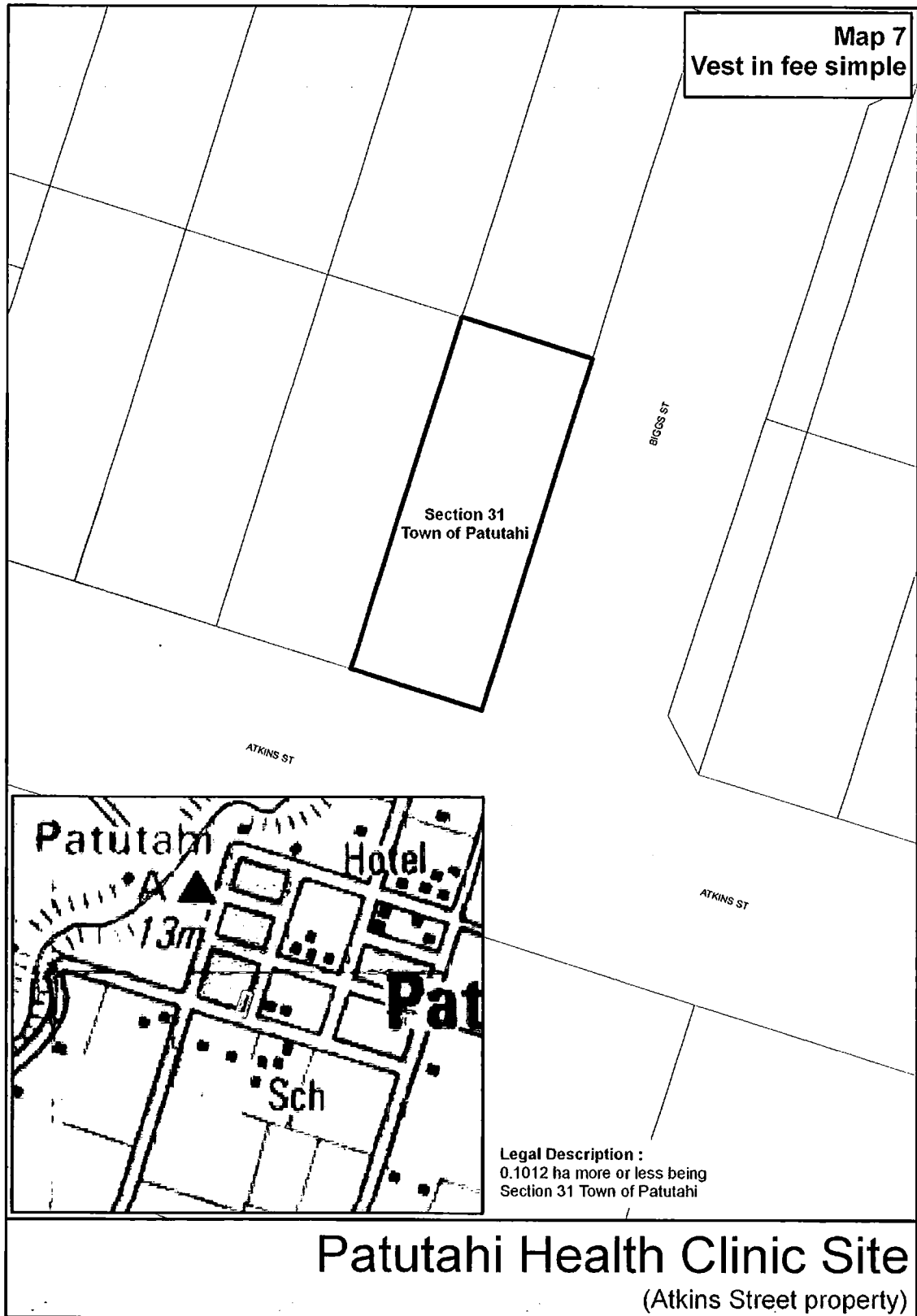


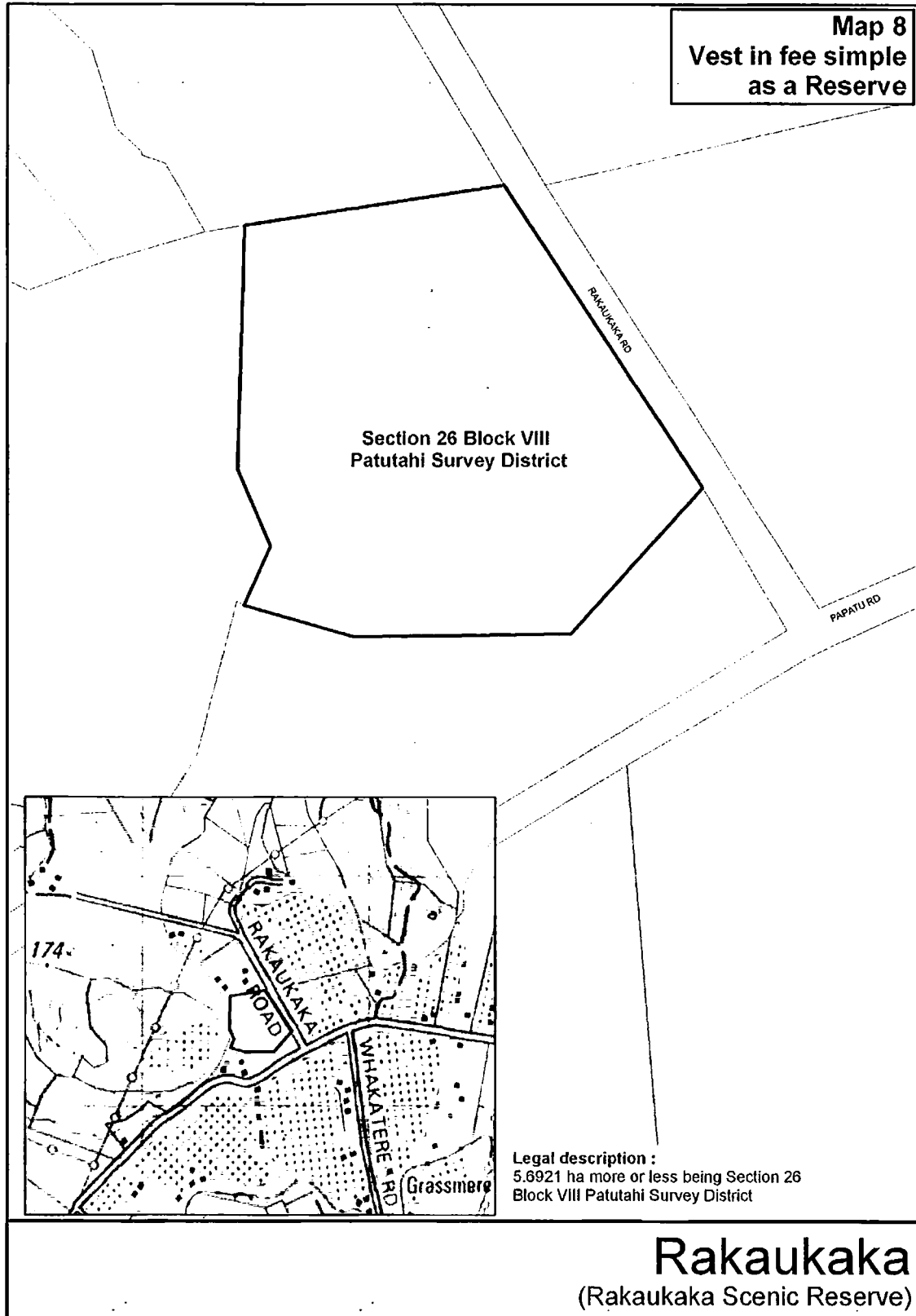
Te Kuri a Paoa
(Young Nicks Head Historic Reserve)

