NGĀTI WHĀTUA O KAIPARA

AND

THE CROWN

DEED OF SETTLEMENT OF HISTORICAL CLAIMS

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9 September 2011

WHAKAMOEMITI

Kia whai korōria tonu ki a Ihoa o ngā mano, tua-uriuri whaioio, ki tonu te rangi me te whenua i te nui o tōu korōria, kei te rangi tōu torōna, kei te whenua anō tōu tūranga waewae, ko mātou ēnei a koutou pononga e whakahoki atu nei tō mātou reo whakamoemiti, whakakorōria, whakahōnore ki mua i a koutou, mō ngā manaakitanga katoa i ū ki runga i a mātou, mai i ngā rā ki muri tae noa mai ki tēnei rā,

Nō reira Ihoa o ngā mano me ngā anahera pono, te mea ko koutou nei hoki te tīmatanga me te whakaotinga o ngā mea katoa, e tangi whakaiti nei mātou kia ū tonu mai o koutou manaakitanga ki runga i a mātou me te noho tūturu mai koutou ki waenganui i a mātou, hei ārahi, arataki mai ia mātou i roto i ngā mahi, me ngā whakamatautau a te tangata, a ngā mahi rānei o tēnei ao kikokiko, kia kore hoki e whai wāhi mai ki a mātou, ko koutou nei hoki, Ihoa, te mana me te mauri o ngā mea katoa, ko koutou nei hoki tō mātou piringa, tō mātou pākahā e tino tata ana i ngā wā katoa, ko tā mātou inoi atu rā ēnei Ihoa ki mua i a koutou i runga anō i te korōriatanga a te matua, te tama, te wairua tapu me ngā anahera pono, kia tūturu tūturu te hā o tōu wairua tapu ki runga ki a mātou me te whakauru atu mātou katoa ki roto anō i te herenga roa o tōu aroha noa, paihere hui huitia anō mātou ki tō koutou rangimariētanga i ngā wā katoa, ko te Mangai hei tautoko mai ake nei Āmine

Whaiā te Kotahitanga o te Wairua
He mea paihere ki te rangimariē

MIHI

Te Kāwai Hou o Ngāti Whātua o Kaipara

Me tīmata i te tihi o Te Atuanui, ko te maunga whakahii tēnei o Te Manawanui, te marae o Puatahi, ka huri ki te tonga ka kite au i te tihi o Taranaki, te maunga whakahii tēnei o Te Pā o Te Aroha, kei Araparera, tua atu i tēnei ko te toka kāmaka o Tuhirangi e tū māia ana i te mānia o Kākānui O Paneirā, ko te marae tēnei o Te Kia Ora, waho atu i tēna ka kite au a Tauwhare, te maunga whakahii tēnei o Whiti te Rā, te marae o Reweti, nā ka huri te titiro ki te Uru ka kite au i te maunga Tarawera, te maunga whakahii tēnei o Ngā Tai i tūria ki te Marowhara, te marae tēnei o Haranui, ko ngā maunga whakahii ēnei o ngā marae o Kaipara Moana

Ko ngā rārangi maunga tū tonu, tū tonu, tū tonu
Ko te rārangi tangata ngaro noa, ngaro noa, ngaro noa

Me mihi anō ki a rātou te hunga kua ngaro i te tirohanga kanohi, te hunga nā rātou i para te huarahi e taea e mātou ngā uri ki te whawhai mō ngā taonga iti me ngā taonga tapu i whakarere iho ki a tātou hei tiaki.

Kia mahara anō ki te hunga i hinga mai i te tīmatanga o tēnei kaupapa, rapunga kōrero o Kaipara, tae noa mai ki tēnei rā, e kore rātou e warewaretia, nā rātou te kerēme nei i parou, 'he mahi e tīmata ana he toto e maringi ana' nō reira ki a koutou te hunga kua whetū-rangitia haere koutou, haere ki te huinga o te kahurangi, ki te urunga ki te taka ki te moenga te whaka-ārahia nō reira moe mai koutou, moe mai i roto i ngā āriki, ko koutou te hunga wairua ki a koutou, ko mātou rā ēnei ngā Morehu waihotanga ake a rātou mā tēna koutou tēna koutou tēna tātou katoa

E Kaipara, marangatahi me te rā
He mahi mōu me tīmata

WAIATA TAUTOKO TE TĪMATA

Tīmatahia ki te tihi ō Te Atuanui te Maunga whakahii ō Te Manawanui,
te Marae tēnei o Puatahi e,

Ka huri te titiro ki te tihi o Taranaki, te Maunga kōrero o te Pā ō Te Aroha,
kei Araparera e,

Waho atu ko Tuhirangi te Maunga, te toka kāmaka o Kākānui ō Paneira,
Te Kia Ora te Marae, kei raro iho rā,

Waho atu ko Tauwhare te Maunga, e toha nei ki Te Tai Whakararo,
te Maunga kōrero ō Whiti te Rā,
te Marae tēnei o Reweti e.

Huri atu ki te Uru, ko Tarawera, te Maunga kōrerorero,
Ngā Tai i Turia ki Te Marowhara, te Marae tēnei o Haranui e.

(Tāne) Kaipara moana,
Kaipara moana e ngunguru, ngunguru, e ngunguru nei
Ko ngā rārangi Maunga, tū tonu, tū tonu, tū tonu e
Ko ngā rārangi tāngata ngaro noa, ngaro noa, ngaro atu rā.
Hei Ha!

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DEED OF SETTLEMENT

THIS DEED is made between

NGĀTI WHĀTUA O KAIPARA

AND

THE CROWN

PURPOSE OF THIS DEED

This deed –

- sets out an account of the acts and omissions of the Crown before 21 September 1992 that affected Ngāti Whātua o Kaipara and breached the Treaty of Waitangi and its principles; and
- provides an acknowledgement by the Crown of the Treaty breaches and an apology; and
- settles the historical claims of Ngāti Whātua o Kaipara; and
- specifies the cultural redress, and the financial and commercial redress, to be provided in this settlement to the trustees of each of the following trusts:
    - Ngā Maunga Whakahii o Kaipara Development Trust:
    - Ngā Maunga Whakahii o Kaipara Tari Pupuritaonga Trust; and
- provides for the return of 24 Commercial Road, Helensville, and the Ten Acre Block Recreation Reserve, that were part of the Ten Acre Block gifted in 1864 by Te Otene Kikokiko, of Te Tao Ū; and
- includes definitions of –
    - the historical claims; and
    - Ngāti Whātua o Kaipara; and
- sets out in a schedule the matters the parties have agreed the settlement legislation is to provide for; and
- provides for other relevant matters.

This deed is conditional upon settlement legislation coming into force.

1 BACKGROUND

NGĀTI WHĀTUA O KAIPARA

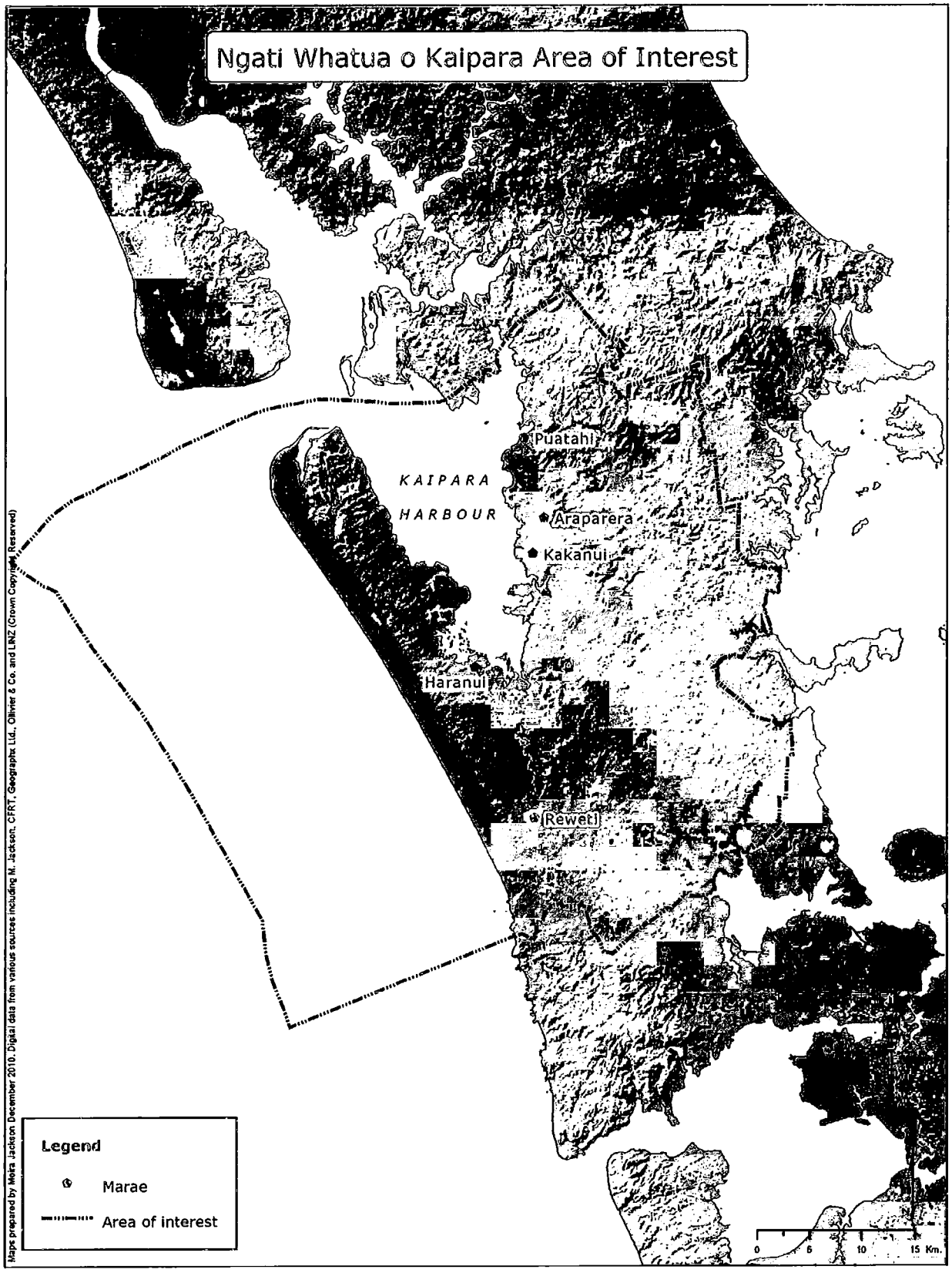
1.1 Ngāti Whātua o Kaipara is the name chosen by the hapū and whānau of the five marae of the south Kaipara (Reweti, Haranui, Kākānui, Araparera, and Puatahi) to prosecute their claims against the Crown in the Waitangi Tribunal. The term Ngāti Whātua o Kaipara is not traditional but has been adopted to avoid confusion between Ngāti Whātua in Orakei and Ngāti Whātua in south Kaipara. Within this context, Ngāti Whātua o Kaipara means not only Ngāti Whātua but also Te Tao Ū, Ngāti Rango, Ngāti Whātua Tūturu and the people of Puatahi who descend from Ngāti Hine and who occupy the land as a result of a tuku (gift) and intermarriage. It includes the hapū of the south Kaipara who were combined through conquest, marriage or common ancestral links and relationships into the Ngāti Whātua o Kaipara grouping that exists for the purposes of receiving and managing the settlement of their Treaty claims.

1.2 In this deed, the definition of Ngāti Whātua o Kaipara has been further developed to encompass all those who descend from Haumoewaarangi and who descend from a recognised ancestor of at least one of Ngāti Whātua Tūturu, Te Tao Ū, Ngāti Rango (sometimes referred to as Ngāti Rongo), Ngāti Hine, or Te Uri o Hau who exercised customary rights predominantly within the Ngāti Whātua o Kaipara area of interest.

NGĀTI WHĀTUA O KAIPARA AREA OF INTEREST

1.3 For the purposes of settlement the Ngāti Whātua o Kaipara area of interest is that depicted on the area of interest map in part 1 of the attachments. A map is included on the next page showing the location of the five marae of the south Kaipara within the approximate area of interest.

1: BACKGROUND



TREATY CLAIMS OF NGĀTI WHĀTUA O KAIPARA

1.4 After more than a century of protest the Treaty of Waitangi claims of Ngāti Whātua o Kaipara were focussed by involvement in the pivotal 1987 Lands Case (*New Zealand Maori Council v Attorney General* [1987] 1 NZLR 641). The Lands Case arose out of the State - Owned Enterprises Act 1986, and concerns that the transfer of Crown lands to State enterprises pursuant to that Act would result in such lands being unavailable for Treaty settlements. Both the late Sir Hugh Kawharu and Te Kahui-iti Morehu were among the deponents who provided affidavit evidence to the Court, with the claims to Woodhill Forest being used as an example of where transferring land to a State enterprise would be inconsistent with both the principles of the Treaty of Waitangi and section 9 of the State - Owned Enterprises Act 1986.

1.5 The Treaty of Waitangi claims of Ngāti Whātua o Kaipara include -

1.5.1 the comprehensive Wai 312 claim lodged on 8 September 1992 by Takutaimoana Wikiriwhi (Reweti Marae), Waata Richards (Haranui Marae), Gloria Timoti (Araparera Marae), Whero Nahi (Puatahi Marae) and Henare Komene (Kākānui Marae) on behalf of themselves and the whānau and hapū of the five marae of south Kaipara. Haahi Walker became the Araparera representative in 1994, and Gloria Timoti became the Kākānui representative in 1999. From August 1995 the claim was managed by Margaret Kawharu. The Wai 312 claim covered the loss of Ngāti Whātua lands in south Kaipara through old land claims, pre-emption waiver claims, Crown purchases, the operation of the Native Land Court, and public works takings. The claims also related to grievances associated with the gifting of a ten acre block at Te Awaroa (Helensville), the gifting of land for the Pitoitoi (Riverhead) to Te Awaroa railway, and the sand dune reclamation works at what later became Woodhill Forest; and

1.5.2 the Wai 279 claim lodged by Eriapa Uruamo on 3 April 1992 on behalf of himself and the descendants of Paora Kawharu and Aperahama Te Karu Uruamo. It concerned grievances about the alienation of land at Te Kēti and the wider Hiore Kata lands in south Kaipara, public works takings, and the Crown's failure to protect urupā and other wāhi tapu; and

1.5.3 the Wai 733 claim lodged on 1 August 1998 by the late Tauhia Hill on behalf of himself, the Otakanini Tōpū Māori Incorporation, and the interests of Ngāti Whātua Tūturu at Otakanini. Key issues in this claim included the alienation of land at Otakanini, the compulsory vesting of the Otakanini block in the Tokerau Māori Land Board, the leasing of Otakanini Tōpū land for commercial forestry, and the Crown's failure to provide effective representation for Māori in legislative and administrative bodies.

1.6 Other historical claims lodged in the Waitangi Tribunal that are expressly settled by this deed, so far as they relate to Ngāti Whātua o Kaipara or a representative entity, are identified in clause 11.1.3.

KAIPARA INQUIRY

1.7 In 1997 the Waitangi Tribunal decided to hear the south Kaipara claims of Ngāti Whātua in the second stage of its Kaipara district inquiry. Hearings commenced at Haranui Marae on 8 March 1999 and were completed in September 2001 with the hearing of closing submissions.

INITIAL CONTACT WITH THE OFFICE OF TREATY SETTLEMENTS AND MANDATE

1.8 Ngāti Whātua o Kaipara first formally met the Office of Treaty Settlements on 23 June 1999. Draft terms of negotiation were presented for discussion. Following this, Ngāti Whātua o Kaipara began to work towards entering into negotiations, focusing particularly on options for settlement, the development of a beneficiary roll, and mandate. In mid-2002 the Ngāti Whātua o Kaipara Claims Committee sought and were given advice from the Office of Treaty Settlements about how they could demonstrate their mandate from the people of Ngāti Whātua o Kaipara to negotiate the settlement of their historical Treaty of Waitangi claims.

1.9 On 24 August 2002, a hui-ā-iwi at Haranui Marae conferred a mandate on the five members of the Claims Committee to initiate negotiations with the Crown on behalf of all Ngāti Whātua in south Kaipara. They were Takutaimoana Wikiriwhi (Reweti Marae), Whero Nahi (Puatahi Marae), Gloria Timoti (Kākānui Marae), Haahi Walker (Te Aroha Pā, Araparera) and Waata Richards (Haranui Marae).

THE KAIPARA INTERIM REPORT

1.10 On 27 September 2002 the Waitangi Tribunal released the Kaipara Interim Report. It identified Wai 312 as a comprehensive claim on behalf of the Ngāti Whātua confederation of south Kaipara, and recommended that the Crown and the claimants enter into negotiations forthwith.

ATTEMPTS TO ENTER INTO NEGOTIATIONS

1.11 On 8 October 2002 Ngāti Whātua o Kaipara provided information about their mandate process to the Office of Treaty Settlements. Further details were provided on 4 June 2003, at which time Ngāti Whātua o Kaipara requested that the Crown commence negotiations. On 1 December 2003 the Office of Treaty Settlements invited Ngāti Whātua o Kaipara to work with it to further develop their mandate.

1.12 Between 11 March 2004 and 28 July 2005 the parties met and corresponded on the claimant definition, mandate, and whether or not other groups should be included within the Ngāti Whātua o Kaipara negotiations.

1.13 Notwithstanding these discussions, on 8 August 2005, the Minister in Charge of Treaty of Waitangi Negotiations, Mark Burton, wrote to Ngāti Whātua o Kaipara and Te Rūnanga o Ngāti Whātua seeking to discuss how the remaining claims of Ngāti Whātua might be settled. The Crown wished to conduct negotiations for as many claims and with as large a group as possible. In the course of further correspondence through to April 2006, Ngāti Whātua o Kaipara objected to this, preferring to negotiate Ngāti

Whātua claims in south Kaipara as originally proposed. The Crown continued to promote a single negotiation of Ngāti Whātua and other claims across a wider area than south Kaipara alone. Consequently, it did not recognise the mandate of Ngāti Whātua o Kaipara or continue mandate discussions until February 2008.

THE KAIPARA REPORT

1.14 On 14 January 2006 the Waitangi Tribunal released its full report into the Kaipara claims. It found that the claims of Ngāti Whātua o Kaipara were well founded, and that the Crown should proceed to negotiate a comprehensive settlement of Ngāti Whātua claims in the south Kaipara.

REMEDIES APPLICATION

1.15 In response to the Crown's preference for a single negotiation and consequent refusal to recognise the mandate of Ngāti Whātua o Kaipara, on 12 May 2006, Ngāti Whātua o Kaipara applied to the Waitangi Tribunal for an urgent remedies hearing. The application sought binding recommendations for the return of all Crown Forest and State enterprise land within the Kaipara claim area, including specifically the return of Woodhill Forest, together with accumulated rentals and compensation.

NEGOTIATIONS COMMENCE

1.16 The remedies application was never determined. Instead, on 8 February 2008 the Minister in Charge of Treaty of Waitangi Negotiations, Dr Michael Cullen, agreed to enter into separate negotiations with Ngāti Whātua o Kaipara in respect of the south Kaipara claims, and with Te Rūnanga o Ngāti Whātua in respect of any remaining Ngāti Whātua claims. The remedies application of Ngāti Whātua o Kaipara was then adjourned pending the outcome of negotiations.

TERMS OF NEGOTIATION

1.17 After a period of preliminary negotiations, terms of negotiation were signed by the Crown and the Ngāti Whātua o Kaipara Claim Committee on 5 June 2008. They set out the scope, objectives and general procedures for formal discussions between the Crown and the Ngāti Whātua o Kaipara Claim Committee in respect of the settlement of all Ngāti Whātua historical claims in south Kaipara.

1.18 The terms of negotiation provided that if an agreement in principle was reached, the Crown would transfer title to the land subject to the Woodhill Crown Forest Licence to Ngāti Whātua o Kaipara (subject to the resolution of overlapping claims).

NEGOTIATIONS TO AGREEMENT IN PRINCIPLE

1.19 The first negotiation meeting took place on 29 July 2008. Three further meetings took place before 4 November 2008, when the Crown suspended negotiations due to a lack of resources and an impending policy review. In the meantime, Whero Nahi, the mandated representative for Puatahi Marae, passed away in August 2008. Puatahi subsequently nominated Naida Glavish as their representative and Richard Nahi in support.

