

TE ĀKITAI WAIOHUA

and

THE CROWN

**AGREEMENT IN PRINCIPLE
TO SETTLE
HISTORICAL CLAIMS**

16 December 2016

TABLE OF CONTENTS

1 BACKGROUND3
2 AGREEMENT IN PRINCIPLE4
3 SETTLEMENT5
4 HISTORICAL ACCOUNT, ACKNOWLEDGEMENT AND APOLOGY9
5 CULTURAL REDRESS 10
6 FINANCIAL AND COMMERCIAL REDRESS..... 19
7 OVERLAPPING CLAIMS PROCESS26
8 INTEREST AND TAX29
9 NEXT STEPS30
10 CONDITIONS32
11 GENERAL34

SCHEDULES

1. DEFINITIONS
2. TERMS OF SETTLEMENT
3. VALUATION PROCESS FOR POTENTIAL COMMERCIAL REDRESS PROPERTIES

ATTACHMENT

1. AREA OF INTEREST

1 BACKGROUND

Mandate and terms of negotiation

- 1.1 Te Ākitai Waiohua gave Te Ākitai Waiohua Iwi Authority a mandate to negotiate with the Crown a deed of settlement settling the historical claims of Te Ākitai Waiohua by mandate hui on 5 March 2011.
- 1.2 The Crown recognised this mandate on 18 July 2011.
- 1.3 The mandated negotiators and the Crown agreed the scope, objectives, and general procedures for the negotiations by terms of negotiation dated 4 December 2012.

Nature and scope of deed of settlement agreed

- 1.4 The mandated negotiators and the Crown have agreed, in principle, the nature and scope of the deed of settlement.
- 1.5 This agreement in principle records that agreement and concludes substantive negotiations of the redress contemplated in this agreement in principle.

Approval and signing of this agreement in principle

- 1.6 The mandated body has –
 - 1.6.1 approved this agreement in principle; and
 - 1.6.2 authorised the mandated negotiators to sign it on their behalf.

2 AGREEMENT IN PRINCIPLE

- 2.1 Te Ākitai Waiohua Iwi Authority and the Crown agree –
 - 2.1.1 that, in principle, the nature and scope of the deed of settlement is to be as provided in this agreement in principle; and
 - 2.1.2 to work together in good faith to develop, as soon as reasonably practicable, a deed of settlement based on this agreement in principle. In particular, parties will work together to resolve any matters in relation to clause 3.10 of this agreement in principle, and agree or determine (where applicable) those matters under clauses 3.13 and 9.2; and
 - 2.1.3 the deed of settlement is to be signed by or on behalf of Te Ākitai Waiohua, the governance entity, and the Crown.

3 SETTLEMENT

Settlement of historical claims

- 3.1 The deed of settlement is to provide that, on and from the settlement date, –
- 3.1.1 the historical claims of Te Ākitai Waiohūa are settled; and
 - 3.1.2 the Crown is released and discharged from all obligations and liabilities in respect of the historical claims; and
 - 3.1.3 the settlement is final.

Harbours

- 3.2 Even though the historical claims will be settled by the deed of settlement and the settlement legislation, it will not provide for all redress in relation to the Manukau Harbour and the Waitematā Harbour. The harbours redress will be addressed through separate negotiations between the Crown and others, including Te Ākitai Waiohūa.
- 3.3 Te Ākitai Waiohūa acknowledge that negotiations relating to the Manukau Harbour and the Waitematā Harbour will not affect this agreement in principle nor progress towards the deed of settlement.
- 3.4 The Crown will negotiate harbours redress in good faith with Te Ākitai Waiohūa in a manner consistent with the principles of te Tiriti o Waitangi/the Treaty of Waitangi.
- 3.5 Te Ākitai Waiohūa acknowledge that the Crown is not in breach of this deed if the redress referred to in clause 3.4 has not been provided by any particular date if, on that date, the Crown is still willing to negotiate in good faith in an attempt to provide the redress.
- 3.6 Te Ākitai Waiohūa are not precluded from making a claim to any court, tribunal or other judicial body in respect of the process referred to in clauses 3.2 to 3.5.
- 3.7 The definitions of the historical claims, and of Te Ākitai Waiohūa, are to be based on the definitions of those terms in schedule 1.

Terms of settlement

- 3.8 The terms of the settlement provided in the deed of settlement are to be:
- 3.8.1 those in schedule 2; and
 - 3.8.2 any additional terms agreed by the parties.

AGREEMENT IN PRINCIPLE

Redress

- 3.9 The deed of settlement is to provide for redress in accordance with this agreement in principle.
- 3.10 However, the deed of settlement will include –
- 3.10.1 redress contemplated by this agreement in principle only if any overlapping claim issues in relation to that redress have been addressed to the satisfaction of the Crown; and
- 3.10.2 a property that this agreement in principle specifies as a potential cultural redress property, or a potential commercial redress property, or a potential deferred selection property, subject to final written confirmation from the Crown that each of those properties is available. If any such potential property is not available, the Crown is under no obligation to substitute that property with another property.
- 3.11 If the Crown is unable to confirm any redress contemplated by this agreement in principle due to overlapping claims, the parties may discuss alternative redress so that the nature of the redress contemplated by this agreement in principle is maintained so far as that is possible, in the deed of settlement.
- 3.12 If any new redress is offered by the Crown in accordance with clause 3.11, Te Ākitai Waiohū acknowledge that clauses 3.10.1 and 3.10.2 apply to that redress.