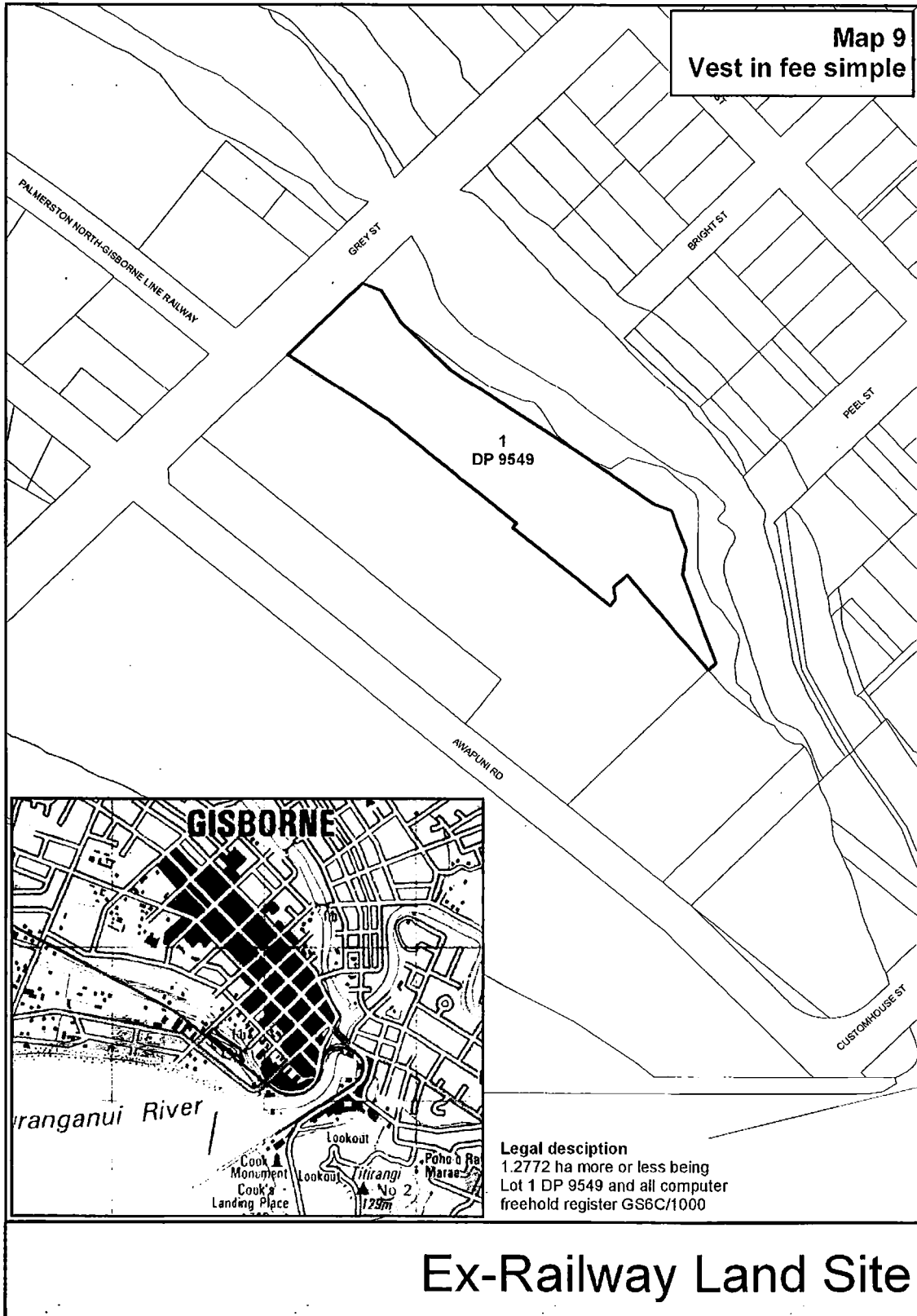


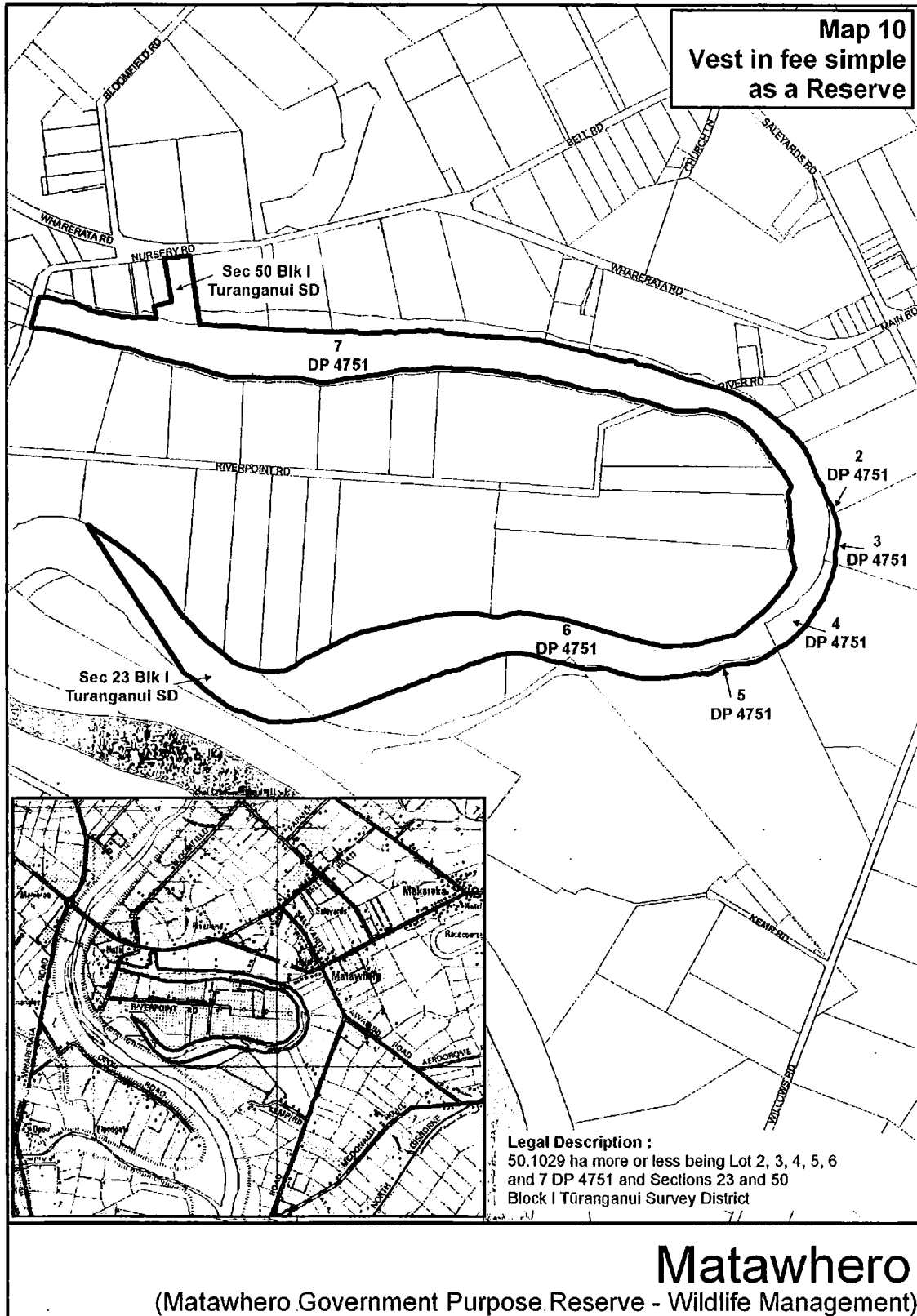




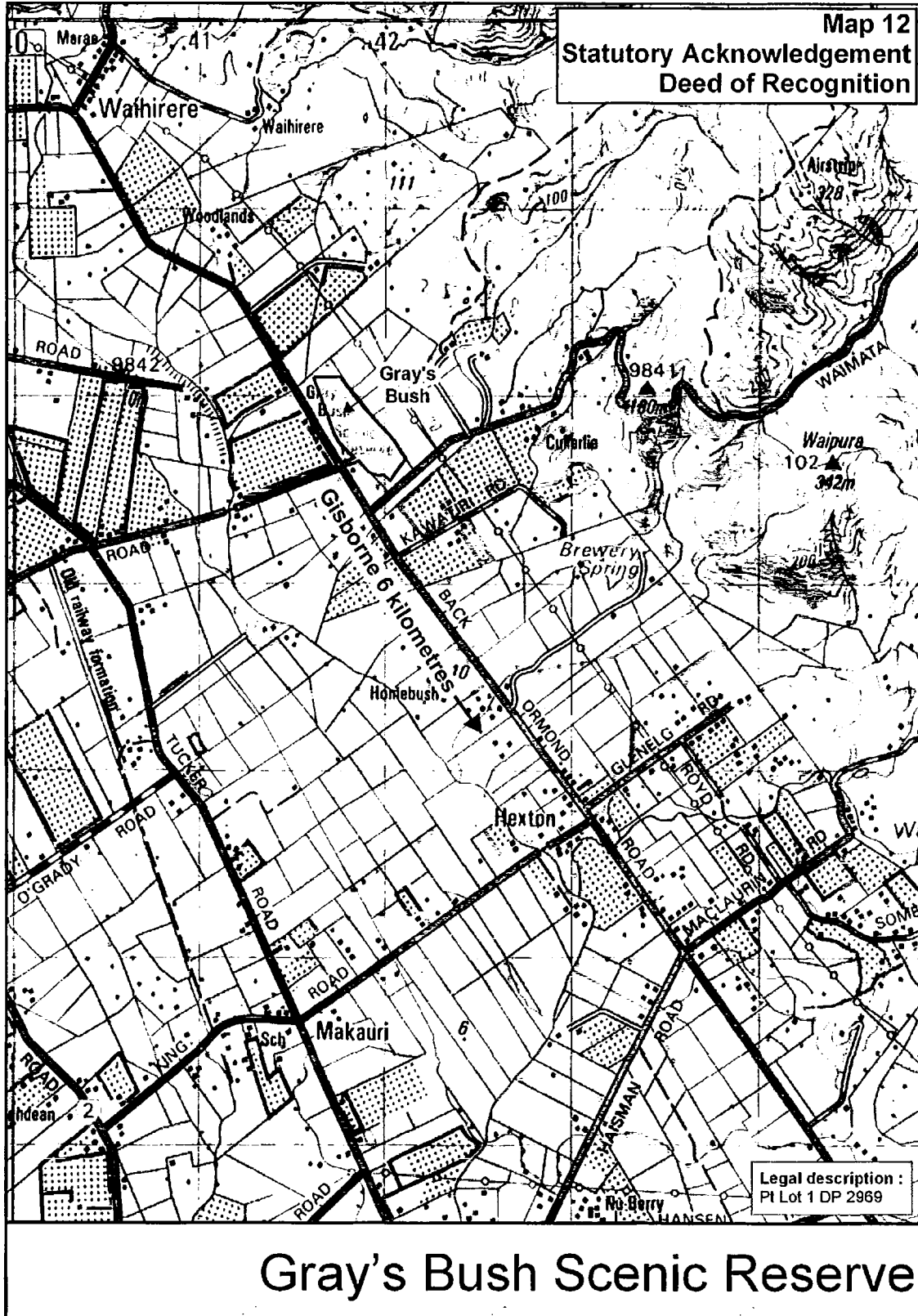


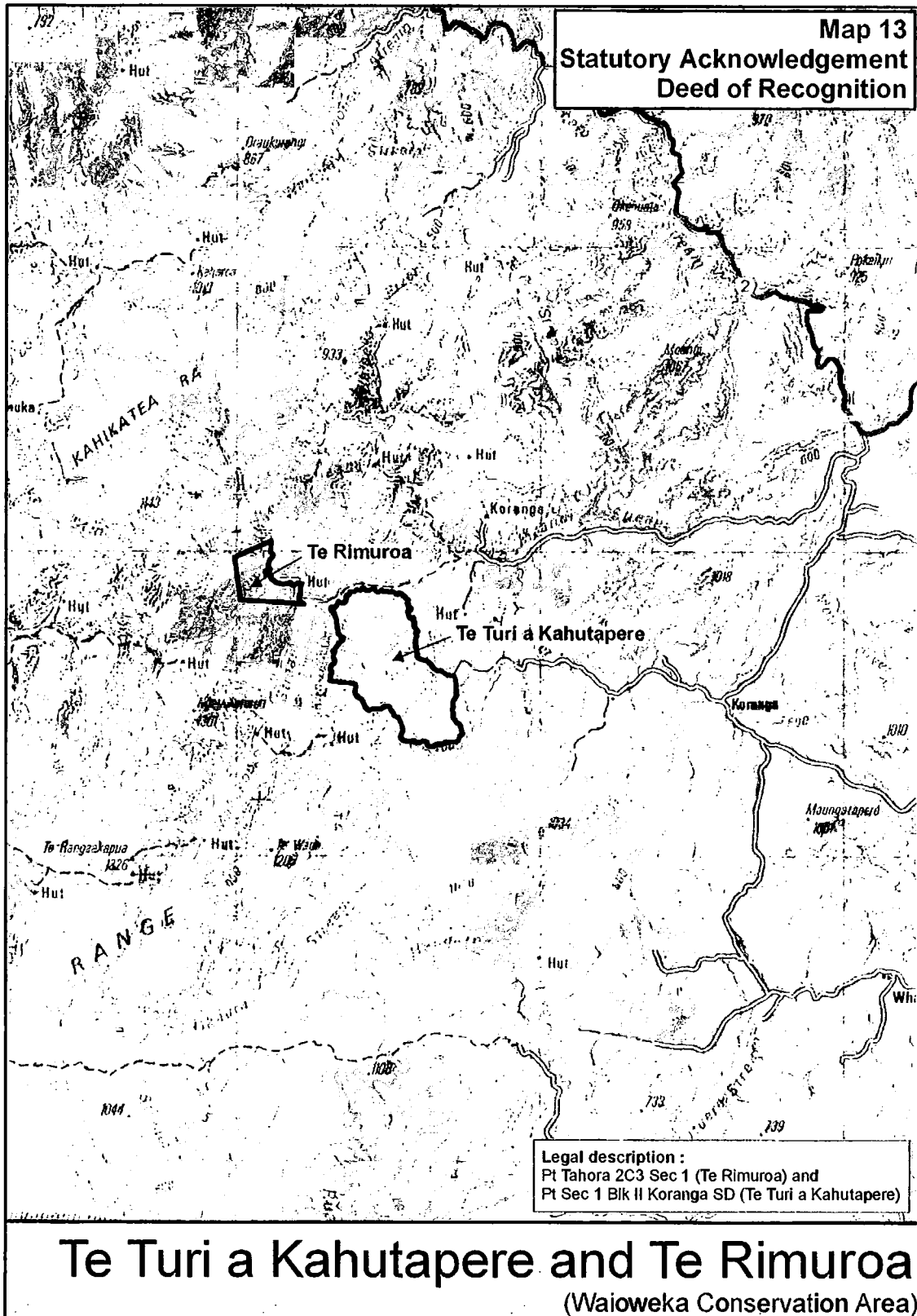


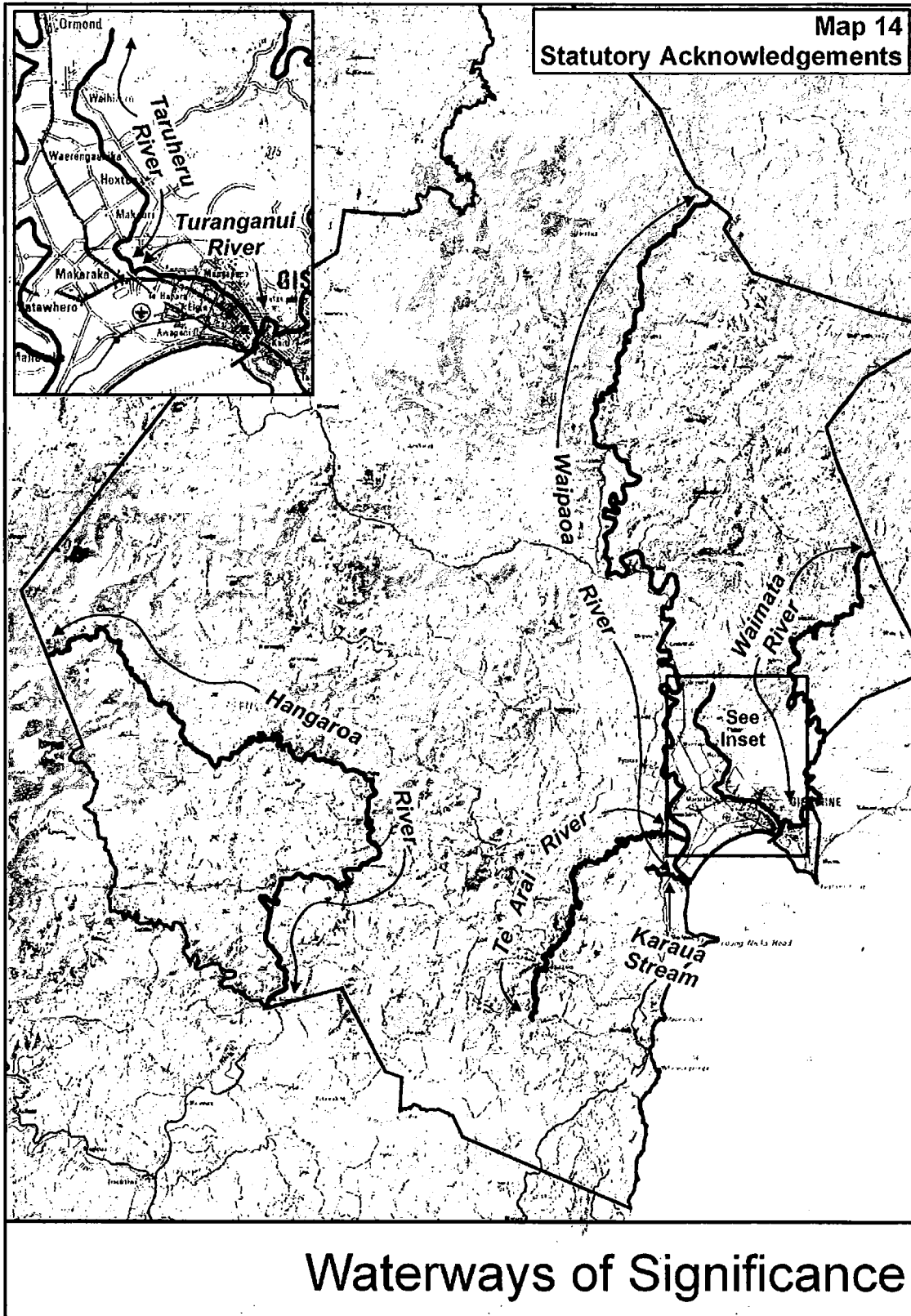












Attachment 4

Commercial Redress Properties

Table 1: Licensed Crown Forest Land

Map Ref	Property Name	Legal Description (All properties held within the Gisborne Land District)	Location	Iwi
1	Mangatu Forest	Lots 1-8, Part Lot 9, and Lots 10-27 DP 8162.	Up to 100% of the area identified in Map 1 (the area of land will be subject to survey)	Te Pou a Haokai
2	Part Wharerata Forest (within Area of Interest)	Lot 1 DP 6508, Lots 1-2 DP 8023, Lots 1-6 DP 8024 and Lot 1 DP 8025 Gisborne Land Registry; Lot 3 DP 17644, Lot 1 DP 16752 and Lots 1-3 DP 21823 Hawkes Bay Land Registry.	Allocation to be agreed between Ngai Tamanuhiri Whanui Trust and Te Iwi o Rakaipaaka Incorporated	Ngai Tamanuhiri