1.20 Negotiations recommenced on 4 August 2009 after Sir Douglas Graham presented a regional settlement proposal to claimants in the Kaipara, Tāmaki Makaurau and Hauraki regions. From then, intensive negotiations took place culminating in a draft Crown offer on 11 December 2009. Ngāti Whātua o Kaipara met with the Minister for Treaty of Waitangi Negotiations, Christopher Finlayson, and the Minister of Māori Affairs, Pita Sharpies, on 15 December 2009 to discuss and further negotiate the draft offer.

AGREEMENT IN PRINCIPLE

1.21 On 18 December 2009, the Crown made a formal offer to Ngāti Whātua o Kaipara. The Ngāti Whātua o Kaipara Claim Committee presented the Crown's offer to a hui-ā-iwi, held at Te Awaroa on 19 December 2009. The hui unanimously approved the offer, and Ngāti Whātua o Kaipara and the Crown signed the agreement in principle at Te Awaroa on 22 December 2009.

1.22 The agreement in principle outlined the scope and nature in principle of the settlement of all Ngāti Whātua historical claims in south Kaipara, and provided for redress in three broad categories –

1.22.1 historical account, Crown acknowledgement, and Crown apology; and

1.22.2 cultural redress; and

1.22.3 commercial and financial redress.

1.23 The agreement in principle did not address redress in respect of the Kaipara Harbour due to the number of parties with interests in the issue, the Auckland City reorganisation and the foreshore and seabed reforms. Instead, the agreement in principle provided that the Crown would enter into detailed discussions on the Kaipara Harbour with Ngāti Whātua o Kaipara from mid-2010, and noted the willingness of Ngāti Whātua o Kaipara to conclude a deed of settlement would be conditional on the satisfactory resolution of Kaipara Harbour discussions.

GOVERNANCE ENTITY

1.24 From early 2007 the Ngāti Whātua o Kaipara Claims Committee convened workshops to design a draft governance proposal. On 9 June 2007 a hui-ā-iwi was held at Puatahi Marae to provide an overview of the initial governance entity proposal and the consultation process that would follow.

1.25 From late June to early August 2007 the Committee sought feedback on their proposal at consultation hui at the five Ngāti Whātua marae of south Kaipara. This feedback, and feedback from the Crown, was incorporated into a comprehensive governance entity proposal.

1.26 In August 2008 a second series of consultation hui were held at Orakei, Araparera and Reweti Marae. Feedback from these hui was used to further refine the governance entity proposal.

1.27 On 6 June 2009 the finalised governance entity proposal was released at a hui-ā-iwi at Araparera Marae and provided to the Crown for comment. On 4 July 2009 a hui was held at Puatahi Marae to confirm the key elements of the proposal to go to a postal ballot.

1.28 On 4 August 2010, the Crown advised it was satisfied with the governance entity proposal and that the process put in place to ratify the governance entity proposal and confirm the Claim Committee's mandate was appropriate.

1.29 The governance entity structure comprises two trusts, Ngā Maunga Whakahii o Kaipara Development Trust (which will be responsible for administering the settlement and, through its subsidiaries, the commercial and social development of Ngāti Whātua o Kaipara) and Ngā Maunga Whakahii o Kaipara Tari Pupuritaonga Trust (which will hold culturally significant lands). Both trusts will have the same trustees.

1.30 From 15 October to 12 November 2010 a ratification process took place to seek approval for the governance entity proposal from the eligible members of Ngāti Whātua o Kaipara. This ratification process included a series of six hui and a ballot. The result was that 93.97 percent of Ngāti Whātua o Kaipara members that voted in the ballot chose to accept the governance entity proposal and, accordingly, to appoint the five mandated Claim Committee members (Takutaimoana Wikiriwhi, Naida Glavish, Gloria Timoti, Haahi Walker and Waata Richards) as initial trustees.

1.31 Subsequent to this process, nominations were called for the three remaining trustee positions with nominations due by 21 December 2010. Voting for the trustee elections commenced on 10 January 2011 and closed on 8 February 2011, and the process included an election hui held on 15 January 2011 to give voters the opportunity to meet the candidates. The three trustees elected through the trustee election process were Margaret Kawharu, Te Kahui-iti Morehu and Rhys Freeman.

1.32 On 4 April 2011 the eight initial trustees of each Ngā Maunga Whakahii o Kaipara trust held their inaugural meeting at which they executed the trust deeds thereby establishing the trusts and taking office as trustees. On 4 April 2011 the trustees also executed a deed of covenant agreeing, among other things, to be bound by the terms of this deed of settlement.

NEGOTIATIONS TO THIS DEED OF SETTLEMENT

1.33 From the beginning of 2010 to June 2011, Ngāti Whātua o Kaipara and the Crown negotiated intensively on the details to be included in the deed of settlement.

1.34 This deed does not provide redress in respect of the Kaipara Harbour.

1.35 Cultural redress in relation to Kaipara Harbour remains to be negotiated, as provided in clause 4.6.

RATIFICATION AND APPROVALS

1.36 The Crown and the trustees of the Development Trust, by a letter counter-signed by the trustees on 24 June 2011, agreed that this deed was suitable for presentation to Ngāti Whātua o Kaipara for ratification.

1.37 Ngāti Whātua o Kaipara confirm that -

1.37.1 they have conducted a ratification process for this deed consisting of, between 15 July 2011 and 27 August 2011, -

(a) 11 hui; and

(b) a postal ballot of eligible members of Ngāti Whātua o Kaipara; and

1.37.2 approval has been given by way of Special Resolution, made in accordance with the third schedule to Ngā Maunga Whakahii o Kaipara Development trust deed, to the trustees of the Development Trust entering this deed; and

1.37.3 approval has been given by way of Special Resolution, made in accordance with the third schedule to Ngā Maunga Whakahii o Kaipara Tari Pupuritaonga trust deed, to the trustees of the Tari Pupuritaonga Trust entering this deed.

1.38 Ngāti Whātua o Kaipara have, by a majority of 92.74%, ratified this deed and approved its signing on their behalf by the trustees of the Development Trust.

1.39 Each majority referred to in clauses 1.30 and 1.38 is of valid votes cast in a ballot by eligible members of Ngāti Whātua o Kaipara.

1.40 The Crown is satisfied –

1.40.1 with the ratification and approvals of Ngāti Whātua o Kaipara referred to in clauses 1.30 and 1.38; and

1.40.2 with the approvals given by the Special Resolutions referred to in clauses 1.37.2 and 1.37.3; and

1.40.3 it is appropriate for –

(a) the trustees of the Development Trust to receive -

(i) the cultural redress, including the redress in relation to Parakai Recreation Reserve, but not the other cultural redress properties; and

(ii) the financial and commercial redress; and

(iii) 24 Commercial Road, Helensville; and

(b) the trustees of the Tari Pupuritaonga Trust to receive the cultural redress properties, other than Parakai Recreation Reserve.

AGREEMENT

1.41 Therefore, the parties, the trustees of Ngā Maunga Whakahii o Kaipara Development Trust, and the trustees of Ngā Maunga Whakahii o Kaipara Tari Pupuritaonga Trust, –

1.41.1 in a spirit of co-operation and compromise, wish to enter, in good faith, into this deed settling the historical claims; and

1.41.2 agree and acknowledge as provided in this deed.

2 HISTORICAL ACCOUNT

2.1 This historical account describes the relationship between the Crown and Ngāti Whātua o Kaipara since 1840 and identifies significant Crown actions and omissions that have caused grievance to Ngāti Whātua o Kaipara over the generations. It provides the context for the Crown's acknowledgements of its historical Treaty breaches against Ngāti Whātua o Kaipara and for the Crown's apology to Ngāti Whātua o Kaipara.

INTRODUCTION

2.2 At 1840, the hapū of what is now termed Ngāti Whātua o Kaipara ("Ngāti Whātua"), namely Te Tao Ū, Ngāti Whātua Tūturu, Ngāti Rango, the people of Puatahi who are Ngāti Hine, and other related groups, occupied settlements and used resources throughout the Kaipara, Mahurangi and Tāmaki. With the exception of Ngāti Hine, whose presence developed as a result of a tuku (gift) of land following the battle of Te Ika a Ranganui (1825), these groups had gained rights in land through conquest and strategic intermarriage in the early decades of the eighteenth century.

2.3 During the disruptive inter-tribal conflicts of the 1820s, most Ngāti Whātua hapū temporarily relocated to hinterland areas, such as the Waitakere ranges, and further afield into the Waikato and to Waipoua. During the 1830s, many of those that had left returned to the Kaipara and settlements were re-established at places such as Mairetahi, Omokoiti, Otakanini, Ongarahu and Ruarangihaerere. Few Pākehā had settled in the Kaipara or Tāmaki by 1840. The arrival of the Crown in Tāmaki in 1840 presented an unprecedented opportunity for Ngāti Whātua to acquire European settlement in their rohe, and the trade and knowledge resident Pākehā could bring.

THE TREATY AND NGĀTI WHĀTUA

2.4 The relationship between Ngāti Whātua and the Crown was founded on the partnership created in 1840 through the signing of the Treaty of Waitangi, and the provision of land at Waitematā as the site for the colony's new capital.

2.5 Ngāti Whātua engagement with the Crown began shortly after the signing of the Treaty of Waitangi at Waitangi. In late February 1840, Governor William Hobson visited Tāmaki in the course of his search for a site for a new capital. In March, Hobson instructed Captain Symonds to secure the consent of Māori chiefs at Manukau and Kaipara to the Treaty of Waitangi. He was to ensure that the meaning of the Treaty was fully explained and understood by all who signed.

2.6 A meeting was held at Manukau, where concerns were raised by Māori as to the Crown's intentions. Symonds sought to dispel these doubts and, at a second meeting on 20 March 1840, the Ngāti Whātua paramount chief, Apihai Te Kawau, with Te Tinana and Te Reweti, signed a copy of the Māori text of the Treaty. Symonds reported that among the chiefs who signed, he found "the best disposition displayed towards Her Majesty's Government, but at the same time that their expectations are raised very high as to the immediate benefits which they are to derive from its establishment in their country".

2.7 The Ngāti Whātua rangatira, Paora Tuhaere, later stated "The meaning of that Treaty was to make Europeans and Māori as one people." This echoed Governor Hobson's

statement at Waitangi, "He iwi tahi tātou" ("We are now one people"). Both parties intended the Treaty to create a partnership – the union of two peoples under the protection of the Queen from which both would mutually benefit. The articles of the Treaty set out the rights and obligations that were to govern that partnership. Through them, Ngāti Whātua agreed to the establishment of a British system of law and government (kāwanatanga) and to uphold those laws and give their loyalty, support and assistance to the Crown. Ngāti Whātua also agreed to make land available for settlement by allowing their land to be subject to "pre-emption" (a Crown monopoly on the purchase of land which was intended to assist the Crown to develop the new economy).

2.8 The Crown, in return, promised it would protect the interests of Māori in the acquisition of land and the development of the colony generally. Ngāti Whātua would also receive all the rights and privileges of British subjects, and (in the Māori text) protection of chiefs' tino rangatiratanga over their lands, villages and treasures. Ngāti Whātua understood the governor would stand as their matua – their parent and guide – in their dealings with the new settlers, and in the framing and administration of new laws.

2.9 Some time not long after the Treaty was signed at Manukau, a delegation of chiefs led by Te Reweti of Ngāti Whātua visited Hobson in the Bay of Islands and offered land for him to settle on. A number of potential sites were explored by Crown officials and, in July 1840, it was decided to establish the capital on the shores of the Waitematā Harbour.

THE RELATIONSHIP BETWEEN NGĀTI WHĀTUA AND THE CROWN, 1840-1865

2.10 In the period 1840 to 1865 the Crown actively fostered its Treaty partnership with Ngāti Whātua. Crown officials had to work closely with leading chiefs while establishing the new colony. In the early years of Auckland, Ngāti Whātua rangatira, including Te Kawau, Te Reweti, Uruamo, Paora Tuhaere, Te Tinana, Tautari Whanganui, Paora Kawharu and Te Keene Tangaroa, moved regularly between their lands around Tāmaki and in the south Kaipara. Their support was required for the Crown to secure the land needed both for settlement and to help fund colonisation.

2.11 Ngāti Whātua provided resources and protection for the development of the new colony. In September 1840, Crown officials made arrangements with Ngāti Whātua for the transfer of approximately 3,000 acres of land at Tāmaki. One of the principal chiefs expressed fears that the Queen of England would take all their land from them, and that they would have none to live on. Crown officials reassured him, "that the Governor was come to see that neither Pakeha nor Mauris [sic] were wronged and that all he or his Officers promised them should be strictly performed". A deed was completed for the transfer in the following month. This made possible the establishment of the new colonial town and commercial port of Auckland, which for the next two decades was the capital of the colony.

2.12 Ngāti Whātua consider that the transaction was a tuku, a customary gifting, carried out with the intention of cementing their relationship with the Crown, and underpinned by broader concepts of reciprocity and ongoing mutual obligation. Ngāti Whātua also recall gifting a substantial amount of food to the Governor and the settlers. Crown officials had their own understanding of the transaction, informed by the concept of transfer of title to land under English law following payment of approximately £50 in coin and goods

amounting to approximately £250. Irrespective of their different understandings both parties recognised the transfer of land at Waitematā as one of the first practical expressions of the relationship established under the Treaty of Waitangi.

2.13 From the beginning of colonisation, Ngāti Whātua rangatira and Crown officials established highly personalised relationships. Ngāti Whātua welcomed successive governors to Auckland, and the governors personally affirmed the position of Ngāti Whātua as a significant, loyal and friendly tribe. Crown officials carefully cultivated their relationship with Ngāti Whātua through a policy of giving gifts and granting pensions. This was seen by both Māori and officials as fostering relationships. The governors and Ngāti Whātua chiefs often met, particularly at Government House, and wrote letters to one another on a range of subjects, including Crown intentions and the importance of Māori loyalty.

2.14 This personalised approach sat well with Ngāti Whātua as it provided the level of engagement and consultation they expected. Governor Grey stated in 1847, "as the chiefs have always a ready access to the Governor, and their representations are carefully heard and considered, they have practically a voice in the government, and of this they are well aware". Such engagement provided tangible evidence to Ngāti Whātua of the benefits to be accrued from supporting the Crown.

2.15 The Crown also implemented some practical measures to provide for Māori involvement in the execution and administration of the law in local districts. From 1840 the office of the Protector of Aborigines provided, with limited funding, a vehicle for communication between the Crown and Māori chiefs. It was replaced in 1846 by the Native Secretary's office. From 1846 Resident Magistrates were appointed by the Crown to work with "Native Assessors" to arbitrate disputes between Māori and Pākehā and administer justice and English law within their districts. The Ngāti Whātua rangatira Te Kawau, Te Tinana and Te Keene were appointed Native Assessors in 1852.

2.16 Between 1841 and 1842 the Crown and Ngāti Whātua negotiated further land transfers to provide more land for settlement around Auckland. Crown policy was to purchase land at a low price from Māori and on-sell it at high prices – colonisation being funded by the substantial difference between the amount the Crown paid to purchase Māori land and the amount it received when it on-sold it to settlers. Crown promises to provide settlement, ongoing assistance and benefits such as health services and schools, were integral in securing Ngāti Whātua co-operation with land transactions. In addition, Ngāti Whātua were told that the land they retained would increase in value. Crown agents repeatedly impressed on Māori that such benefits constituted the real payment for the land, rather than the nominal sums they received from the governor. In 1841 the British Government directed the governor to put 15-20% of the money the Crown realised from on-selling land into a "Land Fund" to be used to provide such assistance and benefits to Māori, although in practice much of the fund was used to pay for the office of the Protector of Aborigines.

2.17 For Ngāti Whātua, therefore, European settlement presented significant opportunities for trade and development, and the introduction of English law was welcomed. Assurances given by Crown officials, together with policies instituted to promote the interests of Ngāti Whātua and Māori generally, secured for the Crown the support and co-operation it needed. Education in particular was seen by Ngāti Whātua as a key means by which they could participate in, and benefit equally from, the new order. Promises of medical assistance were also important given the high rates of sickness and mortality that

affected Ngāti Whātua throughout the period. The Ngāti Whātua rangatira Wiremu Tipene later stressed the reciprocal relationships that Ngāti Whātua anticipated would develop over time with the Crown -

> *Let us go under the shadow of the Queen. Let us enter into a mutual covenant with the Pakeha. It is not that we shall derive any great benefit, but our children who come after us will. Let this covenant be made firm. The Governor has expressed the loving words of the Queen to the Native Chiefs of New Zealand. Let us also turn and adopt the laws of the Queen, that we may have but one shadow to protect both the Pakeha and the Māori – that the people of this Island may prosper.*

2.18 Ngāti Whātua consistently upheld their part of this covenant, supporting Crown officials in the establishment and maintenance of the "law of Queen Victoria", and remaining loyal to the Crown in times of war. Above all, Ngāti Whātua supported the promotion of European settlement by selling very large quantities of land to the Crown and private buyers between 1840 and 1900. This included much of present-day Auckland, and more than 340,000 acres of land in the southern Kaipara.

INVESTIGATION OF PRE-TREATY LAND TRANSACTIONS ("OLD LAND CLAIMS")

2.19 In 1840, the Crown promised Māori it would investigate alleged pre-Treaty purchases of Māori land by early European settlers and a commission was set up for that purpose.

2.20 Settlers made two of these claims in the south Kaipara. The first concerned land at Whakatīwai on the Kaukapakapa River. The Land Claims Commission found no evidence for the purchase alleged by the European claimant. The second transaction related to Tapukapuka at the head of Uruamo Creek on the upper Waitematā Harbour. Māori agreed that a transaction had taken place, but whether it constituted a sale was never investigated. In any event the Commission found the claimant had already received the maximum acreage allowed. The Commission did not recommend any land be awarded to either of the settler claims.

2.21 Despite this, Governor FitzRoy proceeded to overturn both decisions and award Crown land grants to the claimants. Whether Ngāti Whātua were made aware of the Tapukapuka award is unclear. It was only in 1854 that Ngāti Whātua became aware of the Whakatīwai grant and immediately protested. The Crown's chief land purchase commissioner, Donald McLean, commented in 1855 that "it is quite evident that the land was not fairly purchased from the Native owners".

2.22 After protest and discussion over several years, during which time the Crown was reluctant to return the Whakatīwai lands to Ngāti Whātua, Ngāti Whātua rights to the block were implicitly recognised in 1858 through the land being included in a Crown purchase.

PRE-EMPTION WAIVER PURCHASES

2.23 By 1843, the government of New Zealand was almost bankrupt. Land transactions stalled due to the Crown's limited financial resources and the high costs of establishing the colony. Ngāti Whātua and settlers, as well as chiefs from some other iwi, asked for

the right to transact land directly with one another. As a result between 1844 and 1845 the Crown waived pre-emption and allowed Māori to sell land directly to settlers. In setting aside pre-emption the Crown promised it would protect Māori interests in the following ways -

2.23.1 the Governor would consult the Protector of Aborigines for each transaction to ensure that Māori retained sufficient land; and

2.23.2 waiver transactions were not to include pā or urupā; and

2.23.3 maps based on surveys, and deeds of purchase, were to be prepared for all purchases and copies were to be supplied to the Crown.

2.24 The Crown also promised to reserve a tenth of the land purchased. Income from the tenths would be applied "to building schools and hospitals" and paying for teachers and medical attendants to assist Māori.

2.25 Secure in the knowledge of these promises, Ngāti Whātua entered into a large number of transactions with settlers for land in Auckland and the wider area, including the upper Waitematā. In a number of cases the Crown issued pre-emption waiver certificates allowing transactions to proceed even though they violated the rules, including the requirement for accurate surveys, that it had put in place to protect Māori interests.

2.26 In late 1845, a new governor, George Grey, stopped issuing pre-emption waiver certificates and decided to investigate previous waiver transactions to ensure that Māori had "fairly and freely" parted with their land. Before Crown grants could be issued, a Commissioner had to ascertain whether -

2.26.1 the purchases had been made from the correct owners of the land; and

2.26.2 the owners had voluntarily participated in the transaction; and

2.26.3 the purchasers had complied with the terms and conditions of the waiver proclamation.

