

NGĀTI MANUHIRI

and

THE CROWN

**DEED OF SETTLEMENT SCHEDULE:
PROPERTY REDRESS**

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1 DISCLOSURE INFORMATION AND WARRANTY

DISCLOSURE INFORMATION

- 1.1 The Crown has provided information to the governance entity about:
- 1.1.1 the cultural redress properties, by –
- (a) Land Information New Zealand on 30 June 2010 (Pākiri riverbed site); and
 - (b) the Department of Conservation on 25 February 2011 (in respect of all the other cultural redress properties excluding the Pākiri Domain Recreation Reserve site (which the Auckland Council is responsible for providing such information));
- 1.1.2 the commercial redress properties, by –
- (a) Land Information New Zealand on 30 April 2010 (South Mangawhai Forest);
 - (b) Ministry of Education on 24 November 2010 (Pākiri School); and
 - (c) Ministry of Justice on 30 April 2010 (Warkworth District Court).

WARRANTY

- 1.2 In this deed, unless the context otherwise requires, **disclosure information**, in relation to redress property, means the information given by the Crown about the property referred to in paragraph 1.1.
- 1.3 The Crown warrants to the governance entity that the Crown has given to the governance entity in its disclosure information about a redress property (other than the Pākiri Domain Recreation Reserve site) all the material information that, to the best of the land holding agency's knowledge, is in the agency's records about the property (including its encumbrances), at the date of providing that information, –
- 1.3.1 having inspected the agency's records; but
- 1.3.2 not having made enquiries beyond the agency's records; and
- 1.3.3 in particular, not having undertaken a physical inspection of the property.

PROPERTY REDRESS

1 DISCLOSURE INFORMATION AND WARRANTY

WARRANTY LIMITS

- 1.4 Other than under paragraph 1.3, the Crown does not give any representation or warranty, whether express or implied, and does not accept any responsibility, with respect to –
- 1.4.1 a redress property, including in relation to –
- (a) its state, condition, fitness for use, occupation, or management; or
 - (b) its compliance with –
 - (i) legislation, including bylaws; or
 - (ii) any enforcement or other notice, requisition, or proceedings; or
- 1.4.2 the disclosure information about a redress property, including in relation to its completeness or accuracy.
- 1.5 The Crown has no liability in relation to the state or condition of a redress property, except for any liability arising as a result of a breach of paragraph 1.3.
- 1.6 To avoid doubt, Ngāti Manuhiri acknowledges the Crown, in relation to Pākiri Domain Recreation Reserve site, -
- 1.6.1 has not given any information; and
- 1.6.2 does not –
- (a) give any representation or warranty, whether express or implied; or
 - (b) accept any responsibility or liability.

INSPECTION

- 1.7 Although the Crown is not giving any representation or warranty in relation to a redress property other than under paragraph 1.3, the governance entity acknowledges that it could, before the date of this deed, –
- 1.7.1 inspect the property and determine its state and condition; and
- 1.7.2 consider the disclosure information in relation to it.

2 VESTING OF CULTURAL REDRESS PROPERTIES

SAME MANAGEMENT REGIME AND CONDITION

- 2.1 Until the settlement date, the Crown must –
- 2.1.1 continue to manage and administer each cultural redress property in accordance with its existing practices for the property; and
 - 2.1.2 maintain each cultural redress property in substantially the same condition that it is in at the date of this deed.
- 2.2 Paragraph 2.1 does not –
- 2.2.1 apply to a cultural redress property that is not managed and administered by the Crown; or
 - 2.2.2 require the Crown to restore or repair a cultural redress property damaged by an event beyond the Crown's control.

ACCESS

- 2.3 The Crown is not required to enable access to a cultural redress property for the governance entity or members of Ngāti Manuhiri, except under paragraph 4.20.2.

COMPLETION OF REQUIRED DOCUMENTATION

- 2.4 Any documentation, required by the settlement documentation to be signed by the governance entity in relation to the vesting of a cultural redress property must, on or before the settlement date, be –
- 2.4.1 provided by the Crown to the governance entity; and
 - 2.4.2 duly signed and returned by the governance entity.