Table 2: Deferred Selection Process (six months) – Surplus Properties

Map Ref	Property Name	Legal Description (All properties held within the Gisborne Land District)	Location
3	LINZ property #11316	Part Railway Land, CPI 55502.	Lytton Road, Gisborne
4	LINZ property #11319	Part Railway Land, CPI 55699.	Stanley Road, Gisborne
5	LINZ property #17325	Lot 2 DP 370063, Part Lot 9 DP 2487 and section 16 Block II Turanganui Survey District.	Grey Street, Gisborne
6	LINZ property #11306	Section 1 SO 8542. (To be included as part of the Wharerata Forest legal description. Forms part of Turanganui-a-Kiwa settlement redress package subject to resolution of overlapping claims).	Managapahi Road, Mangapoike

Table 3: Deferred Selection Process (two years) – Sale and Leaseback Properties

Map Ref	Administering Agency	Legal Description (All properties held within the Gisborne Land District)	Property
7	Ministry of Justice	Sections 386 and 387 Town of Gisborne.	Gisborne High and District Courts, Customhouse Street, Gisborne
8	Ministry of Social Development	Lot 1 DP 5690.	107A Roebuck Road, Gisborne
9	Ministry of Education	Lots 2, 4, and Parts 3, 5, 6, and 7 DP 2895, Lot 1 DP 3755, and Section 46 Block II Turanganui Survey District.	Lytton High School, Nelson Road, Gisborne
10	Ministry of Education	Part Lot 1 DP 1214, Part Lot 8 DP 1266, Lots 14 and 15 DP 1399, Part Lots 28 and 29 DP 1767, Lots 1, 2, and 3 DP 1794, Lots 4 and 5 DP 1975, Lot 1 DP 2433, Part Lot 12 DP 3459, Lot 1 DP 3585, Part Lots 3 and 4 DP 3940, Lot 1 DP 4429, Part Section 175 and Sections 170 and 184 Gisborne Suburban, and Section 14 Block III Turanganui Survey District.	Gisborne Boys' High School, Stanley Road, Gisborne
11	Ministry of Education	Lots 1, 27, 28, 29, and 32 DP 1433, Lot 14 DP 2177, Lot 1 DP 2466, Lots 1 and 2 DP 2716, Lot 2 DP 4513, and Part Section 121, Section 149, and Part Section 221 Gisborne Suburban.	Gisborne Girls' High School, 555 Gladstone Road, Gisborne
12	Ministry of Education	Part Lot 9 and Parts Lot 10 DP 214, Part Lot 1 DP 256, Part Lot 1 and Parts Lot 2 DP 3096, Part Lot 1 DP 3526, Lot 3 DP 3624, Parts Lot 1 and Lot 2 DP 3799, and Part Lot 2 DP 5581.	Gisborne Central School, Central Street, Whaka
13	Ministry of Education	Sections 11 and 20 Block II Turanganui Survey District.	Te Kainga Childrens' Health Camp, 830 Childers Road, Gisborne
14	Ministry of Education	Lot 2 DP 3451, Parts Waikanae 2A and 4, and Part Section 218A and Section 384 Town of Gisborne.	Gisborne Intermediate, Roebuck Road, Gisborne

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Map Ref	Administering Agency	Legal Description (All properties held within the Gisborne Land District)	Property
15	Ministry of Education	Lots 9, 10, and 21 DP 539, Lot 1 and Part Lots 2 and 3 DP 1813, and Lot 1 DP 2603.	Mangapapa School, Rua Street, Gisborne
16	Ministry of Education	Part Te Arai 2, and sections 19 and 19, Block V Turanganui Survey District.	Manutuke School, 59 Waingake Road, CMB Manutuke, Gisborne
17	Ministry of Education	Section 1 Block II Motu Village.	Motu School, Bridge Street, Motu
18	Ministry of Education	Lot 1 DP 3561.	Muriwai School, 1684 Wharerata Road, RD 2, Gisborne
19	Ministry of Education	Part Lot 13 DP 1288.	Ormond School, Whitmore Road, RD 1 Gisborne
20	Ministry of Education	Sections 141 and 142 Patutahi Suburban.	Patutahi School, 29 Atkins Street, PO Box 18, Patutahi, Via Gisborne
21	Ministry of Education	Lots 30- 34 DP 1179.	Te Hapara School, Mill Road, Te Hapara, Gisborne
22	Ministry of Education	Lots 7, 8, and Part 9 DP 1247, Part Lot 1 DP 2696, and Lots 1 and 2 DP 8413.	Te Karaka School, Ioapa Road, Te Karaka, Gisborne
23	Ministry of Education	Part Lot 2 DP 3545.	Waeranga-o-Kuri School, Tiniroto Road, Post Office Waeranga-o-Kuri, Gisborne
24	Ministry of Education	Lot 1 DP 3915 and Part Whatatutu B3A3.	Whatatutu School, Whatatutu Road, RD 4, Te Karaka, Gisborne

Table 4: Right of First Refusal Properties

Map Ref	Administering Agency	Legal Description (All properties held within the Gisborne Land District)	Property
25	New Zealand Police	Lots 1, 2, 3, Part 4, and 5 DP 1437, Lots 1 and 2 DP 4914, Lot 1 DP 375082, and Lot 1 Section 30 Town of Gisborne.	Police Station, 8 Gladstone Road, Gisborne
26	Ministry for the Environment	Part Section 118 and Section 183 Patutahi Rural District and Section 4 Block VII Patutahi Survey District.	Waerenga-o-kuri Soil Conservation Reserve, Gisborne District
27	Transit New Zealand	Lot 6 DP 2497.	Makaraka Intersection, Cnr SH2 and Main Road, Makaraka, Gisborne
28	Transit New Zealand	Part Lot 26 DP 1325.	Puha Highway Reserve, SH2, Puha
29	New Zealand Defence	Lot 18 Block A DP 209.	Fitzherbert Street, Gisborne
30	Ministry of Education	Part Lot 24 DP 1145, Lots 12, 13, and 14 DP 1366, Part Lots 8, 19, 20, 22, 23, 24, 27, 28, Parts 21, and Lots 16, 17, 18, 25, and 26 DP 1378, Lots 1, 2, 5, 6, and Part Lot 4 DP 2852, Lots 1, 2, and 3 DP 3465, Lots 3 and 7 DP 8242, Closed Road (SO 5955), Karaka 22, and Part Section 8 Block IV Waikohu Survey District.	Waikohu College, Kanakanaia Road, Te Karaka
31	Ministry of Education	Part Lot 49 DP 2086, Parts Lot 1 DP 2609, Lot 1 and Parts Lots 2 and 3 DP 2856, Part Waikanae Stream bed (SO 4453), and Parts Waiohiharore C2D, C2E, D7, D8, and D9.	Awapuni School, Awapuni Road, Gisborne
32	Ministry of Education	Lot 52 DP 4866 Part Lot 1 DP 2536.	Cobham School, Lytton Road, Elgin, Gisborne
33	Ministry of Education	Part Lots 18, 19 and 20 DP 1285, and 1 DP 1312, Lots 8 and 9 DP 4295, and Section 1 SO 8872.	Elgin School, 2 Knox Street, Gisborne
34	Ministry of Education	Lots 36 and 37 DP 13.	Makaraka School, 137 Main Road South, Makaraka, Gisborne