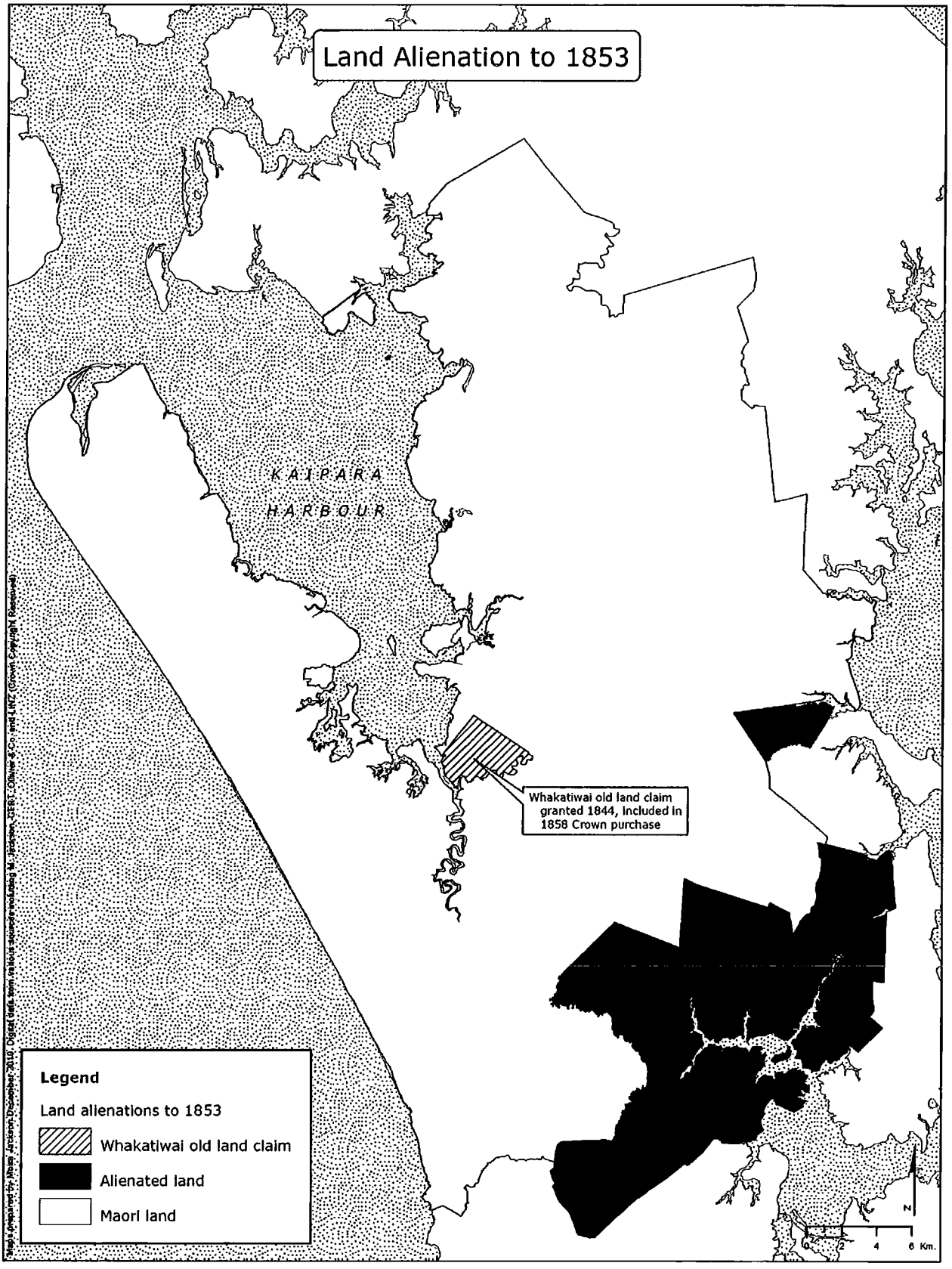
2.27 The Commissioner was not empowered to inquire into the nature of the transaction from a Māori perspective. Instead, as long as a transaction had taken place the Crown would treat it as a sale. It would then take any land not granted to settlers, regardless of whether or not the transaction complied with the pre-emption waiver ordinance. This was the Crown's "surplus lands" policy: where Māori stated before the Land Claims Commission that they had transferred land to a settler, customary title was deemed to have been extinguished regardless of the merits of the transaction. The Crown could then choose to issue a land grant to the settler or retain land for itself. Ngāti Whātua were not informed about the Crown's "surplus lands" policy, nor consulted about changes to the protective legal framework, and were in a poor position to contest transactions as a result.

2.28 The overall process resulted in substantial problems. There were delays in resolving ownership in some of the claims, a number of the claims overlapped, boundaries were sometimes unclear or unsurveyed, and Māori vendors sometimes continued to utilise

resources on the land after transactions had taken place. No reserves for Māori were established from within the areas transacted, even when reserves were identified on the pre-emption waiver certificate or plan.

2.29 The Crown also removed the requirement for "tenths" reserves to be set aside for the benefit of the Māori vendors. It was considered too inconvenient to calculate the "tenths". Instead, the Crown amended its policy to allow settlers to purchase the "tenths" for an additional fee. It did not set aside any of this additional money to provide educational, health or other benefits to Māori. The Crown retained any "tenths" not purchased by settlers.

2.30 By the time the pre-emption waiver purchase system was abandoned in 1845, much of the remaining Ngāti Whātua land in the central Auckland isthmus had been alienated, as had a large part of their lands in the upper Waitematā. Forty-two alleged purchases were made around the forested regions of Paremoremo, Pitoitoi (Riverhead) and Waiparera (Hobsonville). Twenty-six of the settler claims to the upper Waitemata were disallowed after investigation, mainly due to the failure of the purchaser to produce survey (rather than sketch) plans. Some of these claims were later revisited and awards made. Even where claims were disallowed, the land was deemed "surplus" and became Crown land. In total, approximately 6,000 acres of land were granted to settlers, while the Crown retained a "surplus" of around 24,000 acres. No land reverted to Māori.


Land Alienation to 1853
KAIPARA
HARBOUR
Whakatiwai old land claim granted 1844, included in 1858 Crown purchase
Legend
Land alienations to 1853
Whakatiwai old land claim
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CROWN PURCHASES, 1848-1868

2.31 Ngāti Whātua actively engaged with the opportunities presented by the arrival of the Crown and European settlement. Between 1848 and 1868 they used land sales to the Crown to encourage European settlement in the south Kaipara. Crown policy remained to purchase land for as low a rate as possible, on the principle that undeveloped land was worth little in itself, and that European settlement and development would increase the value of lands Māori did not sell. Crown officials who negotiated purchases with Ngāti Whātua continued to stress the benefits of European settlement, describing the establishment of towns, schools and hospitals, improved infrastructure such as roads, and an increase in wealth and prosperity through trade which would follow from land sales. In addition, lands purchased by the Crown were meant to be carefully and accurately defined, and government purchase agents were to ensure that ample reserves were to be set aside for Māori. By the early 1860s the encouragement of European settlement had become even more important, with many Ngāti Whātua having left Tāmaki and returned to live in the south Kaipara area at that time.

2.32 The initial phase of Crown purchases took place between 1848 and 1853 and focused on the upper Waitematā Harbour. Sixteen blocks were sold. Little of the land was surveyed at the time of purchase and few records remain, so the exact location and extent of the blocks is unclear. Some of the transactions overlapped with lands the Crown had already negotiated with other iwi or with transactions conducted under the pre-emption waiver regime. Together, lands alienated through pre-emption waiver sales and these Crown purchases totalled around 56,000 acres. No reserves were established for Māori and, as a result, Ngāti Whātua were left with no land in the upper Waitematā area.

2.33 The second phase of Crown purchasing occurred from 1854 to 1856. Ngāti Whātua rangatira, still keen to encourage European settlement, selected and sold five blocks of land totalling 30,049 acres, with a further 11,010 acres being sold in two separate transactions in 1858 and 1859. The pace and extent of sales picked up between 1860 and 1868, when a further 184,137 acres of land were purchased by the Crown in twenty-three transactions. Few disputes arose subsequent to the sales and most disputes that did arise were eventually resolved.

2.34 Although some reserves were created from these sales they were small in size and no effective mechanism was provided by the Crown to ensure that reserves were protected and remained in Māori control. The Crown purchased many of the reserves made in the course of these and later Crown purchases, even though some contained papakāinga, urupā, and wāhi tapu. The purchases virtually removed Ngāti Whātua interests in the land sweeping north from Riverhead to Oruawharo.

2.35 The few profits realised from the on-sale of Māori land were put into the "Land Fund" and did little to assist Māori. When Governor Grey arrived in 1845, "not a single hospital, school, or institution of any kind supported by the Government was in operation for the benefit of the natives." During Grey's first governorship a number of measures to assist Māori were begun, but these proved inadequate. Most of the available funding subsidised church-run schools. With the institution of self-government from 1852, an annual vote of £7,000 was established for Native purposes. The first Governor under the new Constitution, Thomas Gore Browne, questioned the level of expenditure set aside for Māori, believing that it should be increased to better reflect the contribution they made to Government income.

2.36 In 1856 Ngāti Whātua raised concerns about the profit the Crown was making from land sales to settlers and the limited benefits they were receiving in return. Paora Tuhaere testified to a Board of Inquiry -

> *The natives do not know what is done with the money. I have heard that it is spread out upon roads, and a part upon schools. The natives are suspicious, and say that this statement is only put forth in order to get the land at a cheap rate from the natives.*

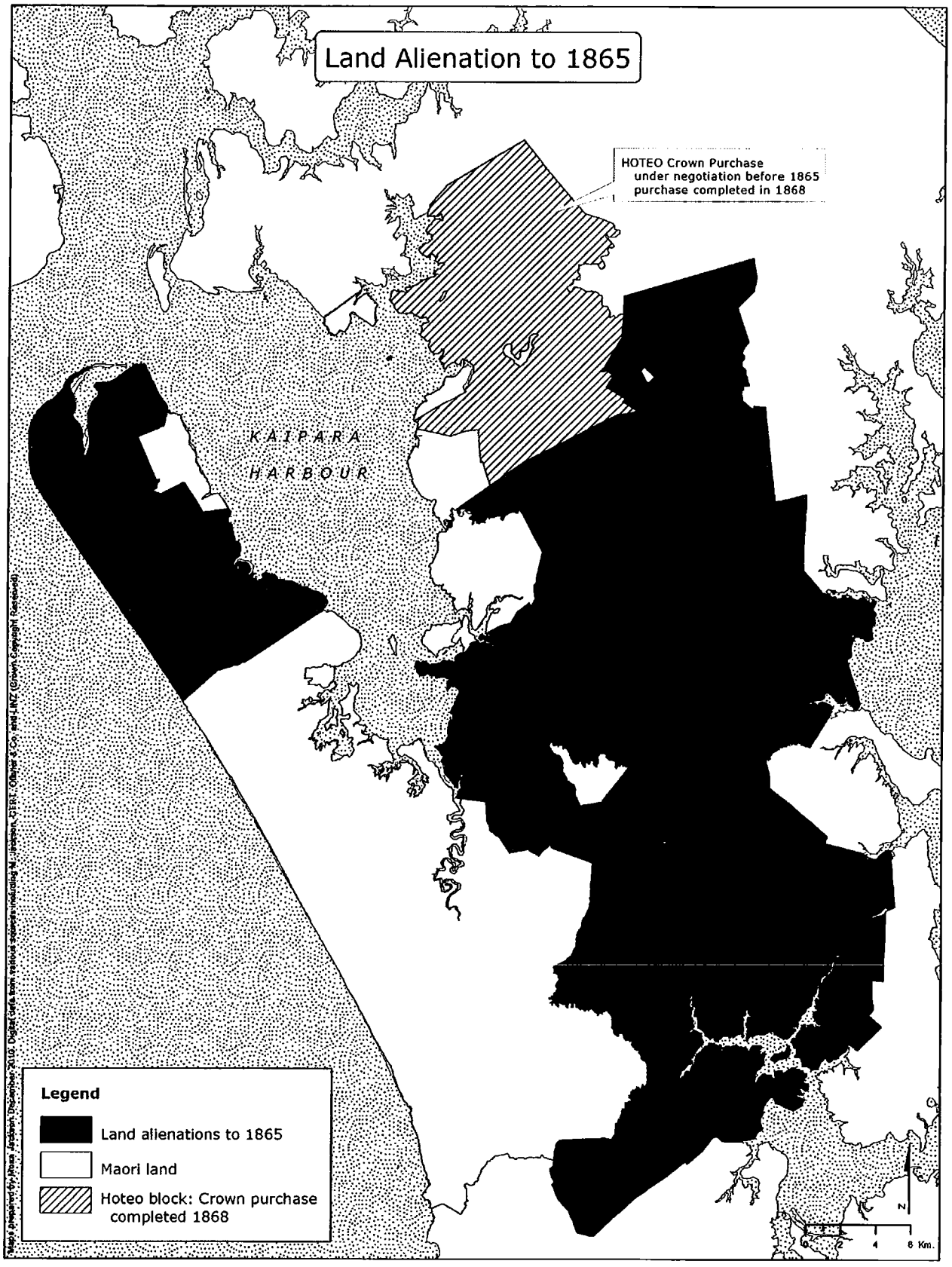
2.37 Ngāti Whātua expected prosperity would come with Pākehā settlement following land sales. By the late 1860s few of the benefits Ngāti Whātua might have expected in return for the sale of their land in south Kaipara had materialised. Timber milling operations were often the first form of settlement. Later, the kauri gum-industry provided them with an opportunity to enter the colonial economy, but in the long-term the working conditions associated with it did little to assist communities already suffering from ill-health. The time and resources required to make money also led many to become increasingly dependent on store-bought goods and on a system of credit with store-owners and gum traders. In this way many Ngāti Whātua became gradually entangled in debt.

2.38 Farming settlers arrived gradually but communities in the region remained small. European settlement began at Kaukapakapa in 1859, around Ahuroa and Kourawhero in 1861, at Te Awaroa in 1862, and at Puhoi in 1863, but by 1866 there were still only around 300 settlers in the area. As settlement developed the Crown began to provide some infrastructure in the region. The government helped improve the Riverhead to Kaipara track between 1854 and 1857, and a new road was built from Kaukapakapa to Riverhead. In 1865, the road from Riverhead to Te Awaroa was improved, allowing for more regular travel to Auckland. However, travel and transport through the district remained difficult. This hampered the ability of both the settlers and Ngāti Whātua to trade with the Auckland market and retarded the growth of trade, industries and employment. The colony fell into a deepening economic crisis during the 1860s, which compounded these financial difficulties.

2.39 Ngāti Whātua did what they could to encourage settlement. The early life of European settlement in the south Kaipara was characterised by a close relationship between Māori and the settlers: feasts of welcome were at times given by Ngāti Whātua to new arrivals, and they made numerous gifts of food, materials and labour. Ngāti Whātua also supported the development of public infrastructure. In 1864 Te Otene Kikokiko, of Te Tao Ū, gifted 10 acres at Te Awaroa for public purposes, including the construction of a court-house and school. Helensville later grew up around this gifted land. A court-house was built immediately, but a school was not established until thirteen years later, in 1877. One acre of the reserve was set aside for Māori purposes, but this was subsequently transferred to the Helensville Town Board, in spite of Ngāti Whātua protest. Over time the Crown also alienated parts of the gifted ten acre block to private parties, rather than returning it to Ngāti Whātua when it was no longer required for public purposes. This was a breach of the original terms of the gift.

2.40 Throughout the period Ngāti Whātua faced high levels of sickness and mortality, and suffered a significant decline in population. While there was no known cure for many of the diseases afflicting Māori, the medical assistance that was provided by the government was inadequate by the standards of the day.

2.41 The Crown began to support the establishment of native schools around the country from 1867. Despite education being regarded as a key priority by Ngāti Whātua, no schools at all were established in south Kaipara until 1877 and no "Native school" established until 1909. Until 1877, therefore, Ngāti Whātua remained dependent on the educational opportunities provided in Auckland, mainly through missionary-run boarding schools like that at Three Kings. In 1866 this school was identified as having poor standards of education and living conditions. After 1877, education services became available to Ngāti Whātua children around south Kaipara at public rather than specialist Native schools. Over time the number of schools increased but it remained difficult for the children of some communities to attend.


Land Alienation to 1865
HOTEO Crown Purchase under negotiation before 1865 purchase completed in 1868
KAIPARA HARBOUR
Legend
Land alienations to 1865
Maori land
Hoteo block: Crown purchase completed 1868
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MARGINALISATION AND PROTEST

2.42 In 1852 the British government granted the colony of New Zealand a new constitution to set up representative and responsible self-government. This established a settler Parliament, elected by those eligible to vote. However, the right to vote was based on holding property under Crown titles. Most Māori, including Ngāti Whātua, did not, therefore, qualify to vote and had no direct representation in national or provincial government (which was responsible for roading, infrastructure and the development of local districts) or in the formulation of their policies. In 1856, Governor Gore Browne acknowledged that, "both justice and good policy require that a much larger share of the revenue should be specially devoted to [the] social and material improvement [of Māori] than is ever likely to be the case so long as they are unrepresented in that body which has the entire disposal of it".

2.43 At the Kohimarama Conference of 1860 the Crown sought Māori views on a number of issues. Ngāti Whātua took the opportunity to protest against a number of government measures and policies, including the low prices they received for their land from the Crown, restrictions on the sale of arms and ammunition, and the Crown's refusal to let Māori sit on juries which together resulted in a lack of equality in the laws applying to Māori and settlers. Ngāti Whātua rangatira also advocated an alternative to Crown pre-emption that would provide proper surveys and a transparent process of public notification for proposed land alienations to avoid disputes.

2.44 The resolution of these issues was identified by Ngāti Whātua as being linked to the lack of representation in the institutions of government. Ngāti Whātua leaders asked the Crown to give them equality with the settlers by allowing for representation in the provincial authorities and General Assembly. They based their request on the terms of the Treaty of Waitangi and the loyalty they had shown the Crown since 1840:

> *... let us be admitted into your councils. This would be the very best system. ... I am desirous that the minds of the Europeans and the Maories should be brought into unison with each other. ... [There] would then be but one law for both Pakehas and Maories, and the understandings of both people would be exercised in council.*

2.45 In 1865 the Crown transferred responsibility for Native Affairs from the Imperial Government to the settler Parliament. A Crown official had advised the governor in 1860 that such a transfer should only be done with "the free and intelligent consent of the Natives themselves, who will be most affected by it, and who in ceding the sovereignty of the Country to Great Britain relied upon the assurances then given and which have since [been] repeated by every Governor, that no change should take place in existing relations." No such consent was sought from or given by Ngāti Whātua. In the same year the seat of government shifted from Auckland to Wellington, which significantly lessened the ability of Ngāti Whātua to engage directly with senior Crown officials. As Ngāti Whātua saw it, they had been separated from the institutions under which Pākehā worked and upon which local and national development depended.

2.46 In 1867 four Māori seats were established in the General Assembly, providing for a level of Māori representation in government. Ngāti Whātua leaders protested, arguing that

the four Māori representatives would be outnumbered by the forty-one Pākehā representatives. As one Ngāti Whātua rangatira stated:

> *I am not willing to elect these four men. Our views could not be carried out by them. They would be swamped by the many European members of the Assembly. We should be deceived. If there be fifty European members let there be fifty Māori also, and then matters will work well'.*

2.47 By the later 1860s Ngāti Whātua had sold or been otherwise divested of around two thirds of their land in south Kaipara. They had received, in return, few of the benefits promised by the Crown. Ngāti Whātua were also outnumbered by Pākehā settlers and, with other Māori, denied a significant role in government. They had also begun a slide into poverty, debt and ill-health that was to continue unimpeded in the years ahead. As a newspaper report noted in 1867, "Shall I tell you the list of Māori wants? They are only four – a road, a bridge, equal laws, and a school."

NATIVE LAND COURT AND LAND ALIENATION, 1865 – 1900

2.48 Growing opposition from Māori generally to selling their lands to the Crown under the pre-emption system of the 1840s and 1850s led the Crown to introduce a new system of dealing with Māori land. The Native Land Court, established by legislation in 1862, was intended to speed up the alienation of Māori land and to open up lands for settlement. It became the major point of interaction between Ngāti Whātua and colonial institutions in the years following, and a major focus of the grievances of Ngāti Whātua from that time.

2.49 The Court was to determine the owners of Māori land "according to native custom" and convert customary title into title derived from the Crown. Māori customary tenure accommodated complex and fluid land uses and relationships with the land. However, the new land laws required those rights to be defined and fixed, and did not necessarily accommodate all those with an interest in the land. The new laws also removed Crown pre-emption, giving Māori the ability to sell land directly to settlers. When a block of land was taken through the Court, individual interests were typically put in a multiple title, with each interest being alienable until a purchaser had the whole block, or until they had sufficient interests to apply to the Court for a partition.

2.50 The Crown sought through the individualisation of land ownership to detribalise Māori and promote their eventual assimilation into European culture. This broader intention of detribalisation was not explained to Ngāti Whātua when they welcomed the Court in 1864 as a means of controlling and managing their lands. Nor were Ngāti Whātua consulted about subsequent changes to the jurisdiction of the Court throughout the nineteenth century.