SURVEY AND REGISTRATION

- 2.5 The Crown must arrange, and pay for, –
- 2.5.1 the preparation, approval, and where applicable the deposit, of a cadastral survey dataset of a cultural redress property to the extent it is required to enable the issue, under the settlement legislation, of a computer freehold register for the property; and
 - 2.5.2 the registration of any document required in relation to the vesting under the settlement legislation of a cultural redress property in the governance entity.

2 VESTING OF CULTURAL REDRESS PROPERTIES

OBLIGATIONS AFTER SETTLEMENT DATE

- 2.6 The Crown must –
- 2.6.1 immediately after the settlement date, give the relevant territorial authority notice of the vesting of each cultural redress property; and
 - 2.6.2 if it receives after the settlement date a written notice in relation to a cultural redress property from the Crown, a territorial authority, or a tenant, –
 - (a) comply with it; or
 - (b) provide it to the governance entity or its solicitor; or
 - 2.6.3 pay any penalty, legitimately imposed on the governance entity, by the person providing the written notice, as a result of the Crown not complying with paragraph 2.6.2.

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3: COMMERCIAL REDRESS PROPERTIES

3 COMMERCIAL REDRESS PROPERTIES

Address	Description (all North Auckland Land District)	Encumbrances	Transfer value	Land holding agency
<i>Licensed land</i>				
South Mangawhai Forest	753.9881 hectares, more or less, being Lots 1, 2, 3, and 4 DP 138522.	Crown Forestry Licence under section 30 Crown Forests Assets Act 1989 registered as computer interest register 145275. Subject to telecommunications easement registered as computer interest register 139038. Subject to Part IVA Conservation Act 1987. Subject to protective covenants created by C646751.1. Subject to a public access easement created by C646751.2.	\$5,700,000	Land Information NZ
<i>Other commercial redress properties</i>				
Warkworth District Court*	0.0868 hectares, more or less, being Lot 1 DP 167426. All computer freehold register NA101C/523.	Nil	\$600,000	Ministry of Justice
Pākiri School*	0.8094 hectares, more or less, being Part Allotment E46 Parish of Pākiri. All computer freehold register NA527/97 (Limited as to parcels).	Nil	\$201,600	Ministry of Education

* indicates the property is a leaseback property

4 TERMS OF TRANSFER FOR COMMERCIAL REDRESS PROPERTIES

APPLICATION OF THIS PART

- 4.1 This part applies to the transfer by the Crown to the governance entity of each commercial redress property (a **transfer property**) under clause 6.2.

TRANSFER

- 4.2 The Crown must transfer the fee simple estate in a transfer property to the governance entity –

4.2.1 subject to, and where applicable with the benefit of, –

- (a) the disclosed encumbrances affecting or benefiting the property (as they may be varied by a non-material variation, or a material variation entered into under paragraph 4.19.4(a)); and
- (b) any additional encumbrances affecting or benefiting the property entered into by the Crown under paragraph 4.19.4(b); and
- (c) any encumbrances in relation to that property that the governance entity is required to provide to the Crown on or by the settlement date under clause 6.3.2.

4.2.2 if the property is a leaseback property, subject to the Crown leaseback in relation to the property.

- 4.3 The Crown must pay any survey and registration costs required to transfer the fee simple estate in a transfer property to the governance entity.

POSSESSION

- 4.4 Possession of a transfer property must, on the settlement date for the property, –

4.4.1 be given by the Crown; and

4.4.2 taken by the governance entity; and

4.4.3 be vacant possession subject only to –

- (a) any encumbrances referred to in paragraph 4.2.1 that prevent vacant possession being given and taken; and
- (b) if the property is a leaseback property, the Crown leaseback.