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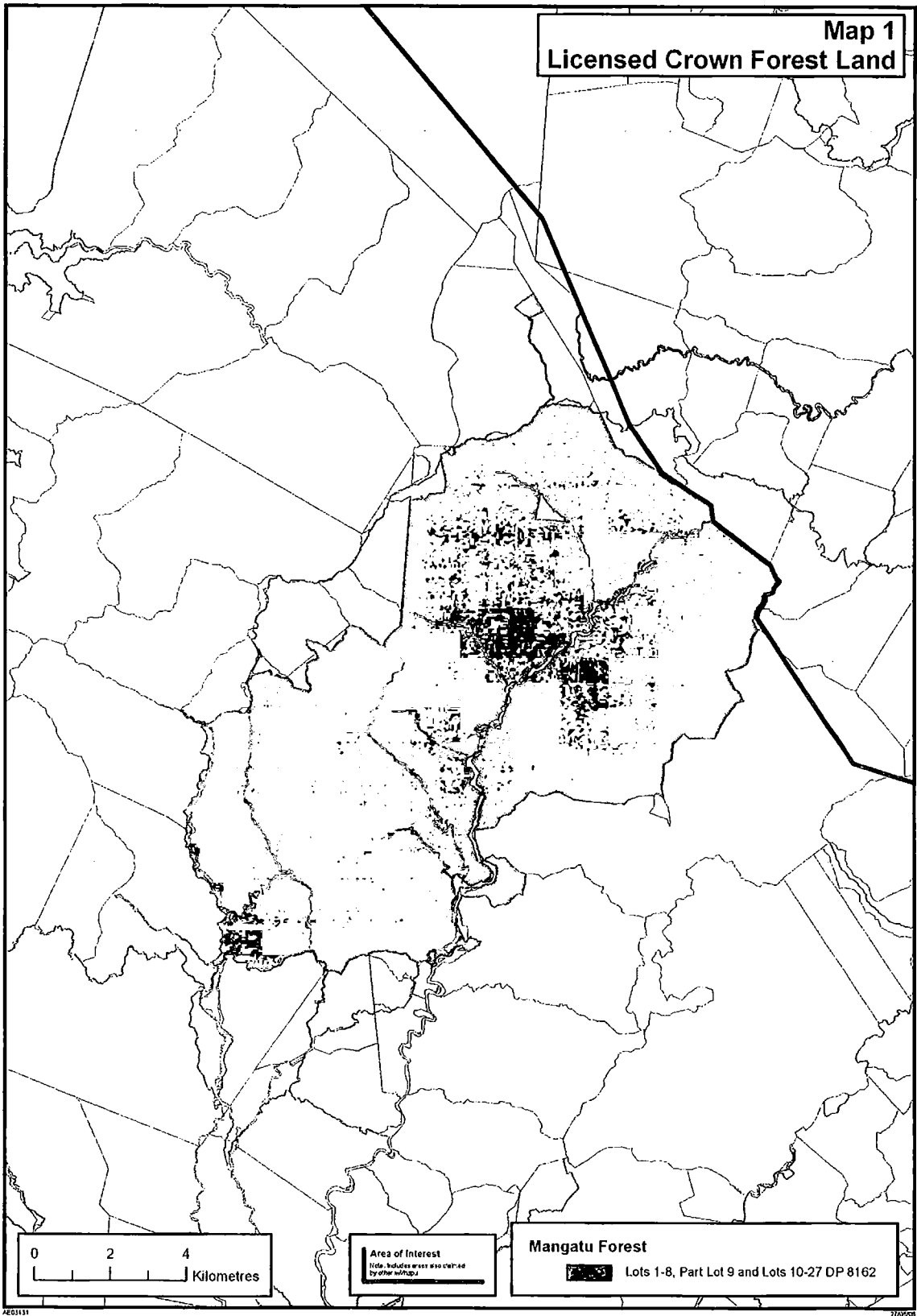
Map Ref	Administering Agency	Legal Description (All properties held within the Gisborne Land District)	Property
35	Ministry of Education	Lot 30 DP 764, Part Lots 1, 2, and Parts 3 DP 1761, and Section 2 SO 8789.	Makauri School, Cnr Tucker and King Roads, King Road, RD 1 Gisborne
36	Ministry of Education	Part Lot 1 DP 3447 and Lot 1 DP 4378.	Rere School, Wharekopae Road, Rere
37	Ministry of Education	Lot 5 and Parts Lots 6 and 7 DP 168.	Riverdale School, 324 Stout Street, Gisborne
38	Ministry of Education	Part Lot 2 DP 9844.	Waipaoa Station School, 649 Armstrong Road, Te Karaka
39	Land Information New Zealand [Subject to investigation and confirmation that it is Crown land]	Part bed of Waipaoa River.	Part bed of Waipaoa River, Browns Beach Road, Gisborne
40	New Zealand Police	Sections 60 and 61 Town of Gisborne.	Police Station, Childers Road, Gisborne

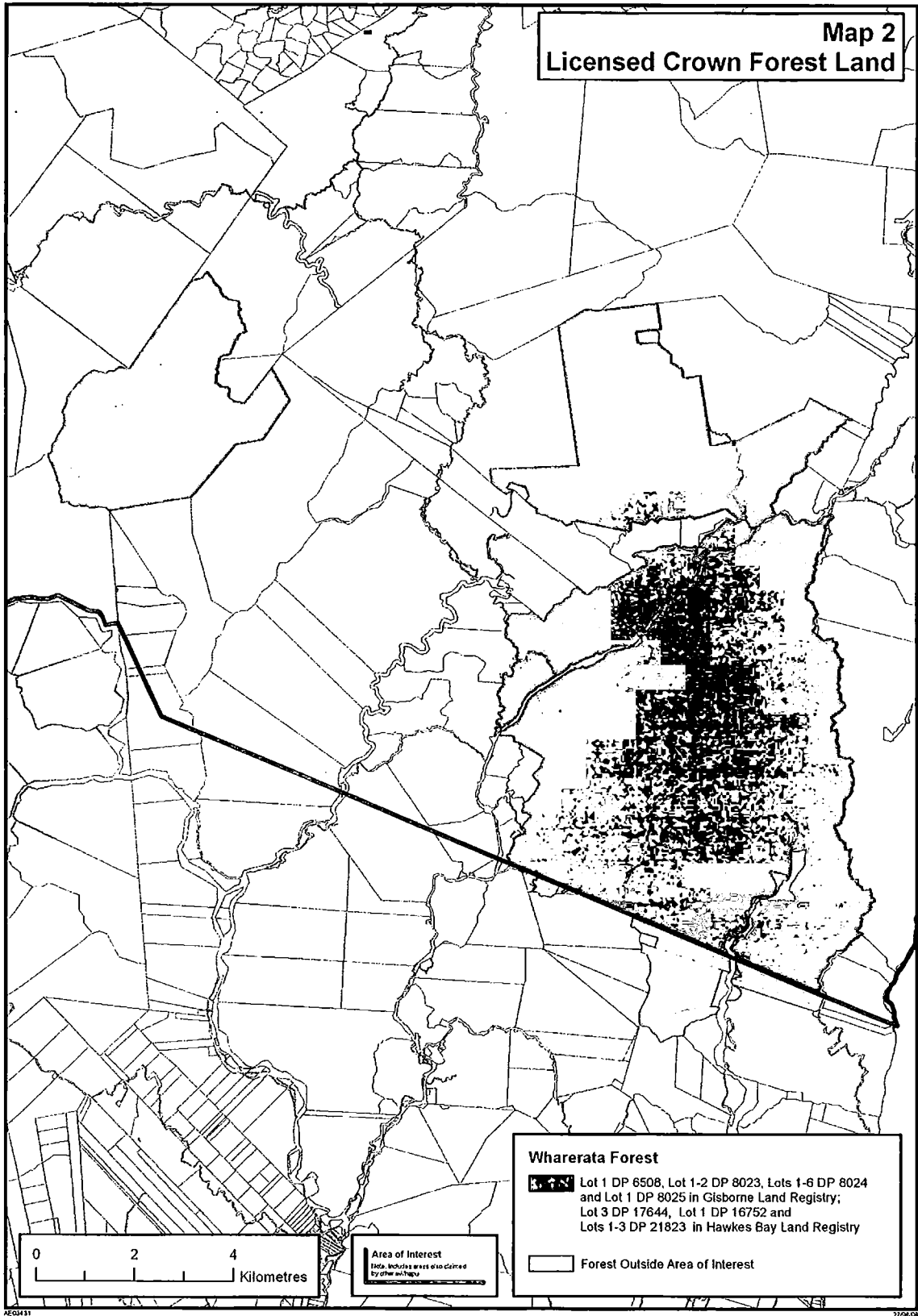
Table 5 – Gifted Landbank Properties

Map Ref	Property	Legal Description (All properties held within the Gisborne Land District)
41	79 Birrell Street	0.0544 ha, more or less, being Lot 3 DP 7625.
42	77 Birrell Street	0.0538 ha, more or less, being Lot 4 DP 7625.
43	Cnr Kahutia/Bright Streets	0.1011 ha, more or less, being Lot 100 DP 1357.
44	Fraser Street	0.1466 ha, more or less, being Section 1 SO 8793.
45	Childers Road	0.0596 ha, more or less, being Lots 2 and 3 DP 3658.