Transfer or vesting of settlement properties

- 3.13 The settlement documentation is to provide that the vesting or transfer of:
- 3.13.1 a redress property or a purchased deferred selection property will be subject to –
- (a) any further identification and/or survey required; and
 - (b) Part 4A of the Conservation Act 1987 (unless the settlement documentation provides otherwise); and
 - (c) sections 10 and 11 of the Crown Minerals Act 1991; and
 - (d) any relevant provisions included in the settlement documentation.
- 3.13.2 a redress property, will be subject to any encumbrance or right, in relation to that property that the settlement documentation either –
- (a) describes as existing at the date of the deed of settlement; or
 - (b) requires to be created on or before the settlement date; and

AGREEMENT IN PRINCIPLE

- 3.13.3 a purchased deferred selection property will be subject to any encumbrance or right, or obligation in relation to that property, that is either:
- (a) described in the disclosure information provided for that deferred selection property (and not varied during the pre-purchase period); or
 - (b) entered into by the Crown during the pre-purchase period; or
 - (c) required to be created under the settlement documentation on or before the settlement date.

Ngā Mana Whenua o Tāmaki Makaurau Collective Redress

3.14 Te Ākitai Waiohua is –

3.14.1 one of the iwi of Ngā Mana Whenua o Tāmaki Makaurau; and

3.14.2 therefore, a party to the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Deed between the Crown and Ngā Mana Whenua o Tāmaki Makaurau.

3.15 The deed of settlement will record that the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Deed provides for the following redress:

Cultural redress in relation to Tāmaki Makaurau Area

- (a) cultural redress in relation to particular Crown-owned portions of maunga¹ and motu² of the inner Hauraki Gulf / Tīkapa Moana:
- (b) governance arrangements relating to four motu³ of the inner Hauraki Gulf / Tīkapa Moana:
- (c) a relationship agreement with the Crown, through the Minister of Conservation and the Director-General of Conservation, in the form set out in part 2 of the documents schedule to the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Deed, in relation to public conservation land in the Tāmaki Makaurau Region (as defined in that relationship agreement):
- (d) changing the geographic names of particular sites of significance in the Tāmaki Makaurau Area:

¹ Matukutūruru, Maungakiekie / One Tree Hill, Maungarei / Mount Wellington, Maungauika, Maungawhau / Mount Eden, Mount Albert, Mount Roskill, Mount St John, Ōhinerau / Mount Hobson, Ōhūiarangi / Pigeon Mountain, Ōtauhu / Mount Richmond, Rarotonga / Mount Smart, Takarunga / Mount Victoria, and Te Tātuaa- Riukiuta.

² Rangitoto Island, Motutapu Island, Motuihe Island / Te Motu-a-Ihenga and Tiritiri Matangi Island.

³ Rangitoto Island, Motutapu Island, Motuihe Island / Te Motu-a-Ihenga and Motukōrea.

AGREEMENT IN PRINCIPLE

Commercial redress in relation to RFR land

- (e) a right of first refusal over RFR land, as defined in the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Deed, for a period of 172 years from the date the right becomes operative:

Right to purchase any non-selected deferred selection properties

- (f) a right to purchase any property situated in the RFR area (as defined in the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Deed) –
 - (i) in relation to which one of the iwi of Ngā Mana Whenua o Tāmaki Makaurau has a right of deferred selection under a deed of settlement with the Crown; but
 - (ii) that is not acquired under that right of deferred selection; and

Acknowledgement in relation to cultural redress in respect of the Waitematā and Manukau Harbours

- (g) includes an acknowledgement that, although the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Deed does not provide for cultural redress in respect of the Waitematā Harbour and Manukau Harbour, that cultural redress is to be developed in separate negotiations between the Crown and Ngā Mana Whenua o Tāmaki Makaurau.

4 HISTORICAL ACCOUNT, ACKNOWLEDGEMENT AND APOLOGY

- 4.1 The deed of settlement is to include –
- 4.1.1 an agreed account of the historical relationship between Te Ākitai Waiohua and the Crown to be developed by the parties based on the historical account themes listed under 4.2; and
 - 4.1.2 the Crown's acknowledgement of its acts and omissions which have breached the Treaty of Waitangi/te Tiriti o Waitangi and its principles or caused prejudice to Te Ākitai Waiohua; and
 - 4.1.3 a Crown apology for breaches of the Treaty of Waitangi/te Tiriti o Waitangi and its principles and the prejudice caused to Te Ākitai Waiohua.
- 4.2 The historical account will be broadly based on the following key themes –
- 4.2.1 Te Ākitai Waiohua: pre-1840 history and the Treaty of Waitangi;
 - 4.2.2 Early Crown purchases in South Auckland;
 - 4.2.3 The Crown's investigation of pre-1840 transactions involving Te Ākitai Waiohua;
 - 4.2.4 Land transactions under pre-emption waivers;
 - 4.2.5 The Crown's acquisition of Te Ākitai lands: 1844-1854;
 - 4.2.6 Encroachment on Te Awa nui o Taikehu, 1853-1858;
 - 4.2.7 Te Ākitai Waiohua, Kingitanga and the prospect of war;
 - 4.2.8 Eviction, arrest and imprisonment;
 - 4.2.9 Raupatu;
 - 4.2.10 Impact of the Native Land Laws on Te Ākitai Waiohua; and
 - 4.2.11 Te Ākitai Waiohua in the twentieth century.
- 4.3 Crown acknowledgements to Te Ākitai Waiohua will be developed and included in the Deed of Settlement.