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4: TERMS OF TRANSFER FOR COMMERCIAL REDRESS PROPERTIES

SETTLEMENT

- 4.5 Subject to paragraphs 4.6 and 4.41.3, the Crown must provide the governance entity with the following in relation to a transfer property on the settlement date for that property:
- 4.5.1 evidence of –
- (a) a registrable transfer instrument; and
 - (b) any other registrable instrument required by this deed in relation to the property:
- 4.5.2 all contracts and other documents (but not public notices such as proclamations and Gazette notices) that create unregistered rights or obligations affecting the registered proprietor's interest in the property after the settlement date.
- 4.6 If the fee simple estate in the transfer property may be transferred to the governance entity electronically under the relevant legislation, –
- 4.6.1 paragraph 4.5.1 does not apply; and
- 4.6.2 the Crown must ensure its solicitor, –
- (a) a reasonable time before the settlement date for the property, –
 - (i) creates a Landonline workspace for the transfer to the governance entity of the fee simple estate in the property; and
 - (ii) prepares, certifies, signs, and pre-validates in the Landonline workspace the transfer instrument, and all other instruments necessary, to effect the transfer electronically (the **electronic transfer instruments**); and
 - (b) on the settlement date, releases the electronic transfer instruments so that the governance entity's solicitor may submit them for registration under the relevant legislation; and
- 4.6.3 the governance entity must ensure its solicitor, a reasonable time before the settlement date, certifies and signs the transfer instrument for the property prepared in the Landonline workspace under paragraph 4.6.2(a)(ii); and
- 4.6.4 paragraphs 4.6.2 and 4.6.3 are subject to paragraph 4.41.3.
- 4.7 The **relevant legislation** for the purposes of paragraph 4.6 is –
- 4.7.1 the Land Transfer Act 1952; and

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4: TERMS OF TRANSFER FOR COMMERCIAL REDRESS PROPERTIES

- 4.7.2 the Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002.
- 4.8 The Crown must, on the actual settlement date for a transfer property, provide the governance entity with any key or electronic opener to a gate or door on, and any security code to an alarm for, the property that are held by the Crown unless –
- 4.8.1 the property is a leaseback property; and
- 4.8.2 to provide it would be inconsistent with the Crown leaseback.
- 4.9 The transfer value of, or the amount payable by the governance entity for, a transfer property is not affected by –
- 4.9.1 a non-material variation, or a material variation entered into under paragraph 4.19.4(a), of a disclosed encumbrance affecting or benefiting the property; or
- 4.9.2 an additional encumbrance affecting or benefiting the property entered into by the Crown under paragraph 4.19.4(b).

APPORTIONMENT OF OUTGOINGS AND INCOMINGS

- 4.10 If, as at the actual settlement date for a transfer property, –
- 4.10.1 the outgoings for the property pre-paid by the Crown for any period after that date exceed the incomings received by the Crown for any period after that date, the governance entity must pay the amount of the excess to the Crown; or
- 4.10.2 the incomings for the property received by the Crown for any period after that date exceed the outgoings for the property pre-paid by the Crown for any period after that date, the Crown must pay the amount of the excess to the governance entity.
- 4.11 The outgoings for a transfer property for the purposes of paragraph 4.10 do not include insurance premiums and the governance entity is not required to take over from the Crown any contract of insurance in relation to the property.
- 4.12 The incomings for the licensed land for the purposes of paragraph 4.10 do not include licence fees under the Crown forestry licence.
- 4.13 An amount payable under paragraph 4.10 in relation to a transfer property must be paid on the actual settlement date for the property.
- 4.14 The Crown must, before the actual settlement date for a transfer property, provide the governance entity with a written statement calculating the amount payable by the governance entity or the Crown under paragraph 4.10.

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4: TERMS OF TRANSFER FOR COMMERCIAL REDRESS PROPERTIES

FIXTURES, FITTINGS, AND CHATTELS

- 4.15 The transfer of a transfer property includes all fixtures and fittings that were owned by the Crown, and located on the property, on the first date of the transfer period for that property.
- 4.16 Paragraph 4.15 does not apply to the Lessee's improvements located on a leaseback property.
- 4.17 Fixtures and fittings transferred under paragraph 4.15 must not be mortgaged or charged.
- 4.18 The transfer of a transfer property does not include chattels.