2.51 The Kaipara region was selected by the Crown as the first place for the Native Land Court to operate. Initially, Ngāti Whātua rangatira were active participants in the Court process, determining which blocks would be taken through the Court and often reaching arrangements outside of Court as to who would be placed on titles. Over the course of eight Court hearings, held between 1864 and 1871, title to around 109,000 acres was determined in south Kaipara.

2.52 The Court process carried significant costs. The new laws meant that in order for Ngāti Whātua to legally lease, sell or mortgage their land they had to obtain a Crown title from the Court. To obtain that title Ngāti Whātua had to pay survey costs, court costs, and sometimes lawyer's fees. They also had to meet the costs associated with attending land court cases. The greatest direct cost was survey expenses, which were high. Additional costs such as land duties were incurred when land was sold. The costs to Ngāti Whātua of developing land for on-sale to settlers, as occurred with the Taupaki block, were also high.

2.53 The individualisation of title had a profound effect. Ngāti Whātua held their land collectively on the basis of whakapapa and occupation, but the Court awarded title to individuals. Under the Native Land Act 1865 the Court was required to award tribal lands to ten individuals or less. Around 79,000 acres that passed through the Court were subject to these provisions. The ten owners (or fewer) listed on the certificate of title were often Ngāti Whātua rangatira who were expected to act as trustees for their hapū and as tribal representatives in any future dealings over land. Those listed on the certificate of title did not, however, have any legal responsibility to the other owners registered as having interests in the land. If individual title holders got into debt, it could lead to the loss of land in which the members of the iwi or hapū collectively held an interest.

2.54 From 1873 changes to Māori land legislation meant that the Court had to name on the title each person with a right in the land. In the period to 1900, around 24,000 acres of land passed through the Court under the 1873 Act and its various amendments.

2.55 While all owners were listed on the title to a land block, the extent of each owner's personal interest or share in the block was not often precisely defined, and indeed could not have been defined in a customary sense. From the 1870s, private parties increasingly negotiated for the purchase of Ngāti Whātua land with individual owners, rather than the collective body of owners in a block. This required the parties to ask the Court to partition the seller's interests from those of the remaining owners of the block.

2.56 Nor did the law provide a way for the owners to collectively manage their land. The absence of an effective management structure meant it was difficult for owners to accumulate capital and make improvements to their land. Frequently owners had little option but to use sale proceeds to meet their immediate needs.

2.57 The rules of succession provided by the Court required that land be divided equally amongst the owners' successors. With each succeeding generation individual shares became smaller and less economic, until they were so fragmented as to make management of the land impossible and the land effectively unusable. For land retained in Māori ownership, every time Ngāti Whātua brought their lands before the Court to obtain partitions or successions the Court process imposed additional costs.

2.58 The immediate costs imposed by the Court process, and the individualisation and fragmentation of title that resulted, encouraged the alienation of land. When Ngāti Whātua first entered the Court process in 1864 they sought to use strategic sales of small blocks of land to encourage settlement. Between 1865 and 1871 around 63,400 acres of land that had passed through the Court were sold. As the 1870s continued Ngāti Whātua struggled to contain alienations as individual debt rose. During that decade 29,000 acres of land were alienated to private purchasers. They included

surveyors, lawyers, land agents and speculators who held debts against Ngāti Whātua, as well as some genuine settlers. By 1880 the Ngāti Whātua situation was such that they were no longer selling land as a strategic move to promote the development of the area, but using it as a means of repaying debts and as a source of much-needed income.

2.59 The Government also undertook a further programme of purchases in the 1870s, albeit on a much smaller scale than previously. A further seven blocks of land totalling some 9,400 acres were acquired by the Crown at this time. The purchases proceeded despite warnings from officials that Ngāti Whātua could not afford to lose any more land. Most of the land was sold for less than 3 pence an acre and sales were achieved by renewed promises from Crown agents that European settlement and schools would occur, and that Ngāti Whātua would derive some lasting collateral benefit.

2.60 Economic activity in the south Kaipara only began to increase from the mid 1870s, with a public works programme providing economic stimulus and establishing transport links with the Auckland economy. In 1871 the Provincial Government asked Ngāti Whātua to gift much of the land required for the railway between Te Awaroa and Pitoitoi. Ngāti Whātua agreed, in return for a promise that a one acre reserve would be set aside for them at each end of the line and that "houses of accommodation" would be built on those reserves. The railway was completed in 1876. A one acre reserve at Helensville in 1879 was provided from the 10 acre block Ngāti Whātua had earlier gifted for public purposes. None of the other commitments were met. Additional land was also taken for sidings, stations, realignment and a diversion to Auckland. No compensation was paid for these additional areas of land and Ngāti Whātua were not consulted about them. Elsewhere in south Kaipara, numerous other pieces of Ngāti Whātua land were taken for roading and public services, sometimes against the wishes of the owners.

2.61 The railway had the effect of encouraging settlement and increasing the value of lands beside it. Te Awaroa (Helensville) became the township and economic hub that Ngāti Whātua had anticipated, with a growth in population and buildings. However, by the time this expansion of settlement occurred, Ngāti Whātua were poorly placed to benefit. The extensive tracts of land sold to the Crown in the 1850s and 1860s meant Ngāti Whātua were effectively unable to capitalise on the continually rising market of land. Around 38,500 acres of Ngāti Whātua land were sold in the 1870s. Much of the land Ngāti Whātua managed to retain was of minimal economic and agricultural value, being sand-hills or marginal country isolated from areas of settlement by poor roads.

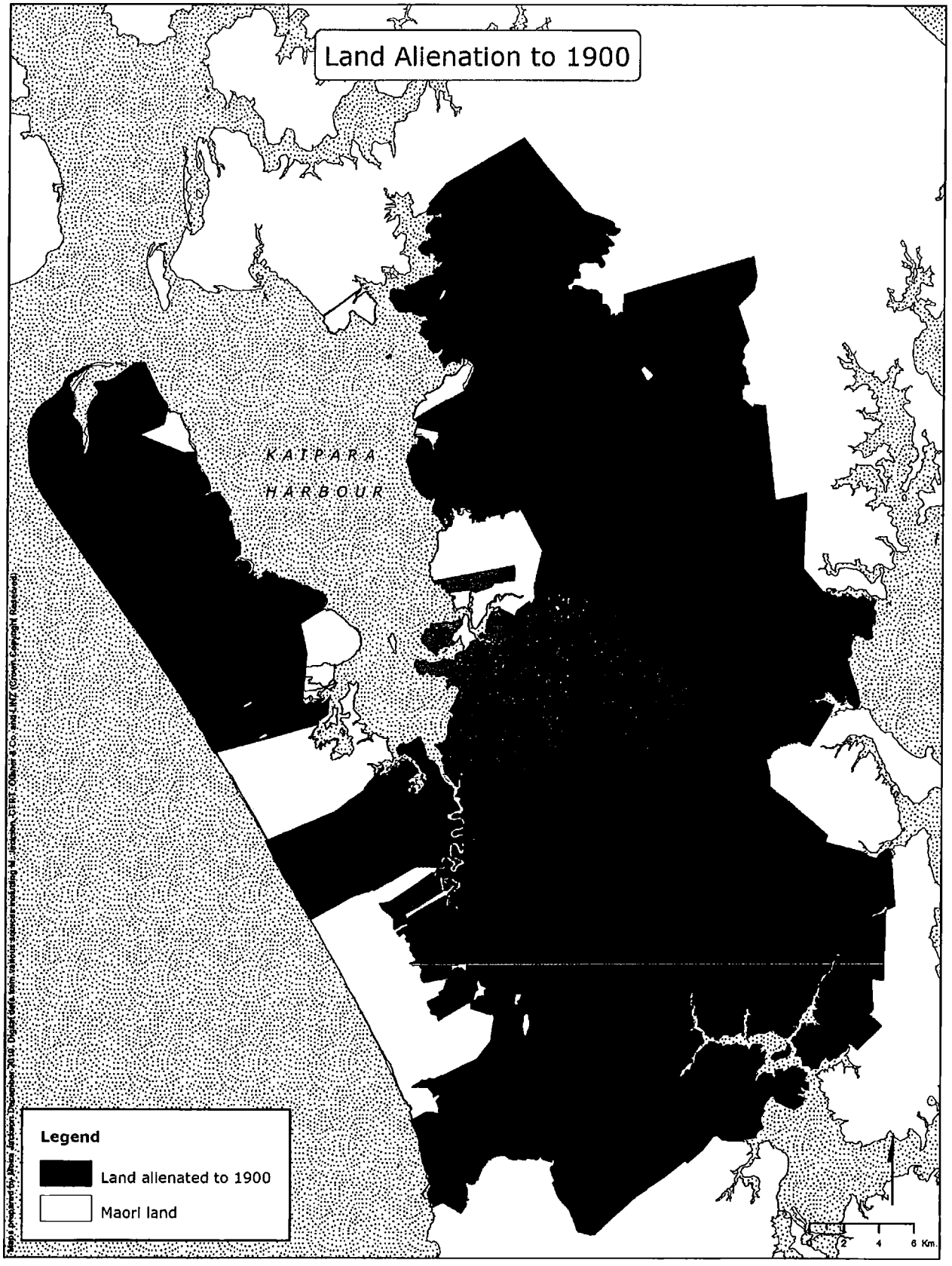
2.62 The lack of skills and education of many Ngāti Whātua, their ill-health, and difficulties in managing their remaining lands also had an impact. Attendance at schools was often affected by sickness. Despite the endemic nature of the health problems affecting Ngāti Whātua communities in the latter part of the nineteenth century, which were increasingly aggravated by poverty, only limited health services were provided by the Crown.

2.63 A significant drop in title determinations took place in the 1880s and 1890s, with only 2,158 acres passing through the Court. In the 1880s Ngāti Whātua sold around 15,000 acres of land. An additional 9,765 acres were sold in the 1890s. Of the 73,125 acres Ngāti Whātua had sold between 1870 and 1900, the Crown purchased 9,400 acres.

2.64 Throughout the late 1870s and 1880s, Ngāti Whātua continued to raise concerns over their level of political representation in the settler government. They spoke or wrote to

the governor, Imperial authorities, visiting dignitaries, provincial leaders, and their local resident magistrate. From 1877 a series of pan-tribal conferences, or "Parliaments", were hosted by Ngāti Whātua at Kohimarama, Otamatea, Reweti, Aotea and Orakei. Well-attended by representatives from many iwi, Ngāti Whātua leaders led protest about the effects of land alienation and problems with the Native Land Court. They also requested a greater level of involvement in governance. None of the Ngāti Whātua protests had any lasting effect on the laws or the Government's stance. Nor did they lead to the abolishment of the Native Land Court. They did however contribute to the Kotahitanga movement and ultimately to the establishment of Maori Land Councils under the short-lived Maori Lands Administration Act 1900. At the tenth and final Parliament held in 1889, Paora Tuhaere stated:

> *Everything had been done in a one-sided manner for the benefit of the Europeans, but not for the natives. Europeans got representative institutions, and then they governed the Māori. They only allowed four Māori to represent the Māori people. From that time the mana of the chiefs diminished ... The Government did not look kindly on the Māori and give them what they desired. What I am trying to bring about is a union of both peoples, and one scheme of Government. The Māori have waited a long time to see where the kindness of the Government came in ...*


Land Alienation to 1900
KAIPARA
HARBOUR
Legend
Land alienated to 1900
Maori land
2
4
6 Km

LAND LAWS, ADMINISTRATION AND ALIENATION IN THE TWENTIETH CENTURY

2.65 By 1900 Ngāti Whātua o Kaipara were an overshadowed minority, economically disadvantaged and, to many settlers, a barrier to continued progress. They had lost around ninety percent of their lands held at 1840, with only around 38,000 acres of land remaining in Māori ownership. Around 15,000 acres had already passed through the Native Land Court and were held as Māori freehold land in multiple titles. What land Ngāti Whātua managed to preserve from the Court – some 23,000 acres – was also, for the most part, of minimal economic and agricultural value. Much of it was sandhills or marginal country. It was scarcely sufficient to permit Ngāti Whātua to maintain a subsistence lifestyle, let alone provide for future development.

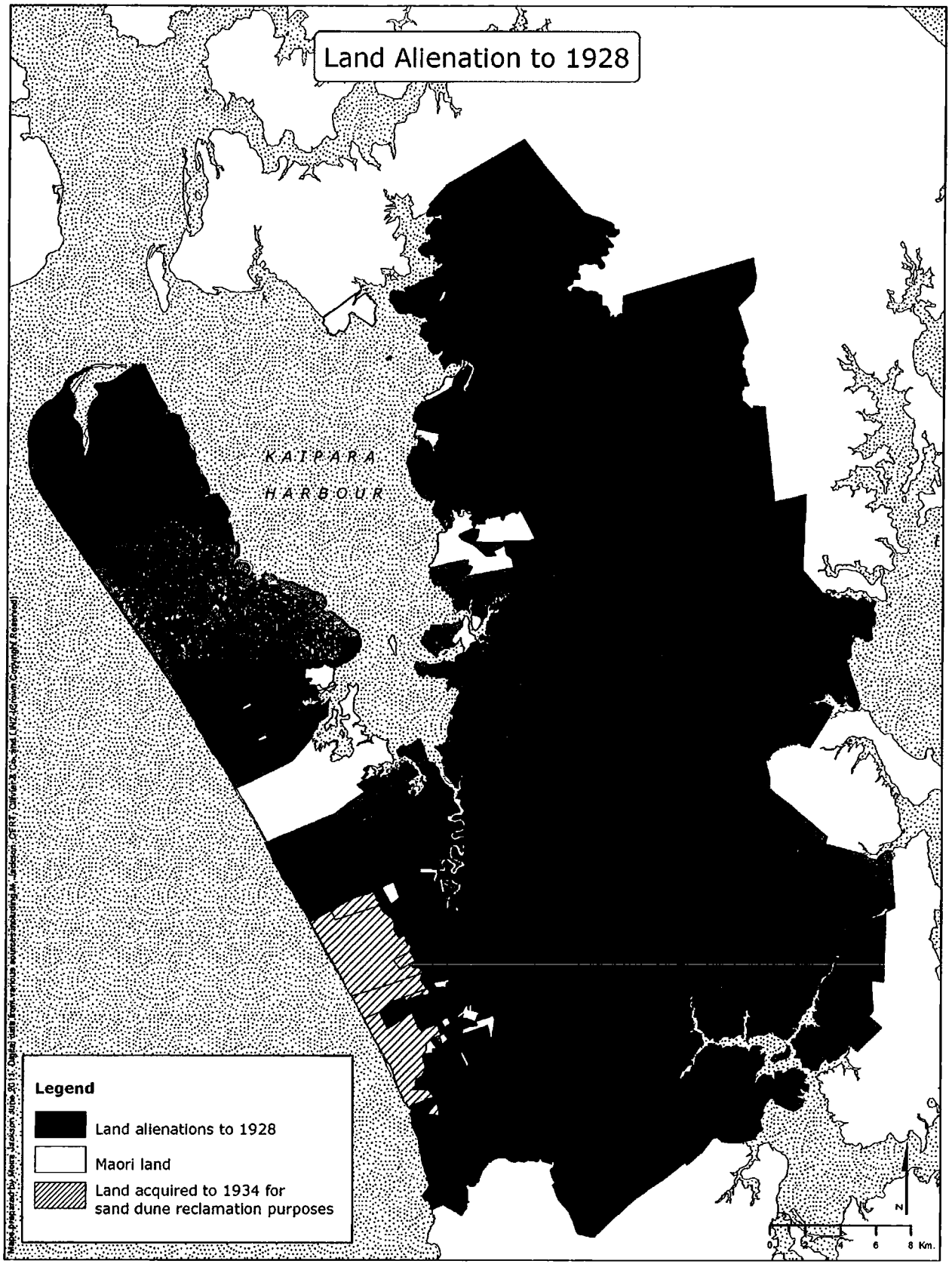
2.66 Despite the problems faced by Ngāti Whātua o Kaipara, the Crown streamlined the process of alienating Māori land under the Native Lands Act 1909. Maori Land Boards became responsible for ensuring compliance with various restrictions on the alienation of Māori land. Between 1900 and 1935 an additional 26,000 acres (or around seventy percent of the lands remaining in Ngāti Whātua ownership at 1900), were sold.

2.67 Problems caused by title fragmentation and individualisation compounded with each succeeding generation. Māori owners also found it difficult to raise capital for development as banks did not lend on multiply-owned Māori land. Some blocks were land-locked, and that also hindered their development. In other cases Ngāti Whātua were increasingly unable to access lands of cultural importance.

2.68 A considerable proportion of the remaining Ngāti Whātua lands became tied up in long term leases administered by the Tokerau District Māori Land Board, rather than being farmed and developed by Ngāti Whātua themselves. The Board's regulation and monitoring of these leases was sometimes inadequate. Over time leases could lead to piecemeal partitions and sales by individual owners who were facing the financial stresses of poverty.

2.69 Only one large Ngāti Whātua block escaped sale – Otakanini (7,638 acres). In 1906 the Crown compulsorily vested the Otakanini block in the Tokerau District Māori Land Board. This was done without consultation with the owners. The Board then leased the block out in various portions for 25 years, with a right of renewal for a total of 50 years. The vesting protected Otakanini from sale but the Crown did not provide the owners with any meaningful role in the administration of their land. The Board did not regularly monitor the leases it arranged. At the termination of the leases in 1958, the block was in a very poor condition. The owners were required to take legal action to remedy many breaches of lease conditions, including over-grazing and minimal maintenance of farm structures. Not all monies owed by the lessees were paid. As a result of the poor condition of the land, the owners had a long and expensive struggle to retain and develop the block and to raise the condition of the land to that which had been envisaged at the time the leases were entered into. During this time, few dividends could be paid or other assistance provided to Ngāti Whātua o Kaipara.

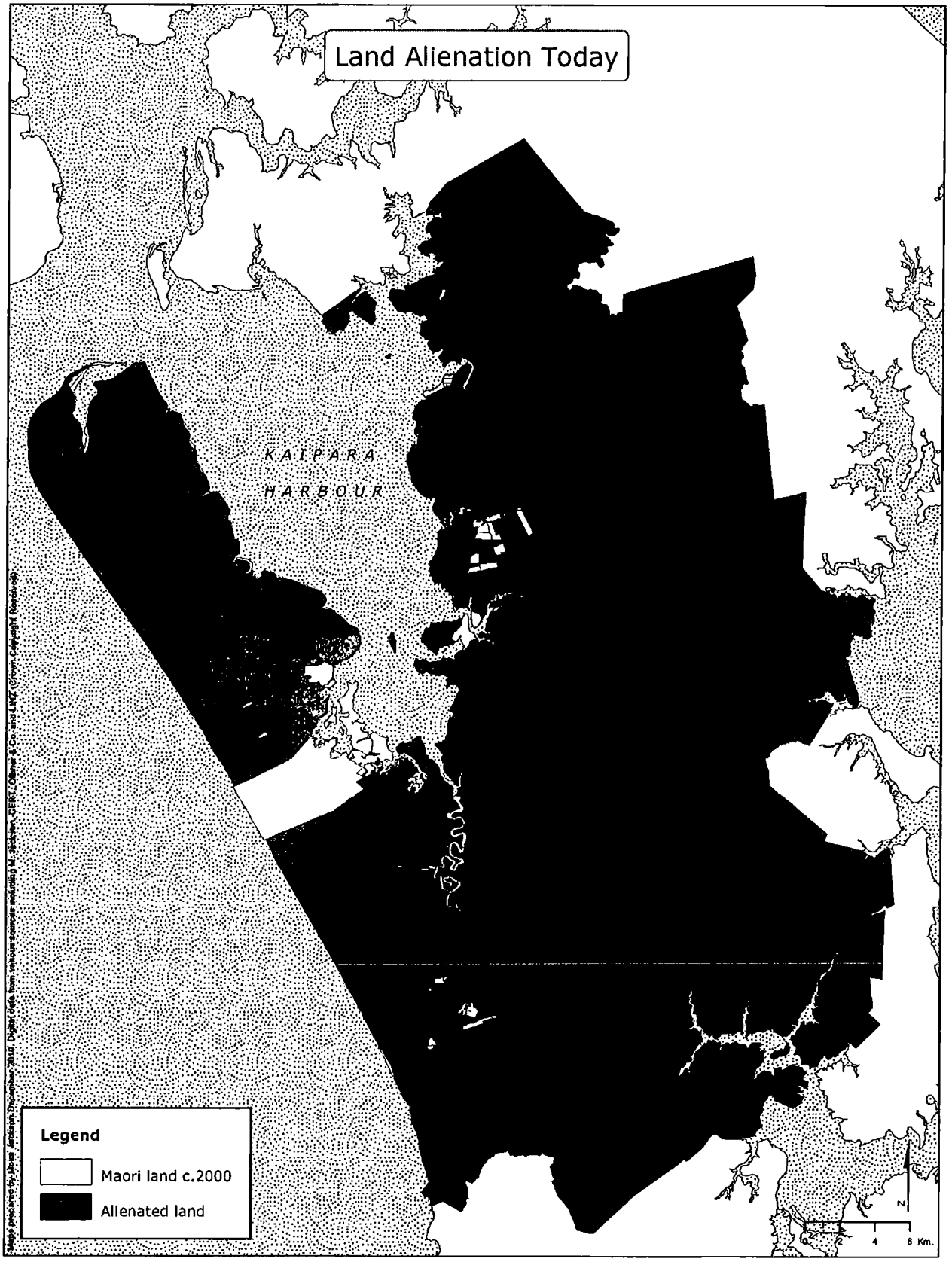
2.70 The compulsory vesting by the Board of the 1,000 acre Kakaraea block led to the loss of the land. The Crown compulsorily vested this land without consultation with the owners. In 1915 the Board leased the block out for forty-five years. The Board administered the lease and distributed the rent to the owners. In 1957, near the end of the lease, the owners had little option but to sell the land to the Crown, as they could not raise the finance to pay the lessee compensation for improvements. The Board had not retained any portion of the rentals to ensure the owners could pay for those improvements.