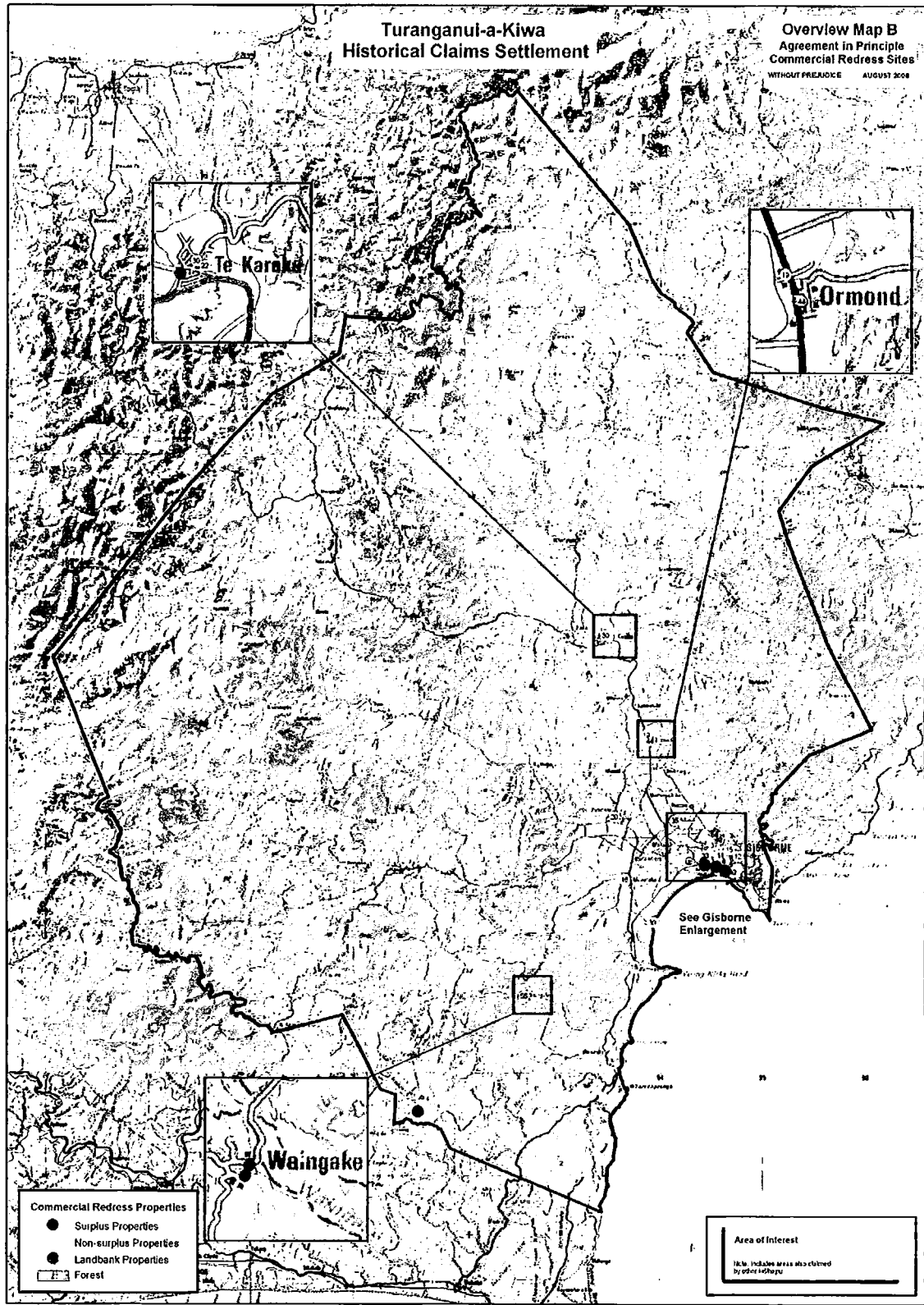
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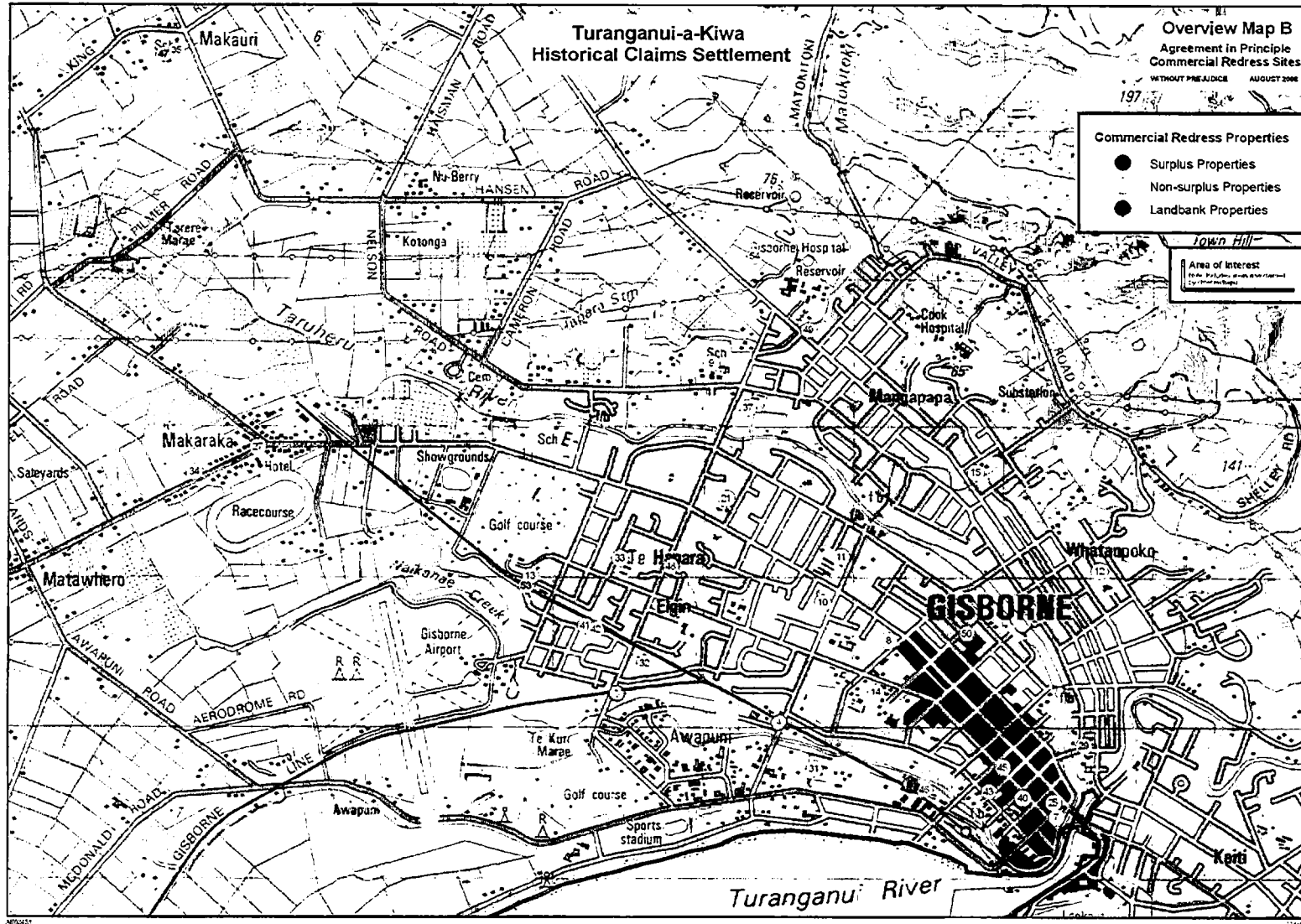
Map Ref	Property	Legal Description (All properties held within the Gisborne Land District)
46	Grey Street	1.3507 ha, more or less, being Section 1 SO 380383.
47	Tucker Road	3.0120 ha, more or less, being Section 1 SO 8789.
48	168 Lytton Road	0.1507 ha, more or less, being Lot 18 DP 4785.
49	393 - 401 Ormond Road	0.5107 ha, more or less, being Lots 2, 3, 4, 5, 6, 7 and 8 DP 7372.
50	32 Disraeli Street	0.0374 ha, more or less, being Lot 2 DP 2501.
51	Otoko School Road	2.4715 ha, more or less, being Lot 7 DP 2306, Lot 1 DP 9501 and Section 13 Block IV Ngatapa Survey District.
52	Rangatira Road	0.2440 ha, more or less, being Lot 2 DP 8103.
53	Cochrane Street	0.7255 ha, more or less, being Lot 1 DP 8142.
54	Back Ormond Road	10.5100 ha, more or less, being Lot 1 DP 9609.
55	1858 Waingake Road	0.7528 ha, more or less, being Pt Lot 2 DP 2280.
56	1861 Waingake Road	0.1012 ha, more or less, being Lot 1 DP 4253.





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Memorandum of Understanding

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MEMORANDUM		BELL GULLY	
TO OF	Lij Anderson Office of Treaty Settlements	FROM PARTNER	Damian Stone Chris Gordon
COPY TO OF	Tavake Barron Afeaki Barrister		
MATTER NO.	01-265-7893		
DATE	29 July 2008		
Joint Memorandum of Counsel - Wharerata Forest			
1. We advise that:			
(a) Bell Gully are instructed by the Ngāi Tamanuhiri Whānui Trust; and			
(b) Tavake Barron Afeaki is instructed by Ngāti Raakaipaaka via Te Iwi o Rakaipaaka Incorporated.			
2. We confirm that we have been instructed by our respective clients to advise on matters relating to the Crown forest known as Wharerata (the Wharerata Forest), particularly in relation to the treatment of the Wharerata Forest in the context of the current Treaty of Waitangi settlement negotiations between the Crown and various Tūrangāui-a-Kiwa claimants (the Tūrangā Negotiations).			
3. Our clients have agreed:			
(a) to enter into discussions aimed at agreeing or determining their respective mana whenua interests in the Wharerata Forest; and			
(b) to certain key principles regarding the purposes of those discussions and the processes that will be followed to agree or determine their respective mana whenua interests in the Wharerata Forest.			
4. We have received instructions by our respective clients to draft an accord (an Accord) to be entered into between Ngāi Tamanuhiri and Ngāti Raakaipaaka. The Accord will, among other matters, record the processes (including timeframes) that are agreed between our respective clients for agreement on, or determination of, their respective interests in the Wharerata Forest. The Accord will be based on the key principles that have been agreed between our respective clients.			
5. Our clients are aware of the mana whenua determination processes that have been agreed as part of the recent Deed of Settlement between the Crown and those CNI iwi with interests in the CNI Crown forest licensed lands (the CNI Deed of Settlement). It is anticipated that the processes used in the CNI Deed of Settlement will form the basis of the processes that will be set out in the Accord, with such amendments as are required to reflect the different circumstances that apply to the Wharerata Forest compared to the CNI Crown forest licensed lands.			
6. Te Tira Whakaemi o Te Wairoa (Te Tira) of which Te Iwi o Rakaipaaka Incorporated is a member, has agreed that Te Tira's constituent members should take the lead in addressing any overlapping issues impacting on their respective rohe. With that in mind, Te Tira agreed that the Te Iwi o Rakaipaaka Incorporated mandated representatives progress such matters			
WWW.BELLGULLY.COM 000 RMF#203163	AUCKLAND VEO CENTRE, 48 SHORTLAND STREET PO BOX 4108, AUCKLAND 1140. DX CP20099, NEW ZEALAND TEL 64 9 218 8400. FAX 64 9 218 8100	WELLINGTON HQ YORK/171 FEATHERSTON STREET PO BOX 1284, WELLINGTON 6140. DX 6X11164, HRV ZEALAND TEL 64 4 916 9500 FAX 64 4 916 4810	

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PAGE 03/03

LILANORAH
29 JULY 2008

BELL GULLY

with Ngai Tamanuhiri, and Te Tira members have been briefed on the outcome of discussions so far.