5 CULTURAL REDRESS

General

- 5.1 All items of cultural redress are subject to the following being agreed, determined or resolved before a deed of settlement is signed:
- 5.1.1 the Crown confirming that any overlapping claim issues in relation to any item of cultural redress have been addressed to the satisfaction of the Crown; and
- 5.1.2 any other conditions specified in the cultural redress tables provided below and set out in clauses 3.10, 3.13 and 9.2 of this agreement in principle.

Potential cultural redress properties

- 5.2 The deed of settlement is to provide that the settlement legislation will vest in the governance entity those of the properties described in Table 1 below as potential cultural redress properties that the parties agree are to be cultural redress properties.
- 5.3 If the parties agree a potential cultural redress property is to be vested as a cultural redress property, it will be vested in the governance entity on the basis provided in Table 1 below.

Table 1 – Potential cultural redress properties*

Name of area	General description/location	Conditions of vesting / Specific conditions currently known
Auckland Mataatua Society Marae Recreation Reserve	0.7393 hectares, more or less, being Part Lot 161 DP 58968 (SO 53605). Balance <i>Gazette</i> Notice A622353. Subject to survey.	Vesting fee simple as a local purpose (marae/community building) reserve. Subject to creation of a new third party interest in favour of the current occupants, the Auckland Mataatua Society.
Favona Road Conservation Area	0.2074 hectares, more or less, being Allotment 112 Eccleston 2 West Settlement. Part Instrument K31926.	Vesting fee simple as a local purpose (wharewaka/waka ama, pou whenua, cultural purposes) reserve.
Part Matukutūreia / McLaughlins Mountain (unclassified Historic Reserve)	0.38 hectares, approximately, being Part Lot 25 DP 344377. Part computer freehold register 182105. Subject to survey.	Vesting fee simple as a local purpose (marae, pou whenua, cultural purposes) reserve.
Weymouth Conservation Area	0.45 hectares, approximately, being Part Allotments 68, 69 and 121 Village of Weymouth. Part Instrument Z2121. Subject to survey.	Vesting fee simple as a recreation reserve.

AGREEMENT IN PRINCIPLE

Name of area	General description/location	Conditions of vesting / Specific conditions currently known
Wiri Lava Cave Scientific Reserve	1.5082 hectares, more or less, being Sections 1 and 2 SO 68724. All <i>Gazette</i> Notice 338196.1.	Vesting fee simple as a scientific reserve. Subject to management by the Tūpuna Maunga o Tamaki Makaurau Authority.
Kirks Bush Scenic Reserve	<p>0.4044 hectares, more or less, being Lots 2, 3, 5 and 6 DP 15387. All computer freehold register NA703/295.</p> <p>0.1011 hectares, more or less, being Lot 4 DP 15387. All computer freehold register NA476/223.</p> <p>0.5463 hectares, more or less, being Lot 146 DPS 47965. All computer freehold register NA3B/702.</p> <p>0.1454 hectares, more or less, being Lots 1 and 2 DP 47965. All <i>Gazette</i> Notice 19387.</p> <p>0.3199 hectares, more or less, being Lot 1 DP 37760. All Transfer T489124.</p> <p>3.0491 hectares, more or less, being Lots 1, 15, 16, 17, 18, 19, 20, 21 and 22 DP 15387. All <i>Gazette</i> 1922 page 2686.</p> <p>0.9472 hectares, more or less, being Lot 23 DP 15387. All <i>Gazette</i> 1930 page 2290.</p>	Vesting fee simple as a scenic reserve. Subject to agreement with Auckland Council.
Kiwi Esplanade Reserve	<p>1.0 hectare, approximately, being Part Lot 1 DP 77585. Part computer freehold register NA33D/1223. Subject to survey.</p> <p>0.6 hectares, approximately, being Part Lot 2 DP 77585. Part computer freehold register NA33D/1224. Subject to survey.</p> <p>1.2 hectares, approximately, being Part Lot 3 DP 77585. Part computer freehold register NA33D/1225. Subject to survey.</p>	Vesting fee simple as a recreation reserve. Subject to agreement with Auckland Council.