Land Alienation to 1928
KAIPARA
HARBOUR
Legend
Land alienations to 1928
Maori land
Land acquired to 1934 for sand dune reclamation purposes
N
0
2
4
6
8 Km.

2.71 For much of the twentieth century the Crown's preference was to purchase or compulsorily acquire through the Public Works Act lands it needed for public purposes. By doing this the Crown provided few options for Ngāti Whātua to retain control of areas of importance to them. When the Crown undertook sand dune reclamation work along South Head, which resulted in the establishment of Woodhill Forest, it acquired over 9,000 acres of Ngāti Whātua-owned Puketapu land. These takings included four well-identified wāhi tapu and urupā that were of great significance to Ngāti Whātua and which would otherwise have remained in customary ownership.

2.72 Crown takings of land for sand-dune reclamation meant that Ngāti Whātua were excluded from the administration of a substantial portion of their remaining lands. The Crown did not consider a tenure arrangement which could meet public benefit aims while keeping land in Māori ownership. The sand-dune reclamation scheme also failed to provide Ngāti Whātua legal access to the western coast to gather kaimoana, in particular toheroa, a staple part of the diet of many whānau. This resulted in further deprivation and the loss of mana for the ability of Ngāti Whātua to manaaki visitors. No compensation was paid for the loss of access until twenty years later.

2.73 By the late 1990s, seventy-five percent of the land Ngāti Whātua had held at 1900 had been alienated by sale or taken for public works. Forty-two percent of these lands were sold to private purchasers through transactions regulated by the Tokerau District Māori Land Board; thirty-three percent were purchased by the Crown or taken under Public Works legislation. Only 8,775 acres remain in Ngāti Whātua ownership today. Of this remnant of Ngāti Whātua lands the Otakanini Topu, comprising 7,133 acres, is private land owned by individual shareholders rather than being held as the tribal property of Ngāti Whātua. Ngāti Whātua were virtually landless and had been so since the end of the nineteenth century.


Land Alienation Today
KAIPARA
HARBOUR
Legend
Maori land c.2000
Alienated land
N
0
2
4
6 Km.

SOCIO-ECONOMIC IMPACTS

2.74 Through the twentieth century, Māori communities in south Kaipara remained on the margins of economic development. A lack of land, and the lack of control and capital with which to utilise what land remained, meant there was little in the Kaipara to provide the income or employment needed to sustain either the family unit or the community as a whole. The lack of land particularly impacted Ngāti Whātua as their population grew from the early twentieth century.

2.75 After 1900 the native timber milling and gum-digging industries of the south Kaipara were in decline, and by the 1920s had almost disappeared. Ngāti Whātua in the Kaipara came to rely on a variety of lowly-paid, unskilled and seasonal jobs to survive. Meagre earnings were supplemented by the cultivation of basic foodstuffs, and by the use of the diminishing and increasingly restricted resources of the Kaipara Harbour and West Coast. The ability of Araparera and Kākānui marae to access kaimoana on the eastern Kaipara Harbour was further restricted in the 1930s by the reclamation of coastal flats. Substandard housing and a high incidence of diseases such as typhoid, influenza and tuberculosis were common.

2.76 Economic circumstance forced many Ngāti Whātua to move to Auckland and other urban centres in search of work. Some began leaving as early as the 1930s and many left from the 1950s onwards, many permanently. While urban centres provided employment and opportunities not available in the south Kaipara, the departure of people put severe strain on the communities that remained. Many of those leaving left behind not only the problems in south Kaipara but also their kin, community and language. Living conditions for those who remained in the south Kaipara resembled rural slums. For Ngāti Whātua, coping with the difficulties that prompted the removal of their kin was made harder by their depleted numbers, and by the growing fragmentation of their community.

2.77 The assistance the Crown provided to Ngāti Whātua individuals to move to urban areas was not balanced by programmes in the south Kaipara that addressed underlying issues of poverty and a lack of training and education. While the Crown initiated various policies to address the social needs of Māori generally, the success of those policies in south Kaipara was limited by the scale of funding and resources allocated. Ngāti Whātua were sometimes deemed too small in population and too close to Auckland, or sometimes too remote, to qualify for assistance. For much of the twentieth century Crown social policies were often centrally driven and not geared to support Ngāti Whātua initiatives. In addition, Ngāti Whātua state that problems in south Kaipara were often transferred to an urban environment, which created a new set of problems.

2.78 The ability of Ngāti Whātua to take advantage of educational opportunities continued to be affected by poverty and poor health, and by difficulties of access created by distance and poor roads. While a substantial proportion of Ngāti Whātua children attended main-stream schools, higher education opportunities remained limited. Educational officials generally had a very limited view of Māori potential and Māori were not encouraged to pursue academic types of education.

2.79 The practice in many schools of punishing children for the use of te reo Māori (the Māori language) was harmful to Ngāti Whātua culture and language. As Ngāti Whātua saw it,

they wanted their moko to become proficient in te ao Pākehā (the Pākehā world), but not at the cost of their own Māoritanga.

2.80 While the Crown attempted to deal with some of the social consequences of poverty and unemployment, it did not solve the fundamental problem of the marginal economic position of Ngāti Whātua in the south Kaipara. The few Crown initiatives that were introduced to foster economic development were not successful. There was so little suitable land left in south Kaipara that Ngāti Whātua were not provided with the same types of developmental assistance afforded to some other iwi from the late 1920s.

2.81 From the 1930s Ngāti Whātua benefited from employment created through sand-dune reclamation schemes and the establishment of exotic forests at Woodhill and Riverhead. Work in the New Zealand Forest Service provided an economic base for the Ngāti Whātua communities at Reweti and Haranui in particular.

2.82 In the mid-1980s the Government decided that the New Zealand economy would benefit from a programme of reform which involved restructuring the commercial operations of government along market lines and deregulating the state sector and the labour market. Many Ngāti Whātua worked in sectors such as farming, forestry, railways and public works, which were heavily affected by structural changes. Changes in the forestry sector had a significant and disproportionate impact on Ngāti Whātua o Kaipara. By 1987 the New Zealand Forest Service had been split up and its functions transferred to the New Zealand Forestry Corporation (which was later privatised) and the Department of Conservation. A private company became the licensee of both Woodhill and Riverhead Forests. The transfer of forestry operations to the licensees was conducted without consultation with or consideration of Ngāti Whātua o Kaipara. The private company used its own workers, a number of whom came from outside the district, to plant and prune, and contracted out all other jobs. As a result many Ngāti Whātua workers in both the Woodhill and Riverhead forests were made redundant, causing further loss of employment in south Kaipara.

2.83 Ngāti Whātua consider that a number of twentieth century legislative measures were discriminatory and worked against their interests over time. Of particular importance to them was the Tohunga Suppression Act; the lower old-age pension rates paid to Māori in the 1920s; their exclusion from the returned servicemen's resettlement schemes; the Maori Affairs Act 1967; the town and country planning legislation; Māori Affairs housing policies in which family benefit capitalisation by Ngāti Whātua on multiply-owned blocks of lands was disallowed; and the enforcement of fisheries regulations by the Marine Department that restricted Ngāti Whātua from gathering shellfish.

2.84 The breakdown in the Treaty partnership and the cumulative effect of landlessness and neglect resulted in the dislocation and impoverishment of Ngāti Whātua in south Kaipara. Many Ngāti Whātua have been alienated from their lands, culture and language, with the rich fabric of hapū and iwi life having been irreparably damaged.

2.85 From the signing of the Treaty of Waitangi Ngāti Whātua remained loyal to the Crown. Their commitment was originally based on the recognition of the benefits to be gained from partnership with the Crown. The relationship between Ngāti Whātua and the Crown started well but over time the relationship failed to live up to its promise. As the settler population expanded and government was removed from Auckland, Ngāti Whātua requests for participation in governance went largely unheeded. Marginalised from a

Pākehā dominated society, and lacking the means to advance their own position, they continued to co-operate in Crown initiatives and with Crown authorities. Despite the failure of successive Crown administrations to honour the Treaty partnership and its reciprocal obligations, Ngāti Whātua steadfastly continued to hold to the principles that have always underpinned their relationship with the Crown.

3 ACKNOWLEDGEMENT AND APOLOGY

ACKNOWLEDGEMENT OF TREATY BREACHES

3.1 The Crown acknowledges the long tradition of Ngāti Whātua o Kaipara commitment and support given to the Crown from 1840. The Crown also acknowledges the willingness of Ngāti Whātua o Kaipara to provide lands for settlement purposes. These lands contributed to the establishment of the settler economy and the development of the nation state of New Zealand.

3.2 The Crown acknowledges that it did not correctly apply certain regulations for pre-Treaty and pre-emption waiver transactions. The Crown also acknowledges that it did not always protect Māori interests during investigations into these transactions.

3.3 The Crown acknowledges that it took approximately 24,000 acres of Ngāti Whātua o Kaipara lands claimed by settlers as a result of pre-emption waiver transactions ("surplus lands"), rather than returning these lands to Ngāti Whātua o Kaipara, and this has long been a source of grievance to Ngāti Whātua o Kaipara. The Crown acknowledges that its policy of taking surplus land from pre-emption waiver purchases breached the Treaty of Waitangi and its principles when it failed to ensure any assessment of whether Ngāti Whātua o Kaipara retained adequate lands for their needs. The Crown also acknowledges that this failure was compounded by flaws in the way the Crown implemented the policy in further breach of the Treaty of Waitangi and its principles.

3.4 The Crown acknowledges that by failing to set aside one tenth of the lands transacted during the pre-emption waiver period for public purposes, especially the establishment of schools and hospitals for the future benefit of Māori (including Ngāti Whātua o Kaipara), it breached the Treaty of Waitangi and its principles.

3.5 The Crown acknowledges that in purchasing a large amount of land from Ngāti Whātua o Kaipara between 1848 and 1868 it failed to ensure that Ngāti Whātua o Kaipara were reserved sufficient lands for their future use or benefit, and that failure was in breach of the Treaty of Waitangi and its principles. The Crown also acknowledges that it did not take adequate steps to prevent the alienation of the few reserves that were made.

3.6 The Crown acknowledges that it purchased lands at low prices from Ngāti Whātua o Kaipara on the understanding that European settlement would bring benefits to Ngāti Whātua o Kaipara and that their remaining lands would increase in value. The Crown also acknowledges that the benefits Ngāti Whātua o Kaipara were led to expect from European settlement, such as schools, hospitals and roads, were slow to arrive or were not always realised, and that this has remained a significant grievance for Ngāti Whātua o Kaipara.

3.7 The Crown acknowledges that the operation and impact of the Native land laws since 1864, in particular the awarding of land to individual Ngāti Whātua o Kaipara rather than to iwi and hapū, made those lands more susceptible to partition, fragmentation, and alienation. This contributed to the erosion of the traditional tribal structures of Ngāti Whātua o Kaipara which were based on collective tribal and hapū custodianship of land. The Crown failed to take steps to adequately protect those structures. This had a

prejudicial effect on Ngāti Whātua o Kaipara, and was a breach of the Treaty of Waitangi and its principles.

3.8 The Crown acknowledges that the Native Land Court title determination process carried significant costs for Ngāti Whātua o Kaipara. These costs included survey and court costs, which could and did lead to further alienations of land.

3.9 The Crown acknowledges that Ngāti Whātua o Kaipara continued to demonstrate their desire to participate in the development of the region by gifting various lands for public purposes, including ten acres at Te Awaroa (Helensville) and land for the Riverhead to Helensville railway. The Crown also acknowledges that it did not adhere to all conditions accompanying these gifts, including returning those lands when they were no longer needed for the purposes given, and that failure was in breach of the Treaty of Waitangi and its principles.

3.10 The Crown acknowledges that at the Kohimarama Conference of 1860 and during the "Orakei Parliaments", Ngāti Whātua o Kaipara rangatira sought equal participation for Māori in central and local government. The Crown acknowledges that the four Māori seats established to represent Māori in Parliament did not meet Ngāti Whātua o Kaipara expectations.

3.11 The Crown acknowledges that by the 1920s there was little suitable land available for Ngāti Whātua o Kaipara to benefit from land-development schemes and that the assistance that was provided benefited very few.

3.12 The Crown acknowledges that lands of significance to Ngāti Whātua o Kaipara at Puketapu and elsewhere were acquired by the Crown for sand-dune reclamation purposes in the decade to 1934, including through compulsory taking. The Crown acknowledges that it did not work with Ngāti Whātua o Kaipara to find an alternative to Crown acquisition and that the loss of these lands hindered access for Ngāti Whātua o Kaipara to urupā, kaimoana, and other resources.

3.13 The Crown acknowledges that many members of Ngāti Whātua o Kaipara suffered poor health following European colonisation, and that Crown provision of health services to Ngāti Whātua o Kaipara was inadequate until the 1930s. The Crown also acknowledges that the education system historically had low expectations for Māori academic achievement and that this had a detrimental effect on Ngāti Whātua o Kaipara.

3.14 The Crown acknowledges that the Otakanini block was compulsorily vested in the Tokerau District Māori Land Board without consultation with the owners of the block and that this denied the owners any meaningful role in the administration of the land for fifty years. The Crown also acknowledges that the leases were not properly administered and upon the return of the Otakanini block in 1958, the owners carried significant burdens that impeded the ongoing development of the land. These burdens included additional costs to remedy many breaches of lease conditions and to restore the land to the condition envisaged at the time the leases were entered into.

3.15 The Crown acknowledges that the Crown's corporatisation reforms in the 1980s, in particular of the forestry industry, resulted in high unemployment rates and had a devastating impact on Ngāti Whātua o Kaipara communities.

3.16 The Crown acknowledges that the cumulative effect of Crown purchasing, public works takings and private purchasing, rendered Ngāti Whātua o Kaipara virtually landless. The Crown also acknowledges that its failure to monitor the ongoing impact of land purchases contributed to the position today where Ngāti Whātua o Kaipara have insufficient land. The failure to ensure that Ngāti Whātua o Kaipara retained sufficient land was a breach of the Treaty of Waitangi and its principles. This state of landlessness has undermined the economic, social and cultural development of Ngāti Whātua o Kaipara.

3.17 The Crown acknowledges that from the 1940s a state of virtual landlessness was a significant factor contributing to high levels of migration of Ngāti Whātua o Kaipara and that most Ngāti Whātua o Kaipara now live outside their rōhe. The Crown further acknowledges that Ngāti Whātua o Kaipara communities have endured social deprivation for too long.

3.18 The Crown acknowledges that the cumulative effect of the Crown's breaches of the Treaty of Waitangi and its principles significantly undermined the tino rangatiratanga of Ngāti Whātua o Kaipara, their economic and social development and physical, cultural and spiritual well being with effects that continue to be felt to the present day.

3.19 The Crown acknowledges that it failed to deal in an appropriate way with grievances raised by successive generations of Ngāti Whātua o Kaipara and that resolution of these grievances is long overdue.

APOLOGY

3.20 The Crown recognises that, from the signing of the Treaty of Waitangi, Ngāti Whātua o Kaipara committed themselves to a close and positive relationship with the Crown and, through sales and other means, provided lands for European settlement. The Crown deeply regrets that the benefits Ngāti Whātua o Kaipara were led to expect from the relationship, including benefits from the sale of land, were slow to arrive or were not always realised.

3.21 The Crown profoundly regrets and unreservedly apologises for its actions, which have resulted in the virtual landlessness of Ngāti Whātua o Kaipara. This state of landlessness has had devastating consequences for the social, cultural, economic, spiritual and physical well-being of Ngāti Whātua o Kaipara that continue to be felt today.

3.22 With this apology and settlement the Crown seeks to atone for these wrongs and to begin the process of healing. The Crown intends to improve and strengthen its historically close relationship with Ngāti Whātua o Kaipara based on the Treaty of Waitangi and its principles so as to create a solid foundation for the future.

WAIATA TAUTOKO – Te Aroha

Te aroha. Te whakapono. Me te rangimariē, tātou tātou e.

Te aroha. Te whakapono. Me te rangimariē, tātou tātou e.

4 SETTLEMENT

ACKNOWLEDGEMENTS IN RELATION TO SETTLEMENT

4.1 Ngāti Whātua o Kaipara and the Crown each acknowledge that -

4.1.1 each of them has acted honourably and reasonably in relation to the settlement; but

4.1.2 it is not possible to compensate Ngāti Whātua o Kaipara fully for all loss and prejudice suffered; and

4.1.3 the settlement is intended to enhance the ongoing relationship between Ngāti Whātua o Kaipara and the Crown (in terms of the Treaty of Waitangi, its principles, and otherwise).

4.2 Ngāti Whātua o Kaipara acknowledge that, taking all matters into consideration (some of which are specified in clause 4.1), the settlement is fair in the circumstances.

SETTLEMENT

4.3 Therefore, on and from the settlement date, -

4.3.1 the historical claims are settled; and

4.3.2 the Crown is released and discharged from all obligations and liabilities in respect of the historical claims; and

4.3.3 the settlement is final.

4.4 Except as provided in this deed or the settlement legislation, the parties' rights and obligations remain unaffected.

REDRESS

4.5 The redress, to be provided in settlement of the historical claims, –

4.5.1 is intended to benefit Ngāti Whātua o Kaipara collectively; but

4.5.2 may benefit particular members, or particular groups of members, of Ngāti Whātua o Kaipara, if the trustees of the Ngā Maunga Whakahii o Kaipara trust that receives the redress so determine in accordance with the trust's procedures.

KAIPARA HARBOUR

4.6 Ngāti Whātua o Kaipara and the Crown acknowledge and agree that -

4.6.1 Kaipara Harbour is of great traditional, cultural, historical, and spiritual importance to Ngāti Whātua o Kaipara; and

4.6.2 this deed does not –

(a) provide for cultural redress in relation to Kaipara Harbour, as that is to be developed in negotiations with the Crown that will include Ngāti Whātua o Kaipara; nor

(b) prevent the development of cultural redress in relation to Kaipara Harbour in those negotiations.

IMPLEMENTATION

4.7 The settlement legislation will, on the terms provided for by –

4.7.1 part 3 of the legislative matters schedule, settle the historical claims; and

4.7.2 part 4 of the legislative matters schedule, -

(a) exclude the jurisdiction of any court, tribunal, or other judicial body in relation to the historical claims and the settlement; and

(b) provide that the legislation referred to in paragraph 4.4.2 of the legislative matters schedule -

(i) if it applies to any of the following properties or land, ceases to apply to that property or land:

(I) a redress property:

(II) a purchased non-forest commercial property, if it is not a commercial redress property but settlement of its purchase is effected under this deed:

(III) the purchased Riverhead Forest property, if it is not a commercial redress property but settlement of its purchase is effected, under this deed:

(IV) the Paremoremo Housing Block, if it is purchased, and settlement of its purchase is effected, under this deed:

(V) RFR land; and

(ii) does not apply for the benefit of Ngāti Whātua o Kaipara or a representative entity; and

(c) require any resumptive memorials to be removed from the certificate of title to, or the computer register for, each property referred to in clause 4.7.2(b)(i).