7. The Ngai Tamanuhiri Whānui Trust confirms that no other claimant group that forms part of the Tūrangānui-a-Kiwa collective negotiation body that is currently in Treaty settlement negotiations with the Crown has claimed overlapping interests in the Whānareta Forest.
8. We confirm that we are currently preparing a first draft of an Accord on behalf of our clients.

Signed:

Damian Stone
Bell Gully



Taveke Barron Afeaki
Barrister

Attachment 6

Valuation Process – Licensed Crown Forest Land

Definitions and interpretation

1 In this valuation process, unless the context otherwise requires:

Claimant's Valuer means any Registered Valuer appointed by the Claimant under paragraph 3 to take part in this valuation process set out in this Schedule;

Arbitration Commencement Date means the date the Crown makes the referral referred to in paragraph 12;

Arbitrator means a person appointed under paragraph 5;

Business Day means the period of 9am to 5pm on any day other than:

- a. Saturday, Sunday, Good Friday, Easter Monday, Anzac Day, the Sovereign's Birthday, Labour Day, and Waitangi Day;
- b. a day in the period commencing with 25 December in any year and ending with the close of 15 January in the following year; and
- c. the days observed as the anniversaries of the provinces of Wellington and Auckland.

Crown Forest Land means the Licensed Crown forest land to which this valuation process applies;

Crown's Valuer means any Registered Valuer appointed by the Crown under paragraph 3 to take part in the process set out in this valuation process;

Market Value is the amount, exclusive of GST, for which the Crown Forest Land might be expected to exchange on the Valuation Date, between a willing buyer and a willing seller, in an arms' length transaction, after proper marketing, wherein the parties had each acted knowledgeably, prudently and without compulsion.

Registered Valuer means a valuer registered with the Valuers Registration Board of New Zealand and with experience in the valuation of commercial forest land in New Zealand;

Transfer Value means the amount determined by this valuation process;

Valuation Commencement Date means the date by which both valuers have been appointed under paragraph 3;

Valuation Date means means the business day being the expiration of a period of 135 business days commencing on the Valuation Commencement Date; and

Valuation Exchange Date means the next Business Day after the date of expiration of the period of 135 Business Days commencing on the Valuation Commencement Date; and

Valuation Reports means the valuation reports prepared for the Crown and the Claimant in accordance with this valuation process.

Preliminary steps: disclosure, appointment of valuers and arbitrator

- 2 The Crown will within 40 Business Days of the date when this valuation process is agreed give the Claimant all material information that relates to the Crown Forest Land, of which Land Information New Zealand is aware including all information able to be obtained by the Crown under the provisions of the licence, having inspected its records but not having undertaken a physical inspection of the Crown Forest Land or made enquiries beyond Land Information New Zealand records.
- 3 No later than the next Business Day after the date of expiration of the period of 60 Business Days commencing on the date when this valuation process is agreed the Crown and the Claimant shall each:
 - d. appoint a Registered Valuer and instruct him or her to assess the Market Value of the Crown Forest Land, in accordance with this valuation process; and
 - e. give notice to the other of the identity of the Registered Valuer.
- 4 The Crown and the Claimant shall ensure that the terms of appointment of their respective Valuers require them to participate in the process set out in this valuation process in accordance with the terms of this valuation process.
5. The Crown and the Claimant shall attempt to agree and appoint a person who is suitably qualified and experienced in determining disputes about values of assets similar to the Crown Forest Land no later than the next Business Day after the date of expiration of the period of 35 Business Days commencing on the date when this valuation process is agreed. If no agreement and appointment has been made by that date, the Crown shall within 5 Business Days request that the President of the New Zealand Institute of Valuers make such an appointment.
- 6 An appointment under paragraph 5 is made once the appointee has confirmed that he or she shall conduct an arbitration, if requested by the Crown, in accordance with this valuation process.

Agreement on inputs to valuation assessments

- 7 Both Valuers must undertake a joint inspection of the Redress Licensed Land in sufficient time to enable compliance with paragraph 8.
- 8 The Crown and the Claimant are resolved to minimise the points of difference between their respective Valuers' final reports by requiring them to compare and agree on base parameters and input assumptions within 30 Business Days of the Valuation Date. The Crown and the Claimant will agree on the base parameters for inclusion in a joint instruction to Valuers.

- 9 Both valuers will take into account the protective covenant No. 2 (soil and water covenant, to assist in the control of soil erosion and flooding) contained in CIR GS6A/16 along with other relevant factors in determining future land use potential (or lack thereof) and the potential that this forest may have a limited number of rotations.
- 10 Should the Crown's Valuer and the Claimant's Valuer be unable to agree on specified base parameters and input assumptions, the Crown and the Claimant will request the Arbitrator to examine each Valuer's evidence on the points of disagreement and provide a ruling to which the Principals' respective valuers will be bound.

Exchange of valuation reports

- 10 Both the Crown's Valuer and the Claimant's Valuer shall prepare a Valuation Report which includes their respective assessments of Market Value and each party shall deliver a copy of its Valuation Report to the other party no later than the Valuation Exchange Date.
- 11 If one party (*Defaulting Party*) fails to deliver its Valuation Report to the other party (who has provided a Valuation Report to the Defaulting Party within the prescribed time) by the Valuation Exchange Date, then the assessment of the Market Value contained in the Valuation Report provided by that other party will be the Transfer Value.

Negotiations to agree market values

- 12 Following the Valuation Exchange Date the Crown and the Claimant shall attempt to agree to the Market Value. Where agreement is reached both Parties shall sign a statement identifying the amount which the parties have agreed is the Market Value.
- 13 The amount agreed as the Market Value shall be the Transfer Value for the Crown Forest Land.
- 14 Where agreement is not reached under paragraph 10 by the next Business Day after the date of expiration of the period of 30 Business Days commencing on the Valuation Exchange Date, the determination of the Transfer Value for the Crown Forest Land shall be referred to the Arbitrator in accordance with paragraph 12.

Determination of disputed values

- 15 Within 2 Business Days of paragraph 11 applying, the Crown shall refer the dispute to the Arbitrator.
- 16 The Arbitrator shall promptly give notice of a meeting to be attended by the Crown and the Claimant and their respective Registered Valuers, at a venue and time to be decided by the Arbitrator after consultation with the parties and having regard to their obligation under paragraph 14 but not later than the next Business Day after the date of expiration of the period of 30 Business Days commencing on the Arbitration Commencement Date.

- 17 The Crown and the Claimant shall by no later than 5.00 pm on the day which is 5 Business Days prior to the date of the meeting give to the Arbitrator (and to each other), the Crown's Valuation Report, the Claimant's Valuation Report and any submission or expert evidence based on that information which the Crown or the Claimant intend to present at the meeting.
- 18 At the meeting, the Arbitrator shall establish a procedure and give each party to the arbitration the right to examine, cross examine and re-examine the Registered Valuers and other experts appointed by the parties in relation to the information provided to the Arbitrator and otherwise have regard to the requirements of natural justice in the conduct of the meeting.
- 19 The Arbitrator shall hold the meeting and give his or her determination of the Market Value no later than the next Business Day after the date of expiration of the period of 45 Business Days commencing on the Arbitration Commencement Date. That determination shall be no higher than the higher, and no lower than the lower, of the assessment of Market Value contained in the Crown's Valuation Report and in the Claimant's Valuation Report.
- 20 The Transfer Value for the Crown Forest Land shall be the Arbitrator's determination of the Market Value.
- 21 The determination of the Arbitrator shall be final and binding on the Crown and the Claimant.

General provisions

- 22 The Crown and the Claimant shall each bear their own costs in connection with the processes set out in this valuation process. The costs of the Arbitrator and the costs of the hire of a venue for the meeting referred to in paragraph 13 shall be borne by the Crown and the Claimant equally. However, in appropriate cases, the Arbitrator may award costs against the Crown or the Claimant where the Arbitrator considers that it would be just to do so on account of unreasonable conduct.
- 23 The Crown and the Claimant each acknowledge that they are required to use reasonable endeavours to ensure the processes set out in this valuation process operate in the manner, and within the timeframes, specified in this valuation process.
- 24 If the processes set out in this valuation process are delayed through any event (such as the death or incapacity or unwillingness or inability to act of any Registered Valuer or the Arbitrator), the Crown and the Claimant shall use reasonable endeavours and co-operate with each other to minimise the delay.