AGREEMENT IN PRINCIPLE

Name of area	General description/location	Conditions of vesting / Specific conditions currently known
Ngāti Otara Park	3.4 hectares, approximately, being Part Lot 180 DP 49685. Part <i>Gazette</i> Notice 19020. Subject to survey.	Vesting fee simple as a recreation reserve. Subject to agreement with Auckland Council.
Patumahoe Scenic Reserve	3.4297 hectares, more or less, being Allotment 94 Parish of Waiau. All <i>Gazette</i> notice 16967.	Vesting fee simple as a scenic reserve. Subject to agreement with Auckland Council.
Purata Park	0.5576 hectares, more or less, being Lot 26 DP 90793. All <i>Gazette</i> notice B851899.1.	Vesting fee simple as a recreation reserve. Subject to agreement with Auckland Council.
Roose's Bush Scenic Reserve	1.1195 hectares, more or less, being Lots 20, 21, 22, 23, 24, 25, 26 and 27 DP 16013. All computer freehold register NA707/207.	Vesting fee simple as a scenic reserve. Subject to agreement with Auckland Council.

*The legal descriptions of the properties in this table are indicative only and subject to confirmation by the Crown.

- 5.4 The Crown will explore redress over Part Panmure Basin, being the land held in computer freehold register NA2B/624. The Crown can only offer this property as a potential cultural redress property if the Crown and Auckland Council agree. If Part Panmure Basin is offered to Te Ākitai Waiohū as a potential cultural redress property it will then be subject to the conditions in clauses 3.10 to 3.12.

Statutory acknowledgement

- 5.5 The deed of settlement is to provide for the settlement legislation to –
- 5.5.1 provide the Crown's acknowledgement of the statements by Te Ākitai Waiohū of their particular cultural, spiritual, historical, and traditional association with each of the areas described in Table 2 below as statutory areas to the extent that those areas are owned by the Crown or where the Crown has a reversionary interest; and
 - 5.5.2 require relevant consent authorities, the Environment Court, and the Heritage New Zealand Pouhere Taonga to have regard to the statutory acknowledgement; and
 - 5.5.3 require relevant consent authorities to forward to the governance entity summaries of resource consent applications affecting a statutory area; and
 - 5.5.4 require relevant consent authorities to forward to the governance entity a copy of a resource consent application notice under section 145(10) of the Resource Management Act 1991; and

AGREEMENT IN PRINCIPLE

- 5.5.5 enable the governance entity, and any member of Te Ākitai Waiohua, to cite the statutory acknowledgement as evidence of the association of Te Ākitai Waiohua with a statutory area.

Table 2 – Statutory acknowledgement

Statutory areas to which the statutory acknowledgement is to apply	General description/location
Arch Hill Scenic Reserve*	Grey Lynn
Cameron Town Historic Reserve	Pukekohe
Drury Conservation Area	Drury
Drury Creek Islands Recreation Reserve	Drury
Goldie Bush Scenic Reserve	Waitakere
Mangatawhiri Forest Conservation Area	Moumoukai
Mangere Conservation Area*	Mangere Bridge
Mangere Mountain Education Centre (Local Purpose Reserve)*	Mangere Bridge
Matukutūreia / McLaughlins Mountain (unclassified Historic Reserve)	Wiri
Meola Creek Quarry Reserve	Point Chevalier
Mutukaroa / Hamlins Hill	Mount Wellington
Otuataua Stonefields Reserve	Mangere
Paerata Scenic Reserve*	Pukekohe
Paparimu Conservation Area	Paparimu
Pratts Road Historic Reserve (to be renamed 'Te Maketu Historic Reserve' in the Ngāti Tamaoho settlement)*	Ramarama
Pukekiwiriki Historic Reserve*	Red Hill
Raventhorpe Conservation Area	Ramarama
Raventhorpe Scenic Reserve	Ramarama
Recreation Reserve (Settlement Road, Papakura)*	Papakura
Red Hill Scenic Reserve*	Papakura
Richard Sylvan Memorial Scenic Reserve	Mangatawhiri
St Johns Redoubt Historic Reserve	Manurewa
Section 165 Suburbs of Tuakau (Scenic Reserve)**	Onewhero-Tuakau
Thorne Bay Recreation Reserve	Thorne Bay
Vining Scenic Reserve	Moumoukai
Wairoa Gorge Scenic Reserve	Clevedon
Waterfront Road Reserve, (land between both Mangere Bridges)*	Mangere Bridge
Wattle Downs Local Purpose Esplanade Reserve	Wattle Downs

*Subject to agreement with Auckland Council.

**Subject to agreement with Waikato District Council.

AGREEMENT IN PRINCIPLE

Statutory acknowledgement in respect of the coastal marine area

- 5.6 The deed of settlement is to require that, on the settlement date, the Crown provide the governance entity with a statutory acknowledgement in respect of the coastal marine area on the same terms set out in clause 5.5.
- 5.7 The statutory acknowledgement over the coastal marine area does not have the effect of granting, creating, or providing evidence of an estate or interest in, or rights relating to that area, including rights set out in the Marine and Coastal Area (Takutai Moana) Act 2011.

Deed of recognition

- 5.8 The deed of settlement is to require that the Crown provide the governance entity with a deed of recognition in relation to the statutory area referred to in Table 3 below to the extent that that area is owned and managed by the Crown.
- 5.9 A deed of recognition will require the Minister of Conservation and the Director-General of Conservation, when undertaking certain activities within the statutory area, to –
- 5.9.1 consult the governance entity; and
- 5.9.2 have regard to its views concerning the association of Te Ākitai Waiohū with the statutory area as described in a statement of association.