4.8 The settlement legislation will, on the terms provided for by part 17 of the legislative matters schedule, -

4.8.1 provide that the rule against perpetuities and the Perpetuities Act 1964 do not -

(a) prescribe or restrict the period during which -

(i) a **N**gā **M**aunga Whakahii o Kaipara trust may exist; and

(ii) the trustees of a **N**gā Maunga Whakahii o Kaipara trust may hold or deal with property; or

(b) apply to a settlement document; or

4.8.2 require the Secretary for Justice to make copies of this deed publicly available.

4.9 Part 1 of the general matters schedule provides for other action in relation to the settlement.

5 CULTURAL REDRESS

CULTURAL REDRESS PROPERTIES

5.1 The settlement legislation is to vest in the trustees of the Tari Pupuritaonga Trust on the settlement date -

Atuanui Scenic Reserve

5.1.1 the fee simple estate in Atuanui Scenic Reserve as a scenic reserve, with the trustees as the administering body, however, the viewing platform on the reserve is to remain owned by the Crown, but, in accordance with paragraphs 2.8 and 2.9 of the property redress schedule, the viewing platform must be -

(a) removed by the Crown after five years from the settlement date but may be removed earlier; and

(b) maintained by the Minister of Conservation, at the Minister's expense, until its removal; and

In fee simple subject to a conservation covenant

5.1.2 the fee simple estate in each of the following sites, subject to the trustees providing a registrable covenant in relation to that site in the form in part 4 of the documents schedule:

(a) Mairetahi Landing:

(b) Mauiniu Island:

(c) Moturemu Island:

(d) Tīpare; and

As a recreation reserve

5.1.3 the fee simple estate in the Ten Acre Block Recreation Reserve as a recreation reserve, with the trustees as the administering body; and

As a local purpose reserve

5.1.4 the fee simple estate in each of the following sites, as a local purpose (estuarine habitat) reserve with the trustees as the administering body of each reserve:

(a) Makarau:

(b) Makarau Bridge Reserve, subject to the trustees providing the Auckland Council with a right of way easement in relation to the reserve, that is capable of registration, in the form in part 7 of the documents schedule:

(c) Parakai.

Parakai Recreation Reserve

5.2 The settlement legislation is to provide that –

To be vested in Trustees of Development Trust and Auckland Council

5.2.1 the fee simple estate in the Parakai Recreation Reserve is to be vested on the settlement date in the trustees of the Development Trust and the Auckland Council, as tenants in common as to an undivided one half share each, to hold in trust for the purposes for which the reserve is from time to time classified under the Reserves Act 1977; and

To remain a reserve

5.2.2 the Parakai Recreation Reserve is to remain a recreation reserve on the settlement date, although its classification may be changed subsequently under the Reserves Act 1977; and

Parakai Recreation Reserve Board to be administering body

5.2.3 a board is to be appointed, to be known as the Parakai Recreation Reserve Board, that is to have the same functions, obligations, and powers in relation to Parakai Recreation Reserve as if the reserve had been vested on the settlement date in the board under section 26 of the Reserves Act 1977; and

Appointment of board members

5.2.4 the trustees of the Development Trust, and the Auckland Council, are to appoint half the members of the board each; and

5.2.5 the trustees of the Development Trust, and the Auckland Council, must, by the settlement date, appoint their first members of the Parakai Recreation Reserve Board; and

Chairperson

5.2.6 the chairperson of the Parakai Recreation Reserve Board is appointed by the members of the board appointed by the trustees of the Development Trust; and

5.2.7 if there is an equality of votes cast by members of the board, the chairperson of the Parakai Recreation Reserve Board has a casting vote; and

Termination of arrangements

5.2.8 if the reservation of Parakai Recreation Reserve is revoked under section 24 of the Reserves Act 1977, or the Minister of Conservation cancels under section 27 of that Act the deemed vesting of the Parakai Recreation Reserve in the Parakai Recreation Reserve Board, -

(a) the arrangements outlined in clauses 5.2.1 to 5.2.7 will cease to apply to the reserve; and

(b) the fee simple estate in the reserve will cease to be vested in the trustees of the Development Trust (or the Development Trust custodian trustee) and the Auckland Council; and

(c) the deemed vesting of the reserve in the board ceases; and

(d) the reserve will become –

(i) Crown land available for disposal under the Land Act Act 1948; or

(ii) re-vest in the Crown under the Reserves Act 1977.

Cultural redress properties generally

5.3 Each cultural redress property is to be –

5.3.1 as described in schedule 2 of the legislative matters schedule; and

5.3.2 vested on the terms -

(a) of the settlement legislation provided for by parts 5 to 8 of the legislative matters schedule; and

(b) part 2 of the property redress schedule; and

5.3.3 subject to any encumbrances, or other documentation, in relation to that property required by -

(a) clauses 5.1 or 5.2 to be provided by the trustees of a Ngā Maunga Whakahii o Kaipara trust; or

(b) the settlement legislation; and

(c) in particular, schedule 2 of the legislative matters schedule.

TE KAWENATA TAIAO O NGĀTI WHĀTUA O KAIPARA

5.4 By or on the settlement date, the Crown and the trustees of the Development Trust must enter into Te Kawenata Taiao o Ngāti Whātua o Kaipara.

5.5 Te Kawenata Taiao o Ngāti Whātua o Kaipara –

5.5.1 specifies it has a purpose of providing a framework for how Ngāti Whātua o Kaipara, the Minister of Conservation, the Director-General of Conservation, and the Department of Conservation are to establish and maintain a positive, co-operative and enduring partnership regarding conservation in the area of interest; and

5.5.2 requires the Department of Conservation and the trustees of the Development Trust to meet within 12 months after the settlement date to document practical ways to operationalise and give effect to the commitments in Te Kawenata Taiao o Ngāti Whātua o Kaipara; and

5.5.3 provides the interim operational agreement in appendix A to Te Kawenata Taiao o Ngāti Whātua o Kaipara is to operate from the settlement date until the document referred to in clause 5.5.2 is agreed; but

5.5.4 is not a Ngā Whenua Rāhui kawenata for the purposes of section 77A of the Reserves Act 1977 or section 27A of the Conservation Act 1987.

5.6 Te Kawenata Taiao o Ngāti Whātua o Kaipara is to be –

5.6.1 signed by the Minister of Conservation and the Director-General of Conservation, and the trustees of the Development Trust, in the form in part 1 of the documents schedule; and

5.6.2 subject to the terms of the settlement legislation provided for by part 9 of the legislative matters schedule.

5.7 A failure to comply with Te Kawenata Taiao o Ngāti Whātua o Kaipara is not a breach of this deed.

STATUTORY ACKNOWLEDGEMENTS

5.8 The settlement legislation will, on the terms provided for by part 10 of the legislative matters schedule, -

5.8.1 provide the Crown's acknowledgement of the statements by Ngāti Whātua o Kaipara of their particular cultural, spiritual, historical, and traditional association with the following areas:

(a) Papakanui Conservation Area and Papakanui Spit Wildlife Refuge (as shown on deed plan OTS-674-11):

(b) Rototoa Conservation Area and Lake Rototoa Scenic Reserve (as shown on deed plan OTS-674-15):

(c) Motutara Settlement Scenic Reserve and Goldie Bush Scenic Reserve (as shown on deed plan OTS-674-12):

(d) the Coastal Statutory Acknowledgement Area (as shown on deed plan OTS-674-10); and

5.8.2 require relevant consent authorities, the Environment Court, and the New Zealand Historic Places Trust to have regard to the statutory acknowledgement; and

5.8.3 require relevant consent authorities to forward to the trustees of the Development Trust -

(a) summaries of resource consent applications affecting an area that is the subject of a statutory acknowledgement; and

(b) a copy of a notice of a resource consent application served on the consent authority under section 145(10) of the Resource Management Act 1991; and

5.8.4 enable the trustees of the Development Trust, and any member of Ngāti Whātua o Kaipara, to cite the statutory acknowledgement as evidence of the association of Ngāti Whātua o Kaipara with an area that is the subject of a statutory acknowledgement.

5.9 The statements of association are in part 2 of the documents schedule.

CULTURE AND HERITAGE PROTOCOL

5.10 By or on the settlement date, the responsible Minister must sign and issue the culture and heritage protocol to the trustees of the Development Trust.

5.11 The culture and heritage protocol will set out how the Crown will interact with the trustees of the Development Trust with regard to the matters specified in it.

5.12 The culture and heritage protocol, will be issued -

5.12.1 in the form in part 3 of the documents schedule; and

5.12.2 under, and subject to, the terms of the settlement legislation provided for by part 11 of the legislative matters schedule.

5.13 A failure by the Crown to comply with the culture and heritage protocol, is not a breach of this deed.

LETTERS PROMOTING RELATIONSHIPS WITH NGĀTI WHĀTUA O KAIPARA

5.14 By or on the settlement date, the Minister for Treaty of Waitangi Negotiations must write the following letters:

5.14.1 letters introducing the trustees of the Development Trust to Ministers of the following departments and encouraging the establishment of a co-operative relationship with the trustees of the Development Trust on areas of mutual interest:

(a) the Ministries of Agriculture and Forestry, Defence, Economic Development, and Social Development:

(b) the Department of Corrections; and

(c) Te Puni Kōkiri:

5.14.2 a letter to the Auckland Council, encouraging the council to enter into a memorandum of understanding with the trustees of the Development Trust in relation to matters of mutual interest affecting the area of interest:

5.14.3 letters to the following organisations, encouraging each organisation to establish a co-operative ongoing relationship with the trustees of the Development Trust:

(a) the Museum of New Zealand Te Papa Tongarewa, the Museum of Transport and Technology, and the Voyager New Zealand Maritime Museum:

(b) the Far North Regional, Te Ahu, Whangarei, Dargaville, Matakohe, Albertland and Districts, Warkworth, Helensville, Auckland, Whanganui, and Canterbury museums:

(c) the MacMillan Brown Library (Canterbury University), and Hocken Collections (Otago University), the University of Auckland libraries, and public libraries within Auckland:

(d) the New Zealand Film Archive:

5.14.4 a letter to the Chief Executive of the Department of Internal Affairs requesting him or her to encourage the following organisations to establish a co-operative ongoing relationship with the trustees of the Development Trust:

(a) the Auckland regional, and the Wellington national, office of Archives New Zealand:

(b) the National Library (which includes the Alexander Turnbull Library).

GEOGRAPHIC NAMES

5.15 The settlement legislation will, from the settlement date, –

5.15.1 assign each of the following geographic names to the location set opposite it:

Assigned geographic name	Geographic feature type	Location (NZTopo50 map and grid references)
Kahukurī	Historic site	BA31 323305
Kaikai Pā	Historic site	BA30 295432
Te Korowai-o-Te-Tonga Peninsula	Peninsula	BA30 275447 – BA30 162447
Hiorekata	Historic site	BA30 266327
Mānunutahi Bay	Bay	AZ30 122652 – AZ30 124651
Tīpare Island	Island	AZ29 079666
Te Rite-a-Kawharu Pā	Historic site	AZ31 392495
Te Rite-a-Kawharu Hill	Hill	AZ31 385490
Tauwhare	Historic site	BA30 301322

5.15.2 alter each of the following existing geographic names to the altered geographic name set opposite it:

Existing geographic name (gazetted, recorded or local)	Altered geographic name	Geographic feature type	Location (NZTopo50 map and grid references)
Lake Ototoa	Lake Rototoa	Lake	AZ30 108586
Lake Ototoa Scenic Reserve	Lake Rototoa Scenic Reserve	Scenic Reserve	AZ30 107 578
Maori Bay	Maukatia Bay	Bay	BA30 273221 – BA30 273227
Mount Auckland	Atuanui / Mount Auckland	Mountain	AZ30 305657
Crocodile Island	Te Motu-o-Marae-Ariki	Island	AZ31 512484
Shelly Beach	Aotea / Shelly Beach	Beach	AZ30 234520 – AZ30 233515
Hatfields Beach	Ōtānerua / Hatfields Beach	Beach	AZ31 518525 – AZ31 517519

5.16 The settlement legislation will -

5.16.1 assign, or alter, the geographic names on the terms provided for by part 12 of the legislative matters schedule; and

5.16.2 in particular, provide that the New Zealand Geographic Board Ngā Pou Taunaha o Aotearoa may, with the consent of the trustees of the Development Trust, alter –

(a) any assigned, or altered, geographic name; or

(b) any of its related information.

MINISTRY OF AGRICULTURE AND FORESTRY LETTER

5.17 By or on the settlement date, the Director-General of the Ministry of Agriculture and Forestry must write a letter to the trustees of the Development Trust advising -

5.17.1 that the Ministry of Agriculture and Forestry recognises Ngāti Whātua o Kaipara –

(a) as tangata whenua within the area of interest; and

(b) have a special relationship with all species of fish, aquatic life, and seaweed within the area of interest; and

5.17.2 how Ngāti Whātua o Kaipara are able to –

(a) have input into, and participate in, the fisheries planning processes of the Ministry of Agriculture and Forestry; and

(b) implement the Fisheries (Kaimoana Customary Fishing) Regulations 1998 within the area of interest.

WAIATA TAUTOKO – E Ara

E ara, e ara rā.
Me he ika tapu kai rangatira e.
Kei te tai whakaturia e Kupe.
Kei Tāporapora rā.
Ngā rārangi maunga o Kaipara rā.
E kore, e neke, rārangi tāngata.
Ngaro ngaro noa.
Maranga maranga rā.
Te hau kāinga, he hau matangi.
He hau āwhiowhio.
He hau maranga ki uta rā.
Te hau whakaara ara rā.
He hau whakaara ara rā.
E mara e hoa mā.
Me hanga kapura rā.
Hei whakamahana.
Hei whakakā ana.
Tūrangawaewae mō te uri o Kaipara e....

6 FINANCIAL AND COMMERCIAL REDRESS

FINANCIAL AND COMMERCIAL REDRESS

6.1 The Crown is to provide the financial and commercial redress amount of $22,100,000.00 by –

On-account payment

6.1.1 paying $750,000.00 to the trustees of the Development Trust, as soon as reasonably practicable after, and in any event within five business days of, the date of this deed; and

Transfer of properties

6.1.2 transferring to the trustees of the Development Trust on the settlement date the following properties:

(a) Woodhill Forest (transfer value: $14,950,000.00):

(b) purchased Riverhead Forest, if the trustees of the Development Trust have elected to purchase any one or more of the Riverhead Forest properties in accordance with part 6 of the property redress schedule and the Riverhead Forest settlement date is the settlement date (transfer value: as agreed or determined under paragraph 6.9 of the property redress schedule); and

(c) subject to clause 6.2, the properties, other than Woodhill Forest, in subpart A of part 3 of the property redress schedule (each of which is referred to as a **non-forest commercial property**), being the following properties which have (subject to adjustment under clauses 6.14.4 and 6.14.5) transfer values totalling $4,066,000.00:

(i) 8 Old Woodcocks Road, Kaipara Flats (transfer value: $30,000.00):

(ii) 16 and 20 Old Woodcocks Road, Kaipara Flats (transfer value: $165,000.00):

(iii) Kaipara College (transfer value: $1,480,000.00):

(iv) Kaukapakapa School (transfer value: $328,000.00):

(v) Parakai School (transfer value: $456,000.00):

(vi) Tauhoa School (transfer value: $87,000.00, except if clause 6.14 applies, in which case it is $100,000.00):

(vii) Waimauku School (transfer value: $1,280,000.00):

(viii) Woodhill School (transfer value: $240,000.00):

Payment of any balance

6.1.3 paying to the trustees of Development Trust any balance remaining after deducting from the financial and commercial redress amount of $22,100,000.00 the following amounts:

(a) $750,000.00:

(b) the total transfer values of the commercial redress properties, being the properties transferred under clause 6.1.2.

PURCHASE OF NON-FOREST COMMERCIAL PROPERTIES IF FINANCIAL AND COMMERCIAL REDRESS AMOUNT EXCEEDED

6.2 If the total transfer values of the properties to be transferred under clause 6.1.2 exceed $21,350,000.00 (the financial and commercial redress amount less the on-account payment), -

6.2.1 the Crown will not transfer under that clause any one or more of the non-forest commercial properties as is necessary to ensure the total of the transfer values of the properties to be transferred under clause 6.1.2 does not exceed $21,350,000.00; and

6.2.2 the Crown and the trustees of the Development Trust are to be treated as having entered into an agreement for the sale and purchase of each non-forest commercial property that is, in accordance with clause 6.2.1, not transferred under clause 6.1.2 (a **purchased non-forest commercial property**); and

6.2.3 the agreement for sale and purchase under clause 6.2.2 is to be treated as –

(a) having been entered into on the settlement date; and

(b) providing that the trustees of the Development Trust must, on the date that is 30 business days after the settlement date (the **purchased non-forest commercial property settlement date**) pay to the Crown the transfer value of each purchased non-forest commercial property, plus GST if any; and

(c) providing that the terms in part 10 of the property redress schedule apply and, in particular, the Crown must, subject to the trustees paying the amount payable under paragraph (b), transfer the fee simple estate in each purchased non-forest commercial property on the purchased non-forest commercial property settlement date; and

(d) providing that the amount payable under paragraph (b) is payable by bank cheque drawn on a registered bank and payable to the Crown (or

by another payment method agreed in writing by the trustees of the Development Trust and the Crown); and

6.2.4 each purchased non-forest commercial property is to –

(a) be as described in part 3 of the property redress schedule; and

(b) have, subject to any adjustment under clause 6.14, the transfer value provided in subpart A of part 3 of the property redress schedule; and

6.2.5 the transfer of each purchased non-forest commercial property will be subject to, and where applicable with the benefit of, the encumbrances provided in part 3 of the property redress schedule; and

6.2.6 as soon as reasonably practicable after the trustees of the Development Trust elect to purchase any one or more of the Riverhead Forest properties under part 6 of the property redress schedule, the Crown will notify the trustees of each property that is a non-forest commercial property that -

(a) is not to be transferred under clause 6.1.2; but

(b) is to be a purchased non-forest commercial property.

6.3 To avoid doubt, there will not be any division of a non-forest commercial redress property to enable the creation of non-forest commercial redress properties with smaller transfer values.

COMMERCIAL REDRESS PROPERTY

6.4 In this deed, **commercial redress property** -

6.4.1 means each property transferred under clause 6.1.2; and

6.4.2 to avoid doubt, does not incude any purchased non-forest commercial property.

TRANSFER OF COMMERCIAL REDRESS PROPERTIES

6.5 Each commercial redress property is to be transferred by the Crown to the trustees of the Development Trust -

6.5.1 as part of the redress to settle the historical claims, and without any other consideration to be paid or provided by the trustees or any other person; and

6.5.2 on the terms of transfer in part 10 of the property redress schedule.

6.6 Each commercial redress property (other than the purchased Riverhead Forest, if it is a commercial redress property) is to –

6.6.1 be as described in part 3 of the property redress schedule; and

6.6.2 have, subject to any adjustment under clause 6.14, the transfer value provided in subpart A of part 3 of the property redress schedule.

6.7 If the purchased Riverhead Forest is a commercial redress property, it is to -

6.7.1 be as described in part 4 of the property redress schedule; and

6.7.2 have the transfer value agreed or determined in accordance with paragraph 6.9 of the property redress schedule.

6.8 The transfer of each commercial redress property will be –

6.8.1 subject to, and where applicable with the benefit of, the encumbrances provided in part 3 or part 4, as the case may be, of the property redress schedule in relation to that property; and

6.8.2 in the case of Woodhill Forest, with the benefit of the Crown having granted to the trustees of the Development Trust a right of way easement over the area shown as B on sheet 10 of DP 138525, on the terms and conditions set out in part 6 of the documents schedule (subject to any variations necessary to ensure its registration).

RIGHT TO PURCHASE RIVERHEAD FOREST PROPERTIES

6.9 Part 6 of the property redress schedule provides the trustees of the Development Trust with a right to purchase any of the Riverhead Forest properties that –

6.9.1 the Te Kawerau ā Maki claims negotiations body identifies in writing to the Crown is not to be transferred under a Te Kawerau ā Maki settlement; or

6.9.2 the Crown determines, in its sole discretion at any time before the Te Kawerau ā Maki claims negotiations body gives the notice referred to in clause 6.9.1, are to be offered to the trustees under that right of purchase.

6.10 The right of the trustees of the Development Trust to purchase available Riverhead Forest properties is up to a maximum value for those properties, and subject to the other terms and conditions, specified by part 6 of the property redress schedule.