OBLIGATIONS AND RIGHTS DURING THE TRANSFER PERIOD

- 4.19 The Crown must during the transfer period for a transfer property, –
- 4.19.1 ensure the property is maintained in substantially the same condition, fair wear and tear excepted, as it was in at the first day of the period; and
- 4.19.2 pay the charges for electricity, gas, water, and other utilities that the Crown owes as owner of the property, except where those charges are payable by a tenant or occupier to the supplier; and
- 4.19.3 ensure the Crown's obligations under the Building Act 2004 are complied with in respect of any works carried out on the property during the period –
- (a) by the Crown; or
- (b) with the Crown's written authority; and
- 4.19.4 obtain the prior written consent of the governance entity before –
- (a) materially varying a disclosed encumbrance affecting or benefiting the property; or
- (b) entering into an encumbrance affecting or benefiting the property; or
- (c) procuring a consent, providing a waiver, or giving an approval, that materially affects the property, under the Resource Management Act 1991 or any other legislation; and
- 4.19.5 use reasonable endeavours to obtain permission for the governance entity to enter and inspect the property under paragraph 4.20.2 if the governance entity is prevented from doing so by the terms of an encumbrance referred to in paragraph 4.2,

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but, in the case of a leaseback property, this obligation is modified to the extent necessary to ensure it does not add to, or vary, the obligations of the Crown under the Crown leaseback as if it applied during the transfer period.

- 4.20 The governance entity, during the transfer period in relation to a transfer property, –
- 4.20.1 must not unreasonably withhold or delay any consent sought under paragraph 4.19 in relation to the property; and
 - 4.20.2 may enter and inspect the property on one occasion –
 - (a) after giving reasonable notice; and
 - (b) subject to the terms of the encumbrances referred to in paragraph 4.2; and
 - 4.20.3 must comply with all reasonable conditions imposed by the Crown in relation to entering and inspecting the property.

PRE-TRANSFER OBLIGATIONS AND RIGHTS IN RELATION TO LICENSED LAND

- 4.21 During the transfer period for the licensed land, the Crown –
- 4.21.1 must prudently manage the licensor's rights under the Crown forestry licence in relation to the licensed land; and
 - 4.21.2 in reviewing the licence fee under the Crown forestry licence –
 - (a) must ensure that, so far as reasonably practicable, the governance entity's interests as licensor after the settlement date are not prejudiced; and
 - (b) must not agree a licence fee for the licensed land that is less than any licence fee agreed to by the Crown for the balance of the land that is subject to the Crown forestry licence; and
 - 4.21.3 must provide the governance entity with all material information, and must have regard to the governance entity's written submissions, in relation to the performance of the Crown's obligations under paragraphs 4.21.1 and 4.21.2; and
 - 4.21.4 must, so far as is reasonably practicable, provide the information to the governance entity under paragraph 4.21.3 in sufficient time to enable it to make effective submissions on the performance of the Crown's obligations under paragraphs 4.21.1 and 4.21.2; but
 - 4.21.5 is not required to provide information to the governance entity under paragraph 4.21.3 if that would result in the Crown breaching a confidentiality obligation.

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4: TERMS OF TRANSFER FOR COMMERCIAL REDRESS PROPERTIES

OBLIGATIONS AFTER SETTLEMENT

- 4.22 The Crown must –
- 4.22.1 give the relevant territorial authority notice of the transfer of a transfer property immediately after the actual settlement date for the property; and
 - 4.22.2 if it receives a written notice in relation to a transfer property from the Crown, a territorial authority, or a tenant after the actual settlement date for the property, –
 - (a) comply with it; or
 - (b) provide it promptly to the governance entity or its solicitor; or
 - 4.22.3 pay any penalty incurred by the governance entity to the person providing the written notice as a result of the Crown not complying with paragraph 4.22.2.
- 4.23 The governance entity must, from the settlement date, comply with the licensor's obligations under the Crown forestry licence in relation to the licensed Crown forest land, including the obligation to –
- 4.23.1 repay any overpayment of licence fees by the licensee; and
 - 4.23.2 pay interest arising on or after the settlement date on that overpayment.