Table 3 – Deed of recognition

Statutory area to which the deed of recognition is to apply	General description/location
Matukutūreia / McLaughlins Mountain (unclassified Historic Reserve)	Wiri

Potential official geographic names

- 5.10 The deed of settlement is to provide for the settlement legislation to provide for each of the names listed in Table 4 below to be the official geographic name of the feature, if the parties and New Zealand Geographic Board Ngā Pou Taunaha o Aotearoa agree.

Table 4 – Potential official geographic names

Existing name	Proposed new name	Location (NZtopo50 and grid references)	Geographic feature type
Wiroa Island	Kohia Island	BB32 609019	Island
Crater Hill (local use)	Ngā Kapua Kohuora	BB32 627051	Crater
Papahinu (local use)	Papahīnau	BB32 613038 – 616031	Headland
Geddes Basin (local use)	Te Hōpua-a-Rangi / Geddes Basin	BA32 590114	Crater
Unnamed	Te Maketū Falls	BB32 768876	Waterfall

AGREEMENT IN PRINCIPLE

Pukaki Lagoon (local use)	Te Pūkākītapu-o-Poutūkeka	BB32 611055	Crater
Mt Robertson (local use)	Te Tapuwāe-o-Mataaho	BB32 640093	Crater
Mt Gabriel (local use)	Waitomokia Crater	BB32 575062	Crater

Proposed unofficial original Māori names

- 5.11 The deed of settlement is to provide, by or on the settlement date, that the Minister for Treaty of Waitangi Negotiations must write a letter to the New Zealand Geographic Board Ngā Pou Taunaha o Aotearoa, requesting the Board, in respect of each of the following geographic names listed in Table 5 below, list the Māori name set out opposite in the New Zealand Gazetteer, as an unofficial original Māori name.

Table 5 – Proposed unofficial original Māori name

Existing name	Requested original Māori name	Location (NZtopo50 and grid references)	Geographic feature type
Pukekiwiri	Pukekōiwiri	BB32 778961	Hill
Puketutu Island	Te Motu-a-Hiaroa	BB31 555075	Island

Statement of Association

- 5.12 The parties acknowledge that section 17 of the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014 will apply to the statements of association in part 1 of the documents schedule in relation to the maunga of Tāmaki Makaurau.
- 5.13 The deed of settlement will provide that the Crown acknowledges that Te Ākitai Waiohua has an association with, and asserts certain spiritual, cultural, historical and traditional values in relation to Māngere Mountain / Te Pane-o-Mataaho.
- 5.14 The parties acknowledge that the acknowledgment in clause 5.13 is not intended to give rise to any rights or obligations.

Protocols

- 5.15 The deed of settlement is to require that the responsible Minister issue the governance entity with the protocols referred to in Table 6 below.
- 5.16 A protocol will provide for the Crown's interaction with the governance entity in relation to specified matters.

Table 6 – Protocols

Responsible Minister	Protocol
Minister for Arts, Culture and Heritage	Taonga Tūturu Protocol
Minister of Energy and Resources	Crown Minerals Protocol

AGREEMENT IN PRINCIPLE

Conservation Relationship Agreement

- 5.17 The deed of settlement will provide for the Minister of Conservation and the Director-General of Conservation to enter into a relationship agreement with the governance entity.
- 5.18 The relationship agreement will be consistent with the framework and principles set out in the Conservation Relationship Agreement within the Tāmaki Makaurau Collective Redress Deed.
- 5.19 The parties intend that the relationship agreement will:
- 5.19.1 enable the Department of Conservation and the governance entity to maintain a positive, collaborative and enduring relationship into the future; and
 - 5.19.2 identify places and resources that are of spiritual, ancestral, cultural, customary or historical significance to Te Ākitai Waiohua in their area of interest and in particular address the use and management of Matukutūreia / McLaughlins Mountain (unclassified Historic Reserve).

Relationship Agreement with the Ministry for the Environment

- 5.20 The deed of settlement will provide for the Ministry for the Environment to enter into a relationship agreement with the governance entity.
- 5.21 The Ministry for the Environment will work with Te Ākitai Waiohua following the signing of the agreement in principle to develop a relationship agreement that will cover –
- 5.21.1 a commitment from the Ministry to meet with the governance entity on an annual basis to discuss a list of items agreed in advance by both parties.

Letters of commitment with the Department of Internal Affairs and the Museum of New Zealand Te Papa Tongarewa

- 5.22 The deed of settlement will provide for the Department of Internal Affairs (National Library and Archives New Zealand, and Births, Deaths and Marriages functions) and the Museum of New Zealand Te Papa Tongarewa to enter into a letter or letters of commitment with Te Ākitai Waiohua that focus on the development and implementation of a shared vision and commitments with respect to the restoration and protection of taonga and to develop a constructive relationship to facilitate access to, and protection of, information and taonga associated with Te Ākitai Waiohua.

Letter of intent from Heritage New Zealand Pouhere Taonga

- 5.23 The deed of settlement will provide for Heritage New Zealand to issue a letter of intent to the governance entity.