6.11 If the trustees of the Development Trust exercise the right in part 6 of the property redress schedule, and the Riverhead Forest settlement date is –

6.11.1 the same as the settlement date, the purchased Riverhead Forest will be transferred as a commercial redress property under clauses 6.5 to 6.8; or

6.11.2 after the settlement date, the amount payable under paragraph 6.12.3(c) of the property redress schedule for the purchased Riverhead Forest, which includes GST if any, will be payable by the trustees of the Development Trust

on the Riverhead Forest settlement date in accordance with paragraph 6.12.3(d) of the property redress schedule.

RIGHT TO PURCHASE PAREMOREMO HOUSING BLOCK

6.12 Part 7 of the property redress schedule provides the trustees of the Development Trust, and the Te Kawerau ā Maki governance entity, with a right to purchase Paremoremo Housing Block (as described in part 5 of the property redress schedule) on, and subject to, the terms and conditions in part 7 of the property redress schedule.

INCLUSION OF SCHOOL HOUSE SITE IN TAUHOA SCHOOL SITE

6.13 Clause 6.14 applies in respect of the Tauhoa School House site (being the property described in subpart B of part 3 of the property redress schedule) if, on or before the date the settlement legislation is enacted, the board of trustees of Tauhoa School (the **board of trustees**) relinquishes the beneficial interest it has in the Tauhoa School House site.

6.14 If this clause applies to the Tauhoa School House site -

6.14.1 the Crown must, within 10 business days of this clause applying, give notice to the trustees of the Development Trust that the beneficial interest in the Tauhoa School House site has been relinquished by the board of trustees; and

6.14.2 when Tauhoa School is transferred under this deed, it will include the Tauhoa School House site; and

6.14.3 all references in this deed to Tauhoa School are to be read as if the property were Tauhoa School and Tauhoa School House site together; and

6.14.4 the transfer value for Tauhoa School is $100,000.00, being the aggregate of the transfer values for -

(a) Tauhoa School ($87,000.00); and

(b) the Tauhoa School House site ($13,000.00); and

6.14.5 the amount referred to in clause 6.1.2(c) as the total transfer value of the properties referred to in that sub-clause ($4,066,000.00) is increased by the transfer value of the Tauhoa School House site ($13,000.00) to $4,079,000.00.

TRANSFER OF LEASEBACK PROPERTIES

6.15 A leaseback property (each of which is referred to in the table immediately below clause 6.17) that is transferred under this deed is to be leased back to the Crown, immediately after its transfer to the trustees of the Development Trust, on the terms and conditions provided for in the lease of that property in subpart B of part 5 of the

documents schedule. As the lease is a ground lease of the property, the trustees of the Development Trust will be purchasing only the bare land, ownership of improvements remaining unaffected by the purchase.

6.16 The following items in schedule A of the lease for a leaseback property are to be completed in accordance with subpart A of part 5 of the documents schedule:

6.16.1 Item 1: the land:

6.16.2 Item 2: start date:

6.16.3 Item 3: annual rental:

6.16.4 Item 3A: agreed percentage:

6.16.5 Item 7: right of renewal:

6.16.6 Item 8: rent review dates:

6.16.7 Item 9: lessee's improvements.

6.17 Subpart A of part 5 of the documents schedule provides –

6.17.1 the initial annual rent set opposite a leaseback property in the table immediately below is to be included in item 3 of schedule A of the lease for that property, as the initial annual rent for that property; and

6.17.2 the percentage set opposite the leaseback property in the table immediately below is to be included in item 3A of schedule A of the lease for that property, as the agreed percentage. The agreed percentage is used in determining the reviewed annual rent of the property under clause 3 of schedule B of the lease.

Leaseback properties (land only)	Initial annual rent	Agreed percentage
Kaipara College	$88,800.00	6.00%
Kaukapakapa School	$20,500.00	6.25%
Parakai School	$28,500.00	6.25%
Tauhoa School (if clause 6.14 does not apply and Tauhoa School House site not included)	$5,655.00	6.50%
Tauhoa School (if clause 6.14 does apply and Tauhoa School House site is included)	$6,500.00	6.50%
Waimauku School	$76,800.00	6.00%
Woodhill School	$15,600.00	6.50%

SETTLEMENT LEGISLATION

6.18 The settlement legislation will, on the terms provided for by part 13 of the legislative matters schedule, enable the transfer of the following:

6.18.1 the commercial redress properties:

6.18.2 the purchased non-forest commercial properties:

6.18.3 the purchased Riverhead Forest, if it is not a commercial redress property:

6.18.4 Paremoremo Housing Block, if purchased under part 7 of the property redress schedule.

6.19 The settlement legislation will, on the terms provided for by part 14 of the legislative matters schedule, provide for the following in relation to each of the Woodhill Forest and the purchased Riverhead Forest:

6.19.1 its transfer by the Crown to the trustees of the Development Trust:

6.19.2 it to cease to be Crown forest land upon registration of the transfer:

6.19.3 the trustees of the Development Trust are to be, from the property settlement date for the property, –

(a) a confirmed beneficiary under clause 11.1 of the Crown forestry rental trust deed; and

(b) entitled to the rental proceeds since the commencement of the Crown forestry licence:

6.19.4 the Crown to give notice under section 17(4)(b) of the Crown Forest Assets Act 1989 terminating the Crown forestry licence, in so far as it relates to the property, at the expiry of the period determined under that section, as if -

(a) the Waitangi Tribunal had made a recommendation under section 8HB(1)(a) of the Treaty of Waitangi Act 1975 for the return of the property to Māori ownership; and

(b) the Waitangi Tribunal's recommendation became final on the property settlement date:

6.19.5 the trustees of the Development Trust are to be the licensor under the Crown forestry licence, as if the property had been returned to Māori ownership on the property settlement date under section 36 of the Crown Forest Assets Act 1989, but without section 36(1)(b) applying:

6.19.6 for rights of access to any area within the property that is wāhi tapu.

RFR IN RELATION TO EXCLUSIVE RFR LAND

6.20 The trustees of the Development Trust are to have a right of first refusal in relation to a disposal by the Crown, or another RFR landowner, of exclusive RFR land, which is the land described in paragraph 15.1.5 of the legislative matters schedule, namely, -

6.20.1 land in the exclusive RFR area (being the area shown on SO 438209) if, on the settlement date,-

(a) the land is vested in the Crown; or

(b) the fee simple estate in the land is held by the Crown; and

6.20.2 land in the area marked "A" on SO 438209 that, on the settlement date, is a reserve vested in an administering body that derived title from the Crown, if the land vests back in the Crown under sections 25 or 27 of the Reserves Act 1977; and

6.20.3 land exchanged for exclusive RFR land in the circumstances specified in the legislative matters schedule; but

6.20.4 not land in the area marked "B" on SO 438209 that, on the settlement date, is a State highway, unless that land is identified by the settlement legislation (by reference to its legal description) as exclusive RFR land.

RFR IN RELATION TO PAREMOREMO PRISON

6.21 The trustees of the Development Trust, and Te Kawerau ā Maki governance entity, are to have a right of first refusal in relation to a disposal by the Crown, or another **RFR** landowner, of Paremoremo Prison, which -

6.21.1 is the land that is described in paragraph 15.1.12 of the legislative matters schedule, if, on the **RFR** go-live date for that land, -

(a) the land is vested in the Crown; or

(b) the fee simple estate in the land is held by the Crown; and

6.21.2 includes land exchanged for all or part of Paremoremo Prison in the circumstances specified in the legislative matters schedule.

6.22 The settlement legislation is to provide –

6.22.1 the rights of Te Kawerau ā Maki governance entity under the right of first refusal in relation to Paremoremo Prison are subject to Te Kawerau ā Maki settlement legislation being enacted approving those rights as redress to Te Kawerau ā Maki; and

6.22.2 the **RFR** go-live date for the right of first refusal in relation to Paremoremo Prison is to be, if the settlement date under approving Te Kawerau ā Maki settlement legislation –

(a) has occurred by or on the settlement date, the settlement date; or

(b) has not occurred by or on the settlement date, the earlier of the following dates:

(i) 36 months after the settlement date:

(ii) the settlement date under approving TKaM settlement legislation.

RFR IN RELATION TO NON-EXCLUSIVE RFR LAND

6.23 The trustees of the Development Trust, and the Marutūāhu governance entity, are to have a right of first refusal in relation to a disposal by the Crown, or another RFR landowner, of non-exclusive **RFR** land, which is the land described in paragraph 15.1.13 of the legislative matters schedule being -

6.23.1 land described in part 6 of the attachments if –

(a) that land has not been withdrawn, by the settlement date, by the Crown by notice to –

(i) the trustees of the Development Trust; and

(ii) if the approving Marutūāhu settlement legislation has been enacted, the Marutūāhu governance entity; and

(b) on the RFR go-live date for non-exclusive RFR land –

(i) the land is vested in the Crown; or

(ii) the fee simple estate in the land is held by the Crown; or

6.23.2 land exchanged for non-exclusive RFR land in the circumstances specified in the legislative matters schedule.

6.24 The settlement legislation is to provide -

6.24.1 the rights of the Marutūāhu governance entity under the right of first refusal in relation to non-exclusive RFR land are subject to Marutūāhu settlement legislation being enacted approving those rights as redress to Marutūāhu; and

6.24.2 the RFR go-live date for the right of first refusal in relation to non-exclusive RFR land is to be, if the settlement date under approving Marutūāhu settlement legislation –

(a) has occurred by or on the settlement date, the settlement date; or

(b) has not occurred by or on the settlement date, on the earlier of the following dates:

(i) 36 months after the settlement date:

(ii) the settlement date under approving Marutūāhu settlement legislation.

PROVISIONS IN RELATION TO EACH RFR

6.25 Each right of first refusal in relation to exclusive RFR land, Paremoremo Prison, and non-exclusive RFR land is to –

6.25.1 be on the terms of the settlement legislation provided for by part 15 of the legislative matters schedule; and

6.25.2 apply only if the land it is not being disposed of in the circumstances specified by the settlement legislation in accordance with any of paragraphs 15.6, 15.17, 15.18, 15.19, or 15.21.1 of the legislative matters schedule.

6.26 The right of first refusal in relation to –

6.26.1 exclusive RFR land, applies for a term of 169 years from the settlement date; and

6.26.2 Paremoremo Prison, applies for a term of 170 years from the RFR go-live date for that land; and

6.26.3 non-exclusive RFR land, applies for a term of 169 years from the RFR go-live date for that land.

7 TEN ACRE BLOCK

Gifting of Ten Acre Block

7.1 In 1864, Te Otene Kikokiko, of Te Tao Ū, gifted to the Crown a ten acre block of land in Te Awaroa for public purposes. This block is referred to as the Ten Acre Block. It was a condition of the gift that the Ten Acre Block be returned if it was no longer required for public purposes.

Alienation

7.2 The Crown alienated parts of the Ten Acre Block to private parties, rather than returning it to Ngāti Whātua when it was no longer required for public purposes. This was a breach of the gift.

Partial return in 1982

7.3 In 1982, the Crown transferred approximately 0.1488 hectares of the Ten Acre Block to representatives of Ngāti Whātua o Kaipara after –

7.3.1 that land ceased to be required for use as a court house; and

7.3.2 a determination of the Māori Land Court.

Sites returned under this deed form part of Ten Acre Block

7.4 24 Commercial Road, Helensville, and the Ten Acre Block Recreation Reserve, form part of the Ten Acre Block.

24 Commercial Road, Helensville

7.5 The settlement legislation will vest in the trustees of the Development Trust on the settlement date the fee simple estate in 24 Commercial Road, Helensville.

7.6 24 Commercial Road, Helensville is to be -

7.6.1 vested in the trustees of the Development Trust, not as redress but in accordance with the Crown's gifted land policy; and

7.6.2 as described in schedule 3 of the legislative matters schedule; and

7.6.3 vested on the terms provided for by –

(a) part 2 of the property redress schedule; and

(b) part 16 of the legislative matters schedule.

Ten Acre Block Recreation Reserve

7.7 This deed (clause 5.1.3) also requires the settlement legislation to vest in the trustees of the Tari Pupuritaonga Trust, on the settlement date, the fee simple estate in the Ten Acre Block Recreation Reserve as a recreation reserve, with the trustees as the administering body.

7.8 The Ten Acre Block Recreation Reserve (as described in schedule 2 of the legislative matters schedule) is to be vested by the settlement legislation –

7.8.1 as a cultural redress property; and

7.8.2 on the terms provided by this deed and in, in particular, by –

(a) part 2 of the property redress schedule; and

(b) parts 5 to 7 of the legislative matters schedule.

7.9 Through the vesting under the settlement legislation of land in the Ten Acre Block in a Ngā Maunga Whakahii o Kaipara trust, the Crown recognises those trusts as the appropriate recipients of land returned from the Ten Acre Block.

WAIATA TAUTOKO – Tupu Te Toi

Tupu te toi. Whanake te toi.
He toi ora, mai Hawaiiki.

Tupu te toi. Whanake te toi.
He toi ora, mai Hawaiiki.

To purutanga, tā tāwhānga
Tō tau muri, ki te atua, tāku taha tēra.
Tupu te toi. Whanake te toi.
He toi ora, mai Hawaiiki.
He toi ora, mai Hawaiiki.

8 MATTERS AFFECTING THIRD PARTIES

HOBSONVILLE

8.1 Ngāti Whātua o Kaipara and the Crown acknowledge that –

8.1.1 the provisions of the agreement in principle in relation to a memorandum of understanding between Ngāti Whātua o Kaipara and Housing New Zealand Corporation reflected the importance to Ngāti Whātua o Kaipara of land at Hobsonville that is being developed by the Crown; and

8.1.2 the trustees of the Development Trust, an entity on behalf of Te Kawerau ā Maki, Housing New Zealand Corporation, and Hobsonville Land Company Limited agreed the terms of a memorandum of understanding which was signed on 15 July 2011; and

8.1.3 the parties to the memorandum of understanding agree to work together to recognise the historical and cultural relationship Ngāti Whātua o Kaipara and Te Kawerau ā Maki have with the Hobsonville Point Development (as defined in the memorandum) through -

(a) providing Ngāti Whātua o Kaipara and Te Kawerau ā Maki with a seat each on –

(i) the Place Making Committee (as defined in the memorandum of understanding); or

(ii) a replacement committee; and

(b) meetings between the parties to the memorandum of understanding, on a quarterly basis, or as otherwise agreed, to discuss the matters provided for in the memorandum; and

(c) an agreed process for the disposal of ex-Ministry of Defence houses surplus to the Hobsonville Point Development, as set out in appendix 2 to the memorandum of understanding.

NEGOTIATIONS IN RELATION TO CONSERVATION MANAGEMENT IN AUCKLAND CONSERVANCY

8.2 It is anticipated that there will be negotiations between the Crown and representatives of tangata whenua within the Auckland conservancy (including Ngāti Whātua o Kaipara) in relation to the input of tangata whenua into conservation management in the Auckland conservancy.

8.3 To avoid doubt, the Crown acknowledges that it will not limit the participation of Ngāti Whātua o Kaipara in any negotiations referred to in clause 8.2 because of the settlement of the historical claims under this deed.

9 SETTLEMENT LEGISLATION, CONDITIONS, AND TERMINATION

SETTLEMENT LEGISLATION

9.1 The Crown must use its best endeavours to propose the settlement legislation for introduction to the House of Representatives within six months of the date of this deed and, in any event, by not later than 12 months after the date of this deed.

9.2 The bill proposed for introduction under clause 9.1 must –

9.2.1 include all matters required -

(a) by this deed; and

(b) in particular, by the legislative matters schedule; and

9.2.2 reflect as appropriate, for the purposes of Parliament, the drafting conventions of Parliamentary Counsel Office; and

9.2.3 be in a form that the trustees of the Development Trust have notified the Crown is satisfactory to the trustees.

9.3 Ngāti Whātua o Kaipara, and the trustees of each Ngā Maunga Whakahii o Kaipara trust, acknowledge that –

9.3.1 the settlement legislation may be proposed for introduction in an omnibus bill that gives effect to deeds of settlement of the historical claims of other groups; and

9.3.2 if the settlement legislation is to be proposed for introduction in an omnibus form referred to in clause 9.3.1, the trustees of the Development Trust may not withhold notifying under clause 9.2.3 that the bill is in a satisfactory form on the grounds that the bill is that omnibus form.

9.4 Ngāti Whātua o Kaipara, and the trustees of each Ngā Maunga Whakahii o Kaipara trust, must support the enactment of the settlement legislation.

CERTAIN PROVISIONS BINDING ON SIGNING

9.5 The following provisions of this deed are binding on its signing:

9.5.1 clause 6.1.1; and

9.5.2 clauses 9.6 to 9.17; and

9.5.3 paragraphs 1.1, 1.3, 1.4.1, and parts 3 to 6 of the general matters schedule; and

9.5.4 paragraph 2.10 of the property redress schedule.

RIGHTS TO PURCHASE RIVERHEAD FOREST PROPERTIES CONDITIONAL ON SPECIFIED CONDITIONS

9.6 Part 6 of the property redress schedule (relating to a right to purchase the Riverhead Forest properties) -

9.6.1 is conditional upon one of the conditions in paragraph 6.2 of that part being satisfied; and

9.6.2 comes into effect when one of those conditions is satisfied.

9.7 If part 6 of the property redress schedule comes into effect, parts 8, 9, and 11 of the property redress schedule, and any other provisions of this deed, come into effect at the same time, to the extent that those parts or provisions –

9.7.1 have not come into effect; and

9.7.2 apply, or are necessary to give effect, to part 6.

RIGHTS TO PURCHASE PAREMOREMO HOUSING BLOCK CONDITIONAL UPON SPECIFIED CONDITIONS

9.8 Part 7 of the property redress schedule (relating to a right to purchase the Paremoremo Housing Block) –

9.8.1 is conditional upon the conditions in paragraphs 7.2.1 or 7.2.2, and 7.2.3, of that part being satisfied; and

9.8.2 if those conditions are satisfied, comes into effect on the date specified by paragraph 7.4 of the property redress schedule.

9.9 If part 7 of the property redress schedule comes into effect, parts 8 to 11 of the property redress schedule, and any other provisions of this deed, come into effect at the same time, to the extent that those parts or provisions-

9.9.1 have not come into effect; and

9.9.2 apply, or are necessary to give effect, to part 7.

BALANCE OF DEED, AND SETTLEMENT, CONDITIONAL UPON SETTLEMENT LEGISLATION

9.10 The parties -

9.10.1 agree that, except as provided by clauses 9.5 to 9.9, this deed is conditional on the settlement legislation coming into force; and

9.10.2 agree that the settlement is conditional upon the settlement legislation coming into force; and

9.10.3 acknowledge that, although parts 6 and 7 of the property redress schedule come into effect as provided in clauses 9.6 and 9.8, neither purchased Riverhead Forest, nor the Paremoremo Housing Block, may be transferred under this deed to the trustees of the Development Trust before the settlement legislation has come into force.

EFFECT OF THIS DEED

9.11 This deed -

9.11.1 is "without prejudice" until it becomes unconditional; and

9.11.2 in particular, may not be used as evidence, or presented, in proceedings between the Crown and Ngāti Whātua o Kaipara before the Waitangi Tribunal, any court, or other judicial body or tribunal.

9.12 Clause 9.11 does not exclude the jurisdiction of a court, tribunal, or other judicial body in respect of the interpretation or enforcement of this deed.

TERMINATION OF RIGHTS IN RELATION TO RIVERHEAD FOREST PROPERTIES

9.13 If Te Kawerau ā Maki advise the Crown in writing that they require all the Riverhead Forest properties to be transferred under the Te Kawerau ā Maki settlement, the Crown must, within 10 business days of receiving that advice, give the trustees of the Development Trust notice that –

9.13.1 the Crown has received that advice from Te Kawerau ā Maki; and

9.13.2 therefore, –

(a) part 6 of the property redress schedule will not become unconditional; and

(b) redress in relation to the Riverhead Forest properties will not be provided.

TERMINATION OF RIGHTS IN RELATION TO PAREMOREMO HOUSING BLOCK

9.14 If the conditions in paragraph 7.2.1 or 7.2.2 of the property redress schedule are satisfied, but not the condition in paragraph 7.2.3 of that schedule, the Crown must, within 10 business days of the condition in paragraph 7.2.1 or 7.2.2 being satisfied, give the trustees of the Development Trust notice –

9.14.1 that, although the conditions in paragraph 7.2.1 or 7.2.2 has been satisfied, the conditions in paragraph 7.2.3 have not been satisfied; and

9.14.2 giving details of the conditions in paragraph 7.2.3 that have not been satisfied; and

9.14.3 that, therefore, -

(a) part 7 of the property redress will not become unconditional; and

(b) redress in relation to the **P**aremoremo **H**ousing Block will not be provided.