RISK AND INSURANCE

- 4.24 A transfer property is at the sole risk of –
- 4.24.1 the Crown, until the actual settlement date for the property; and
 - 4.24.2 the governance entity, from the actual settlement date for the property.

DAMAGE AND DESTRUCTION

- 4.25 Paragraphs 4.26 to 4.34 apply if, before the actual settlement date for a transfer property, –
- 4.25.1 the property is destroyed or damaged; and
 - 4.25.2 the destruction or damage has not been made good.
- 4.26 Paragraph 4.27 applies if the transfer property is –
- 4.26.1 a commercial redress property (other than licensed land); and
 - 4.26.2 as a result of the destruction or damage, the property is not tenable.

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4: TERMS OF TRANSFER FOR COMMERCIAL REDRESS PROPERTIES

- 4.27 Where this paragraph applies, –
- 4.27.1 the governance entity may cancel its transfer by written notice to the Crown;
or
 - 4.27.2 the Crown may cancel its transfer by written notice to the governance entity if the property is a leaseback property.
- 4.28 Notice under paragraph 4.27.1 must be given before the actual settlement date.
- 4.29 Paragraph 4.30 applies if the property is –
- 4.29.1 licensed land; or
 - 4.29.2 commercial redress property (other than licensed land) that –
 - (a) despite the destruction or damage, is tenatable; or
 - (b) as a result of the damage or destruction, is not tenatable but its transfer is not cancelled under paragraph 4.27 before the actual settlement date.
- 4.30 Where this paragraph applies –
- 4.30.1 the governance entity must complete the transfer of the property in accordance with this deed; and
 - 4.30.2 the Crown must pay the governance entity –
 - (a) the amount by which the value of the property has diminished, as at the actual settlement date for the property, as a result of the destruction or damage;
 - (b) plus GST if any.
- 4.31 The value of the property for the purposes of paragraph 4.30.2(a) is to be its transfer value as provided in part 3.
- 4.32 An amount paid by the Crown under paragraph 4.30.2 is redress, if it relates to the destruction or damage of a commercial redress property.
- 4.33 Each party may give the other notice –
- 4.33.1 requiring a dispute as to the application of paragraphs 4.26 to 4.32 be determined by an arbitrator appointed by the Arbitrators' and Mediators' Institute of New Zealand; and
 - 4.33.2 referring the dispute to the arbitrator so appointed for determination under the Arbitration Act 1996.

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4: TERMS OF TRANSFER FOR COMMERCIAL REDRESS PROPERTIES

- 4.34 If a dispute as to the application of paragraphs 4.26 to 4.32 is not determined by the settlement date, that date is to be –
- 4.34.1 the fifth business day following the determination of the dispute; or
 - 4.34.2 if an arbitrator appointed under paragraph 4.33 so determines, another date including the original settlement date.

BOUNDARIES AND TITLE

- 4.35 The Crown is not required to point out the boundaries of a transfer property.
- 4.36 If a transfer property is subject only to the encumbrances referred to in paragraph 4.2 and, if the property is a leaseback property, the Crown leaseback, the governance entity –
- 4.36.1 is to be treated as having accepted the Crown's title to the property as at the actual settlement date; and
 - 4.36.2 may not make any objections to, or requisitions on, it.
- 4.37 An error or omission in the description of a transfer property or its title does not annul its transfer.

FENCING

- 4.38 The Crown is not liable to pay for, or contribute towards, the erection or maintenance of a fence between a transfer property and any contiguous land of the Crown, unless the Crown requires the fence.
- 4.39 Paragraph 4.38 does not continue for the benefit of a purchaser from the Crown of land contiguous to a transfer property.
- 4.40 The Crown may require a fencing covenant to the effect of paragraphs 4.38 and 4.39 to be registered against the title to a transfer property.