AGREEMENT IN PRINCIPLE

Letter of recognition from Ministry for Primary Industries with respect to fisheries

- 5.24 The Crown offers to provide the governance entity with a letter from the Ministry for Primary Industries that recognises Te Ākitai Waiohua as tangata whenua that –
- 5.24.1 are entitled to have input into, and participate in, fisheries management processes that affect fish stocks in their area of interest and that are managed by the Ministry under fisheries legislation; and
 - 5.24.2 have a special relationship within their area of interest with all species of fish, aquatic life and seaweed and all such species being taonga to Te Ākitai Waiohua, and an interest in the sustainable utilisation of all species of fish, aquatic life and seaweed.
- 5.25 The deed of settlement will record that the Director-General of the Ministry for Primary Industries will write to the governance entity by the settlement date, outlining:
- 5.25.1 that the Ministry recognises Te Ākitai Waiohua as tangata whenua within their area of interest and has a special relationship with all species of fish, aquatic life and seaweed within their area of interest;
 - 5.25.2 how Te Ākitai Waiohua can have input and participation into the Ministry's fisheries planning processes;
 - 5.25.3 how Te Ākitai Waiohua can implement the Fisheries (Kaimoana Customary Fishing) Regulations 1998 within their area of interest; and
 - 5.25.4 that the Ministry will consult with the governance entity as representatives of Te Ākitai Waiohua where the area of interest is directly affected by the development of policies and operational processes that are led by the Ministry in the area of fisheries and aquaculture; agriculture and forestry; and biosecurity.

Appointment as an advisory committee to the Minister of Primary Industries

- 5.26 The Minister of Primary Industries will appoint Te Ākitai's post settlement governance entity as an advisory committee on fisheries management to the Minister for Primary Industries under section 21(1) of the Ministry of Agriculture and Fisheries (Restructuring) Act 1995 in relation to areas of special significance to Te Ākitai. These areas are to be agreed before initialling a deed of settlement.

Letters of introduction

- 5.27 The deed of settlement will provide for the Director of the Office of Treaty Settlements to write letters of introduction to the following agencies:
- 5.27.1 The Auckland District Health Board;
 - 5.27.2 The Counties Manukau District Health Board;

AGREEMENT IN PRINCIPLE

- 5.27.3 The Waitemata District Health Board
 - 5.27.4 The Department of Corrections;
 - 5.27.5 The Ministry of Education;
 - 5.27.6 The Ministry of Business, Innovation and Employment;
 - 5.27.7 The Ministry of Social Development;
 - 5.27.8 The Ministry of Transport;
 - 5.27.9 The Ministry of Justice; and
 - 5.27.10 The New Zealand Police.
- 5.28 The purpose of the letters is to raise the profile of Te Ākitai Waiohū with each agency in relation to its work. The text of the letters will be agreed between the mandated negotiators and the Crown and issued as soon as practicable after this agreement and before settlement date.

Letters of introduction to other entities

- 5.29 The deed of settlement will provide for the Minister for Treaty of Waitangi Negotiations to write letters of introduction to the heads of the following local authority and entities:
- 5.29.1 Auckland Council;
 - 5.29.2 Auckland Airport; and
 - 5.29.3 domestic museums and libraries which may hold Te Ākitai Waiohū taonga.
- 5.30 The purpose of the letters is to raise the profile of Te Ākitai Waiohū with this local authority and these entities in relation to their work. The text of the letters will be agreed between the mandated negotiators and the Crown and issued as soon as practicable after this agreement and before the settlement date.

Cultural redress non-exclusive

- 5.31 The Crown may do anything that is consistent with the cultural redress contemplated by this agreement in principle, including entering into, and giving effect to, another settlement that provides for the same or similar cultural redress.

6 FINANCIAL AND COMMERCIAL REDRESS

General

- 6.1 All items of commercial redress are subject to the following being agreed, determined or resolved before a deed of settlement is signed:
- 6.1.1 the Crown confirming that any overlapping claim issues in relation to any item of commercial redress have been addressed to the satisfaction of the Crown; and
 - 6.1.2 any other conditions specified in the commercial redress tables provided below and set out in clauses 3.10, 3.13 and 9.2 of this agreement in principle.

Financial and commercial redress amount

- 6.2 The deed of settlement is to provide that the Crown will pay the governance entity on the settlement date the financial and commercial redress amount of \$9.000 million less –
- 6.2.1 the total of the transfer values (determined in accordance with the valuation process in schedule 3) of any properties that the deed of settlement provides are commercial redress properties to be transferred to the governance entity on the settlement date.

Potential commercial redress properties

- 6.3 The deed of settlement is to provide that the Crown must transfer to the governance entity on the settlement date those of the properties described in Table 7 below as potential commercial redress properties that the parties agree are to be commercial redress properties.

Transfer and leaseback

- 6.4 If a commercial redress property to be transferred to the governance entity is a leaseback commercial redress property, the deed of settlement is to provide that the property is to be leased back by the governance entity to the Crown, from the settlement date, –
- 6.4.1 on the terms and conditions provided by a registrable ground lease for that property (ownership of the improvements remaining unaffected by the purchase) incorporated in the deed; and
 - 6.4.2 in the case of a Crown leaseback that is not a school site, at its initial annual rent determined or agreed in accordance with the valuation process in schedule 3 (plus GST, if any, on the amount so determined or agreed); or
 - 6.4.3 in the case of a Crown leaseback of a school site, at an initial annual rent based on an agreed rental percentage of the agreed transfer value,

AGREEMENT IN PRINCIPLE

determined in accordance with the Crown leaseback (plus GST, if any, on the amount so determined).