TERMINATION OF THIS DEED

9.15 The Crown, or the trustees of the Development Trust, may terminate this deed, by notice to the other, if –

9.15.1 the settlement legislation has not come into force within 24 months after the date of this deed; and

9.15.2 the terminating party has given the other party at least 20 business days notice of an intention to terminate.

9.16 If this deed is terminated in accordance with its provisions, it -

9.16.1 (and the settlement) are at an end; and

9.16.2 does not give rise to any right or obligation (including under parts 6 or 7 of the property redress schedule); and

9.16.3 remains "without prejudice".

ON-ACCOUNT PAYMENT NOT REPAYABLE

9.17 If this deed does not become unconditional, or is terminated, the on-account payment made by the **C**rown under clause 6.1.1 -

9.17.1 is not repayable; but

9.17.2 must be taken into account in any future settlement of the historical claims.

10 INTEREST AND GENERAL

INTEREST

10.1 On the settlement date, the Crown must pay to the trustees of the Development Trust interest on –

10.1.1 the financial and commercial redress amount, for the period –

(a) beginning on the date the agreement in principle was signed by Ngāti Whātua o Kaipara; and

(b) ending on the day before the on-account payment of $750,000.00 is paid to the trustees of the Development Trust; and

10.1.2 the financial and commercial redress amount, less the on-account payment of $750,000.00, for the period –

(a) beginning on the date the on-account payment is paid to the trustees; and

(b) ending on the date before the settlement date.

10.2 The interest is payable at the rate from time to time set as the official cash rate by the Reserve Bank, calculated on a daily basis but not compounding.

10.3 The interest is –

10.3.1 subject to any tax payable in relation to it; and

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

GENERAL MATTERS

10.4 The general matters schedule includes provisions in relation to-

10.4.1 the implementation of the settlement; and

10.4.2 the Crown's tax indemnities in relation to redress; and

10.4.3 giving notice under this deed or a settlement document; and

10.4.4 amending this deed.

11 DEFINITIONS AND INTERPRETATION

HISTORICAL CLAIMS

11.1 In this deed, **historical claims** -

11.1.1 means every claim (whether or not the claim has arisen or been considered, researched, registered, notified, or made by or on the settlement date) that Ngāti Whātua o Kaipara, or a representative entity, had at, or at any time before, the settlement date, or may have at any time after the settlement date, and that -

(a) is, or is founded on, a right arising -

(i) from the Treaty of Waitangi or its principles; or

(ii) under legislation; or

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

(iv) from fiduciary duty; or

(v) otherwise; and

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

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

(ii) by or under legislation; and

11.1.2 includes every claim to the Waitangi Tribunal to which clause 11.1.1 applies that relates exclusively to Ngāti Whātua o Kaipara or a representative entity, including the following claims:

(a) Wai 279 - Te Kēti B Block claim:

(b) Wai 312 - Ngāti Whātua o Kaipara ki te Tonga claim:

(c) Wai 733 - Otakanini Lands and Resources claim; and

11.1.3 includes every other claim to the Waitangi Tribunal to which clause 11.1.1 applies, so far as it relates to Ngāti Whātua o Kaipara or a representative entity, including the following claims:

(a) Wai 121 - Manukau Māori Trust Board (Ngāti Whātua Lands and Fisheries) claim:

(b) Wai 303 - Te Rūnanga o Ngāti Whātua claim:

(c) Wai 756 - Te Tao Ū Southern Kaipara Lands and Resources claim:

(d) Wai 798 - Ngāti Rango claim:

(e) Wai 861 - Te Tai Tokerau District Māori Council claim:

(f) Wai 881 - Haumoewharangi-Maki descendants claim:

(g) Wai 887 - Watene Tautari Whakapapa Whānau Trust claim:

(h) Wai 1045 - Ngāti Marua claim:

(i) Wai 1046 - Ngāti Whātua Tūturu o Te Tao Ū claim:

(j) Wai 1114 - Te Rūnanga o Te Tao Ū claim:

(k) Wai 1127 - Ngā Oho o Te Tao Ū claim:

(l) Wai 1128 - Te Tao Ū (Auckland) Land Alienation claim:

(m) Wai 1146 - Te Tao Ū Land and Resources claim:

(n) Wai 1519 - Ngāti Whātua (Josephs) claim:

(o) Wai 1825 - The descendants of Hetaraka Takapuna claim:

(p) Wai 2181 - Ngā Uri o Maki-nui claim.

11.2 To avoid doubt, clause 11.1.1 is not limited by clauses 11.1.2 or 11.1.3.

11.3 However, **historical claims** does not include the following claims:

11.3.1 any of the Te Uri o Hau historical claims, being claims settled by the Te Uri o Hau deed of settlement and the Te Uri o Hau Claims Settlement Act 2002:

11.3.2 a claim that a member of Ngāti Whātua o Kaipara, or a whānau, hapū, or group referred to in clause 11.4.3, may have that is, or is founded on, a right arising as a result of being descended from an ancestor who is not referred to in clause 11.4.1:

11.3.3 a claim that a representative entity may have to the extent the claim is, or is founded, on a claim referred to in clause 11.3.1 or 11.3.2.

NGĀTI WHĀTUA O KAIPARA

11.4 In this deed, **Ngāti Whātua o Kaipara** means -

11.4.1 the collective group composed of individuals who descend from -

(a) Haumoewaarangi; and

(b) a recognised ancestor of at least one of Ngāti Whātua Tūturu, Te Tao Ū, Ngāti Rango (sometimes referred to as Ngāti Rongo), Ngāti Hine, or Te Uri o Hau who exercised customary rights predominantly within the area of interest; and

11.4.2 every individual referred to in clause 11.4.1; and

11.4.3 every whānau, hapū, or group to the extent that it is composed of individuals referred to in clause 11.4.1.

11.5 For the purposes of clause 11.4.1 -

11.5.1 a person is **descended** from another person if the first person is descended from the other by -

(a) birth; or

(b) legal adoption; or

(c) Māori customary adoption in accordance with Ngāti Whātua o Kaipara tikanga (customary values and practices); and

11.5.2 **customary rights** means rights according to tikanga Māori (Māori customary values and practices) including the following rights:

(a) rights to occupy land:

(b) rights in relation to the use or stewardship of land or other natural or physical resources:

(c) rights of burial:

(d) rights to affiliate to a Ngāti Whātua o Kaipara marae at any of the following places:

(i) Reweti:

(ii) Haranui:

(iii) Kākānui:

(iv) Araparera:

(v) Puatahi.

AREA OF INTEREST

11.6 **Area of interest** means the area identified as the area of interest in the attachments.

ADDITIONAL DEFINITIONS

11.7 The definitions in part 5 of the general matters schedule apply to this deed.

INTERPRETATION

11.8 Part 6 of the general matters schedule applies to the interpretation of this deed.

WAIATA TAUTOKO – Karanga E Kaipara

Karanga e Kaipara, e te iwi e.
Haere mai, haere mai. Haere mai.
Mauria mai o taonga, te aroha e.
Whiitikitia rā i roto i, te manawa e.
Kia rite ake ai, ngā wawata.
Kia rite ake ai, ngā wawata.

SIGNED as a deed on 9 September 2011

BY the trustees of
NGĀ MAUNGA WHAKAHII O KAIPARA DEVELOPMENT TRUST -

- for and on behalf of **NGĀTI WHĀTUA O KAIPARA**
- as trustees of **NGĀ MAUNGA WHAKAHII O KAIPARA DEVELOPMENT TRUST**, for and on behalf of that trust
- as trustees of **NGĀ MAUNGA WHAKAHII O KAIPARA TARI PUPURITAONGA TRUST**, for and on behalf of that trust

Takutaimoana Wikiriwhi

Gloria May Timoti

Waata Herewini Richards

Haahi Rangi Walker

Rangimarie Naida Glavish

Te Kahui-iti Morehu

Margaret Anne Kawharu

Rhys Charles Freeman

The trustees of **NGĀ MAUNGA WHAKAHII O KAIPARA DEVELOPMENT TRUST** signed in the presence of:

WITNESS

Name: L G Powell

Occupation: Solicitor

Address: Auckland.

The Minister of Māori Affairs
in the presence of -

Hon Dr Pita R. Sharples

WITNESS

Name: TAU HENARE

Occupation: MP

Address: PARLIAMENT, WELLINGTON

The Minister for the Community and Voluntary Sector in the presence of -

Tariana Turia.

Hon Tariana Türia

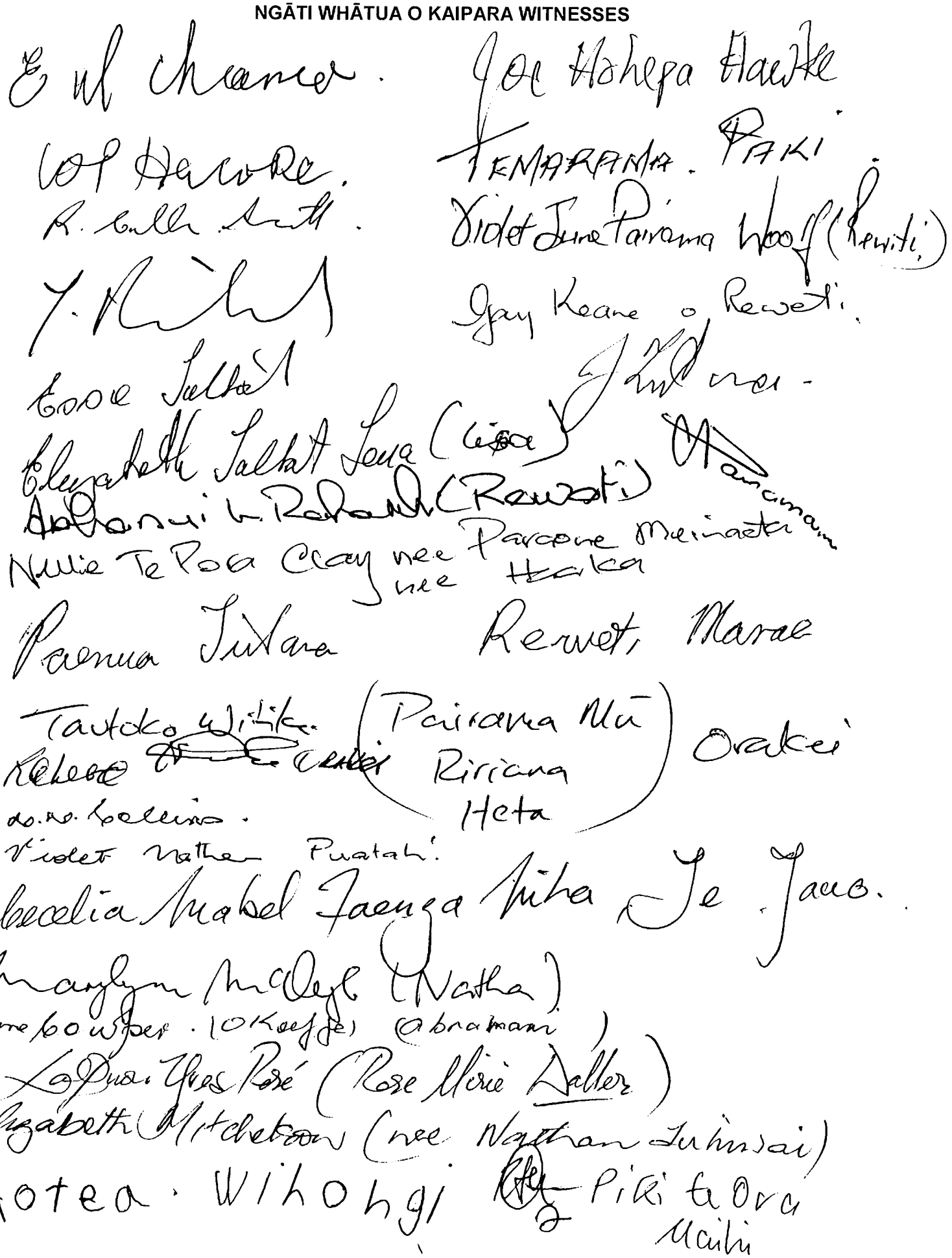
WITNESS

Name: TAU HENARE

Occupation: MP

Address: PARLIAMENT, WELLINGTON

NGĀTI WHĀTUA O KAIPARA WITNESSES



NGĀTI WHĀTUA O KAIPARA WITNESSES

A Pewairi Pairama Mrs Nhanoni

D. Raynes nee Pairama D Reynolds

Lindy Lely Simon Lely

Leylian Johan Tuaea Moana Violet Anne Lewhan

Donna Tapuwai Peeganui Aperahama.

Te Aniwa Tuitara Maranui me Reweti Marae

Frank Glavish.

Lena Jaunafanka Tapuwai Ruatahi Marae.
Te Tangata Uri O Kaipara.

Jamie Dahi - Ruatahi Marae
Te Tangata Uri O Kaipara

Tamaki i (Aetara / Paora)
Kia Morehu

Te Arihi Morehu

Marama Morehu

NGĀTI WHĀTUA O KAIPARA WITNESSES

Te Kapu Ote Tiriti O Waitangi Wilcox

Josephine Harris (Tangaroa/Fenton)

Awhimia Morehu Maihi

TE RONGOPAI

TE NOHOTU PATUWAI

Linda May Paki

Chenth Joy Vahaikolo

RACHEL WALDING (Hill Kapara)

Mei Hill Haranui / Otakanini

Ethan Payn

Claire Payn

Pastor Stuart Forlong

Hamuera Cruickshank. Haranui

Miles Paterson Grace

(also from my Granny Rachel Backhouse-Smith née Povey)

Malcolm Paterson

Susan Barker.

Ross Barker

Nancy Astrid Smith (Olsen)

Wynne Hay Smith (West Whanau)

WAI 861

Bernard Makoare
Tekiri ottau

Kakonu. / Nick Herewaka Rangi Rata

Jae Panui

ELON e RENA BYCROFT

Ngati Whatua.
Tekiriotemoana Akiwa Ratima.

Victoria Rotohiko.

NGĀTI WHĀTUA O KAIPARA WITNESSES

Steeni Wilcox
E. Walker Jnr
Ngati Rango

A. Backhouse

Hemi Albert

Levi Hemana

Hene Reweti

Seth Wilcox

Larissa Pakura
Mike Wild
Tiaho Wild

Hemi G. Sat

Melanie Tuscia

Maximus Smitheram

Wynne Spring-Rice

Elizabeth Titiata Bowater (Bovey)
aka Titiata Bowater
Eleanor Dempsey nee Bowater (Bovey)
Kim Bowater Hill

Rerenga-turia

Rik Prime

Justus

MICHAEL ARANUI

Marama Walker

Hohepa Hone Matiu Dawson

Finn Walker

Daniel Walker

Kayla Pender

Alicia Peng

K. Walker

faith Walker

Joshua Walker

Pumau Walker

Chèlize Hawl

Kiwa Hemana.

Melanie Mayall-Nahi

Moira Rangi Adelaide Dawson

Te Hira Mayall-Nahi

Michelle Nahi

Kaaterama Morehu - Rewati

Ngarimu Harte-Marsh

Nadasha Harte

James Harte

Tyleh. Rudolph.

NGĀTI WHĀTUA O KAIPARA WITNESSES

Teataiti Tapurau Putohi

Henri Tapurau Putohi

Kathy Aheko Nahi

Kerrie Joyce Patuawa

Dayton

Kaleen Richards

Tahlia Rena Richards

Johziah James Tapurau

Noah Hohepa Kapea

Shinella Walker.

Angela Walla

Kaya Johanui

Scarlet Payne

Jacob Backhouse-Smyth

Lorraine Walker

Kenneth Hemana

Daityra Walker-Hemana

Afua " "

Arawera Tamihana

Charliki Tamihana

Moriafae Tamihana

Theo Partridge

TJ Walker.

Paerua John Gibson Tahana

Mariangi Te Aroha Pic 29/19

IP Eden

Harvey Walker

Deylani Richards

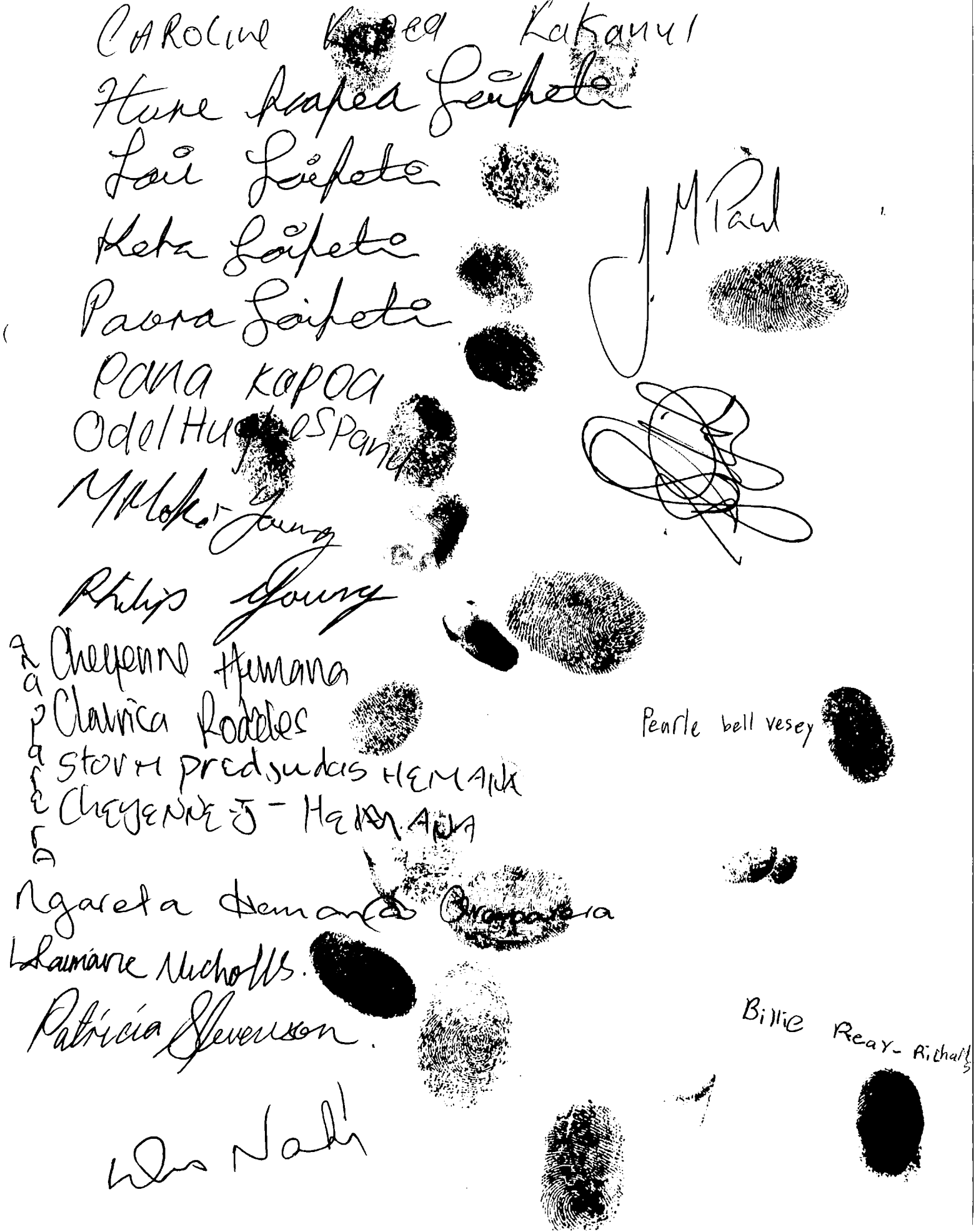
JM Richards

Tania M Richards

Paul J. Richards

Tui Samuel (nee Blair)

NGĀTI WHĀTUA O KAIPARA WITNESSES



Te Wehi Rangatira Ranginehinehi Molly Pairama

Colin Edward Dawson

Donna Harris.

Henry Parkwell

for & on behalf Helensville District Business Assoc.

Suzanne Clarke-Payette

Sarah Pordram

Tesha Kapea

Anastasia Paulene Rusden Hemana

Tylah

Milla

Jenepa Mose

Aaron Tommy Ngarimu Kapea

Nata

Charmaine Kapea

TE AMO

M. Kapea

Katanui

Marcus Te-Arahi Kapea.

Te Arahi Kapea.