Instructions to Valuers for Licensed Crown Forest Land

1. The Agreement in Principle for the Settlement of [] (the "AIP") provides the opportunity for the claimants to acquire the licensor's interest in the Crown Forest Land that is subject to the [] Crown forestry licence (the "Crown Forest Land").
2. The valuation of the licensor's interest in the Crown Forest Land is to be undertaken in the context of the AIP and [].
3. The licensor's interest is the interest as proprietor of that land and is to be assessed on the basis that the Crown Forest Land will transfer as a result of a deemed recommendation from the Waitangi Tribunal and that the restrictions of the Crown Forest Assets Act 1989 such as prohibition on sale no longer apply (i.e the licensor is assumed to be the claimants, not the Crown, for the purpose of the valuation).
4. The principals, being the Crown (acting through Land Information New Zealand in respect to valuations) and the claimant, wish to obtain market valuations for specified part of the Crown Forest Land available for selection.

Requirements

5. The principals have agreed the following requirements for these valuations:
 - a Any transfer of the Crown Forest Land to the claimants would be deemed to be the result of a recommendation from the Waitangi Tribunal under section 8HB of the Treaty of Waitangi Act 1975. This would trigger the relevant sections of Part II of the Crown forestry licences.
 - b The Crown forest land is to be valued as though:
 - i. that part will transfer subject to the Crown forestry licence; and
 - ii. the termination period of the licence will begin on 30 September following the giving of the termination notice (assumed to be 30 September 2010); and
 - iii. the provisions of Section 14.3 and Part IIC (Section 17) of the licence will apply to the land; and
 - iv. the Crown will be responsible for carrying out and completing the survey necessary to define the boundaries between the part selected and the balance of the licensed land; and
 - v. a computer freehold register has been issued for the part be valued and is subject to and together with the encumbrances identified in the disclosure data together with any subject and appurtenant easements arising from consultation under Section 17.4.1 of Part IIC of the Crown forestry licence.
6. Each valuer is required:

- c to provide a valuation report as at [] (the "Valuation Date");
 - d to provide the market value of the licensor's interest (as described in paragraph 5 below) clearly setting out how this was determined.
7. The value required is the market value being the amount, exclusive of GST, at which the licensor's interest in the Crown Forest Land might be expected to exchange, on the Valuation Date, between a willing buyer and a willing seller, in an arm's length transaction, after proper marketing, wherein the parties had each acted knowledgeably, prudently and without compulsion.
8. Both Valuers are to jointly, at times to be agreed between them and the licence holders:
- e inspect the properties; and
 - f inspect the sales information and its supporting evidence.
9. Before the valuation reports are prepared, both valuers are to agree on:
- g a list of comparable sales to be used in determining the value of the Crown Forest Land;
 - h the geographic extent and relevant matters concerning the licensor's interest in the Crown Forest Land; and
 - i the base information or inputs into a formula for assessing future rentals to take account of the return provisions in the Crown forestry licence.

Should the valuers not reach agreement on any issue, each valuer will advise his or her principal and the Principals will jointly instruct the arbitrator to rule on the disagreement.

10. Each valuation report provided by a valuer shall:
- j include an assessment of the market value as at the "Valuation Date", identifying the key issues affecting value, if any;
 - k meet the requirements of:
 - i. The Property Institute of New Zealand's Valuation Standards, including the minimum requirement set out in Section 5 of the "New Zealand Institute of Valuers Valuation Standard 1: Market Value Basis of Valuation"; and
 - ii. other relevant standards, insofar as those requirements are relevant;
 - l include an executive summary containing:
 - iii. a summary of the valuation along with key valuation parameters;
 - iv. a summary of key issues affecting value, if any;
 - v. the name of the valuer and his or her firm; and
 - vi. the signature of the valuer and lead valuer if applicable; and

- m attach appendices setting out:
 - vii. a statement of valuation policies;
 - viii. a statement of valuation methodology; and
 - ix. relevant market and sales information.

- 11. Each valuer must submit to his or her principal a draft valuation report prior to submission of the final reports, so that the principal can provide comment.
- 12. Each valuer will provide the final report to his or her principal once the draft has been reviewed and comments received.

Timing

- i Principals appoint respective valuers
- ii Valuers agree on specified issues (15 business days)
- iii Valuers submit draft reports to respective principals (55 Business Days incl arbitration if required)
- iv Principals provide comments to respective valuers (10 Business Days)
- v Valuers finalise reports and deliver to their respective principals (15 Business Days)
- vi The final reports are shared and negotiations by the Principals over valuation differences commence (96 Business Days from the appointment of the valuers)

Definition

- 13. In these valuation instructions, Business Day means the period of 9am to 5pm on any day other than:
 - n Saturday, Sunday, Good Friday, Easter Monday, Anzac Day, the Sovereign's Birthday, Labour Day, and Waitangi Day;
 - o a day in the period commencing with 25 December in any year and ending with the close of 15 January in the following year; and
 - p the days observed as the anniversaries of the provinces of Wellington and Auckland.

Attachment 7

Valuation Process – Deferred Selection Properties

High Value Properties i.e. those with an estimated value over \$300,000

- 104 The Crown and Tūranga Manu Whiriwhiri each commission a registered valuer (at their own cost);
2. Each party obtains a market valuation based on agreed instructions to valuers (as attached), which is then exchanged with the other party;
 3. If the valuations differ, the parties are required to enter into discussion, with the aim of agreeing a transfer value;
 4. If the parties are unable to reach an agreed transfer value, the parties will refer the matter to arbitration (process under the Arbitration Act 1996), which will be binding on both parties, for determination of fair market value; and
 5. Each party is responsible for their own costs, and half of the cost of any arbitration process.

Low value properties i.e. those with an estimated value less than \$300,000

6. The Crown and Tūranga Manu Whiriwhiri jointly commission a registered valuer;
7. The valuer is instructed to prepare a market valuation based on agreed instructions to valuers (as attached) which is binding on both parties; and
8. Each party is responsible for half the cost of the valuer.

General

9. All valuations will be based on:
 - a. instructions to valuers;
 - b. the due diligence information provided by the vendor agency;
 - c. the standard terms and conditions for transfer of commercial properties that will be attached to the Agreement in Principle;
 - d. all existing leases, licences and other encumbrances disclosed by the Crown;
 - e. all leases, licences, and other encumbrances proposed for the Deed of Settlement; and,
 - f. a practical valuation date agreed by the parties.

Form of Instructions to Valuers

Introduction

105 The Crown and Tūranga Manu Whiriwhiri are negotiating the settlement of Treaty of Waitangi and other claims of Tūranganui-a-Kiwa and may, as part of the settlement of those claims, have the opportunity to purchase certain properties from the Crown. The purpose of these valuations is to establish the value at which the properties would transfer from the Crown to Tūranganui-a-Kiwa.

10. [The Crown and Tūranga Manu Whiriwhiri are each instructing separate valuers to value the Properties.

11. The Crown and Tūranga Manu Whiriwhiri have agreed procedures to resolve differences between the valuations, where necessary.]²

Properties

12. The [Properties/Assets] are specified in the attached schedule. [A copy of the terms and conditions of the lease(s) which will be entered into on transfer of the [Property (ies)/Asset] is attached for each Valuer's consideration.

Requirements

13. The Crown and Tūranga Manu Whiriwhiri have agreed the following requirements for these valuations:

- a. The effective date of valuation is to be [](Valuation Date);
- b. The value required is the market value of the [Property/Asset] being the estimated amount, exclusive of GST, at which the [Property/Asset] should if being transferred, be transferred on the Valuation Date from a willing seller to a willing buyer in an arms length transaction, after proper marketing with each party to the transfer acting knowledgeably, prudently and without compulsion. The following should be taken into account:
 - i. any encumbrances or interests or other matters affecting or benefiting the [Property/Asset] as are noted on the [certificate of title for the Property/Asset] on the Valuation Date or as are disclosed in writing by the Crown, provided that the Valuer shall not take into account any claim by, or on behalf of, Tūranganui-a-Kiwa over that property. [In particular the Valuer should consider the value of the lease as an integral part of the valuation]; and
 - ii. the terms of transfer.

² For separate valuations only

- c. [Both Valuers are to inspect the [Property/Asset] on a day to be agreed between them and the vendor agency. The Valuers will attempt to resolve between them any matters arising from their inspections by the end of the following day.]²
- d. [Before the inspection of the [Property/Asset], both Valuers are to agree on:
 - i. The valuation method or methods applicable to the [property/asset]; and
 - ii. The applicable comparable sales to be used in determining the value of the property interest if relevant and comparable rentals]²
- e. Each Valuation Report provided by a Valuer shall:
 - i. include an assessment of the Market Value of the [Property/Asset] being valued as at the Valuation Date;
 - ii. meet the minimum requirement set out in Section 5 of the "New Zealand Institute of Valuers Valuation Standard 1: Market Value Basis of Valuation", and other relevant standards, insofar as they are relevant;
 - iii. include an executive summary containing:
 - 1. a summary of the valuation along with key valuation parameters;
 - 2. a summary of key issues affecting value, if any;
 - 3. the name of the Valuer and his or her firm; and
 - 4. the signature of the Valuer and lead Valuer (if applicable).
 - iv. include a property report based on the standard referred to in paragraph 5e(ii); and
 - v. attach appendices setting out:
 - 1. a statement of valuation methodology and policies; and
 - 2. relevant market and sales information.

14. The Valuer is to supply two copies of the Valuation Report.

Timing

15. Valuation reports are to be submitted to Clients no later than []