Table 7 – Potential commercial redress properties*

Landholding Agency	Property Name/Address	General description/ location	Conditions of transfer / Specific conditions currently known
Treaty Settlements Landbank (PF 1041)	48 Marr Road Manurewa	0.1017 hectares, more or less, being Section 1 SO 486230. All Transfer D321362.2.	
Treaty Settlements Landbank (PF 1384)	15A Snell Avenue, Papakura	0.1189 hectares, more or less, being Lot 20 DP 54543. All computer freehold register NA113A/8.	
Treaty Settlements Landbank (PF 1729)	2A Seabrook Avenue, New Lynn	0.2287 hectares, more or less, being Lot 1 DP 351153. All computer freehold register 209633.	Subject to a drainage right (in gross) in favour of The Waitakere City Council created by Easement Instrument 6819910.4. Together with a right to drain sewage and water, and to convey electricity, and water created by Easement Instrument 6819910.3. The easements created by Easement Instrument 6819910.3 and 6819910.4 are subject to section 243(a) of the Resource Management Act 1991. Subject to a right of way created by Easement Instrument 7021771.1.
Treaty Settlements Landbank (PF 1759)	101A Hillsborough Road, Hillsborough	½ share in fee simple estate being 0.0814 hectares, more or less, being Lot 47 DP 40380 and leasehold estate being Flat 2, Carport 2 and Shed 2 DP 115795. All composite computer register NA65D/533.	Subject to a Lease of Flat 1 and garage 1 held in B626487.2. Subject to a Land covenant held in Lease B626487.2. Subject to a Lease of Flat 2, carport 2 and shed 2 held in B626487.3. Subject to a Land covenant held in Lease B626487.3. Subject to a compensation certificate pursuant to Section 19 Public Works Act 1981 created by Instrument 5791935.1.

AGREEMENT IN PRINCIPLE

Landholding Agency	Property Name/Address	General description/ location	Conditions of transfer / Specific conditions currently known
Treaty Settlements Landbank (PF 1767)	110 Hillsborough Road, Hillsborough	0.0753 hectares, more or less, being Part Lot 2 DP 46125. Balance computer freehold register NA1629/64.	Together with a right of way created by Easement Instrument 8715633.5. Subject to an encumbrance to New Zealand Transport Agency created by Instrument 9142093.1.
Treaty Settlements Landbank (PF 1769)	153 Hillsborough Road, Hillsborough	0.0786 hectares, more or less, being Part Lot 15 DP 35317. Balance computer freehold register NA914/265.	Subject to a right of way created by Transfer 8790162.1. Together with a right of way created by Transfer 8790162.1
Treaty Settlements Landbank (PF 1770)	155A Hillsborough Road, Hillsborough	½ share in fee simple estate being 0.0799 hectares, more or less, being Part Lot 16 DP 35317 and leasehold estate being Flat 2 Deposited Plan 124692. Balance composite computer register NA72D/267. Agency ID 1770	Subject to a Lease of Flat 1 DP 124692 held in B872837.1. Subject to a Land covenant held in B872837.1. Subject to a Lease of Flat 2 DP 124692 held in B872837.2. Subject to a Land covenant held in B872837.2. Subject to a right of way over part Lot 16 DP 35317 created by Transfer 8790162.1. Together with a right of way created by Transfer 8790162.1.
Treaty Settlements Landbank (PF 1772)	47 Hendry Avenue Hillsborough	0.0305 hectares, more or less, being Part Lot 1 DP 195860. Balance computer freehold register NA124D/957.	Subject to a right of way and to stormwater drainage, telephone, gas and water rights held in Easement Certificate D387306.4. Together with a sanitary sewage right held in Easement Certificate D387306.4. The easements held in Easement Certificate D387306.4 are subject to section 243(a) of the Resource Management Act 1991. Subject to an encumbrance to New Zealand Transport Agency created by Instrument 9142093.1.
Treaty Settlements Landbank	155 Hillsborough Road Hillsborough	½ share in fee simple estate being 0.0799 hectares, more or less, being Part Lot 16 DP	Subject to a Lease of Flat 1 DP 124692 held in B872837.1.