DELAYED TRANSFER OF TITLE

- 4.41 The Crown covenants for the benefit of the governance entity that it will –
- 4.41.1 arrange for the creation of one computer freehold register for licensed land that is subject to a particular Crown forestry licence if that land –
 - (a) is not contained in one computer freehold register; or
 - (b) is contained in one computer freehold register but together with other land; and
 - 4.41.2 arrange for the creation of a computer freehold register for the land of a transfer property for land that –

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4: TERMS OF TRANSFER FOR COMMERCIAL REDRESS PROPERTIES

- (a) is not licensed land; and
 - (b) is not contained in a computer freehold register; or
 - (c) is contained in a computer freehold register or registers but together with other land; and
- 4.41.3 transfer (in accordance with paragraph 4.5 or 4.6, whichever is applicable) the fee simple estate in a transfer property to which paragraph 4.41.1 or 4.41.2 applies as soon as reasonably practicable after complying with that paragraph in relation to the property but not later than five years after the settlement date.
- 4.42 If paragraph 4.41.3 applies to a transfer property, and paragraph 4.6 is applicable, the governance entity must comply with its obligations under paragraph 4.6.3 by a date specified by written notice to the Crown.
- 4.43 The covenant given by the Crown under paragraph 4.41 has effect and is enforceable, despite:
- 4.43.1 being positive in effect; and
 - 4.43.2 there being no dominant tenement.
- 4.44 If paragraph 4.41 applies then, for the period from the actual settlement date until the date that the Crown transfers the fee simple estate in the transfer property to the governance entity –
- 4.44.1 the governance entity will be the beneficial owner of the property; and
 - 4.44.2 all obligations and rights will be performed and arise as if the fee simple estate had been transferred to the governance entity on the actual settlement date.

FURTHER ASSURANCES

- 4.45 Each party must, at the request of the other, sign and deliver any further documents or assurances, and do all acts and things, that the other may reasonably require to give full force and effect to this part.

NON-MERGER

- 4.46 On transfer of a transfer property to the governance entity –
- 4.46.1 the provisions of this part will not merge; and
 - 4.46.2 to the extent any provision of this part has not been fulfilled, it will remain in force.

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5: NOTICE IN RELATION TO REDRESS PROPERTIES

5 NOTICE IN RELATION TO REDRESS PROPERTIES

NOTICE

- 5.1 If this schedule requires the governance entity to give notice to the Crown in relation to or in connection with a redress property, the governance entity must give the notice in accordance with part 4 of the general matters schedule except the notice must be addressed to the land holding agency for the settlement property at its address or facsimile number provided –
- 5.1.1 in paragraph 5.2; or
- 5.1.2 if the land holding agency has given notice to the governance entity of a new address or facsimile number, in the most recent notice of a change of address or facsimile number.
- 5.2 Until any other address or facsimile number of a land holding agency is given by notice to the governance entity, the address of each land holding agency is as follows for the purposes of giving notice to that agency in accordance with this part.

Land holding agency	Address and facsimile number
Land Information New Zealand	160 Lambton Quay PO Box 5501 Wellington 6145 Fax: (04) 472 2244
Ministry of Justice	Level 3, Vogel Centre 19 Aitken Street SX10088 Wellington Fax: (04) 918 8800
Ministry of Education	45-47 Pipitea Street PO Box 1666 Thorndon Wellington 6011 Fax: (04) 463 8001

6 DEFINITIONS

6.1 In this schedule, unless the context otherwise requires, **party** means each of the governance entity and the Crown.

6.2 In this deed, unless the context otherwise requires, –

actual settlement date, in relation to a transfer property, means the date on which settlement of the property takes place; and

Crown leaseback means the lease to be entered into by the governance entity and the Crown under clause 6.4; and

disclosed encumbrance, in relation to a transfer property, means an encumbrance affecting or benefiting the property that is disclosed in the disclosure information about the property; and

disclosure information has the meaning given to it by paragraph 1.2; and

leaseback property means each leaseback commercial redress property referred to in clause 6.4; and

Lessee's improvements, in relation to a leaseback property, has the meaning given to "Lessee's Improvements" in the Crown leaseback for the property; and

licensee means the registered holder for the time being of a Crown forestry licence; and

licensor means the licensor for the time being of the Crown forestry licence; and

terms of transfer means the terms of transfer set out in part 4; and

transfer property has the meaning given to it by paragraph 4.1; and

transfer period means the period from the date of this deed to its actual settlement date.