AGREEMENT IN PRINCIPLE

Landholding Agency	Property Name/Address	General description/ location	Conditions of transfer / Specific conditions currently known
(PF 1778)		35317 and leasehold estate being Flat 1 Deposited Plan 124692. Balance composite computer register NA72D/266.	Subject to a Land covenant held in B872837.1 Subject to a Lease of Flat 2 DP 124692 held in Instrument B872837.2. Subject to a Land covenant held in B872837.2. Subject to a right of way over part Lot 16 DP 35317 created by Transfer 8790162.1. Together with a right of way created by Transfer 8790162.1.
Treaty Settlements Landbank (PF 1784)	1350 Dominion Road, Mt Roskill	0.0733 hectares, more or less, being Part Lot 337 DP 19327. Balance computer freehold register NA729/151.	Together with rights of way created by Easement Instrument 8790722.1. Subject to an encumbrance to New Zealand Transport Agency created by Instrument 9178516.1.
Treaty Settlements Landbank (PF 1785)	13 Hendry Avenue Hillsborough	0.1153 hectares, more or less, being Part Lot 48 DP 21413. Balance computer freehold register NA852/123.	Encumbrance to New Zealand Transport Agency created by Instrument 9142093.1. Encumbrance to New Zealand Transport Agency created by Instrument 9142093.2.
Treaty Settlements Landbank (PF 1787)	43 Hendry Ave, Hillsborough	0.0808 hectares, more or less, being Part Lot 33 DP 21413. Balance computer freehold register NA115D/782.	Encumbrance to New Zealand Transport Agency created by Instrument 9142093.1.
Treaty Settlements Landbank (PF 1788)	45 Hendry Avenue, Hillsborough	0.0778 hectares, more or less, being Part Lot 32 DP 21413. Balance computer freehold register NA113A/25.	Encumbrance to New Zealand Transport Agency created by Instrument 9142093.1.
Treaty Settlements Landbank (PF 1825)	19 and 21 Aerovista Place, Wiri	0.4943 hectares, more or less, being Section 1 SO 440531. All computer freehold register 555061. 0.3791 hectares, more or less, being Section 6 SO 440531. All computer freehold register 555063.	Subject to consent notice pursuant to section 221(1) of the Resource Management Act 1991 – D262239.3.

*The legal descriptions of the properties in this table are indicative only and subject to confirmation by the Crown.

AGREEMENT IN PRINCIPLE

Potential deferred selection properties

- 6.5 The deed of settlement is to provide that the governance entity may, during the deferred selection period referred to in Table 8 below for each deferred selection property, provide a written notice of interest to the Crown in purchasing any or all of those of the properties described in Table 8 below as potential deferred selection properties that the parties agree are to be deferred selection properties. The deed of settlement will provide for the effect of the written notice and will set out a process where the property is valued and may be acquired by the governance entity.
- 6.6 If a deferred selection property to be transferred to the governance entity is a leaseback deferred selection property, then clause 6.4 shall apply.
- 6.7 If any deferred selection property is not acquired by the governance entity then the right in clause 3.15(f) will apply.

Table 8 - Potential deferred selection properties for transfer*

Landholding Agency	Property Name/Address	General description/ location	Conditions of transfer / Specific conditions currently known
Ministry of Education	Mt Eden Normal School site (land only) Valley Road, Mount Eden Auckland 1024. MoE Institution number: 1378.	1.82 hectares, approximately, being Part Lots 13 and 14 DP 1. Part <i>Gazette</i> Notice 310148.1. Subject to survey.	Two year deferred selection period. Subject to Crown Leaseback.
Ministry of Education	Titirangi School site, (land only) 221 Atkinson Road, Titirangi Waitakere 0604. MoE Institution number: 1537.	0.82 hectares. approximately, being lot 7 DP 15333 and Part Lot 4 DP 9262 . All <i>Gazette</i> notice A553664. Subject to survey. 0.3996, more or less, being Part Allotment 46 Parish of Waikomiti (SO 47539). All Proclamation 260240. 1.32 hectares, approximately, being Part Allotment 46 Parish of Waikomiti and Part Lot 4 DP 9262. Part <i>Gazette</i> Notice 049007.1. Subject to survey.	Two year deferred selection period. Subject to Crown Leaseback.

AGREEMENT IN PRINCIPLE

Land Information New Zealand	Ex-Kiwirail land at Puhinui Road, Papatoetoe (Part NAPALIS 2707627 and 2707628)	0.6000 hectares, approximately, being Parts Railway land adjoining Puhinui Road. Subject to survey.	Six month deferred selection period Subject to approval of the survey plan by Kiwirail, the Minister of Finance's written consent and/or any other clearances, easements or encumbrances affecting the land
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*The legal descriptions of the properties in this table are indicative only and subject to confirmation by the Crown.

School sites

- 6.8 Transfer and leaseback of school sites will be subject to standard Ministry of Education policies and operational considerations. Transfer and leasebacks of school sites are for land only and are subject to an agreed registrable ground lease for the property with ownership of the improvements remaining unaffected by the transfer. Operational considerations, such as shared school sites or some Board of Trustees house site issues may mean a specific site can be available but would be subject to specific processes in the deed of settlement (or lease).
- 6.9 Availability of transfer and leaseback of Ministry of Education sites is subject to the transfer value (for commercial redress properties) and to the lease (for both commercial redress properties and deferred selection properties) being agreed one month prior to initialling of the deed of settlement.
- 6.10 A school site will cease to be a transfer and leaseback property if before the settlement date (in respect of commercial redress properties) or before receipt of an election notice (in respect of deferred selection properties) the Ministry of Education notifies the mandated body, or the governance entity as the case may be, that the site has become surplus to its requirements.

Development opportunity within the Auckland Vacant and Underutilised Crown Land Programme

- 6.11 The Crown offers to Te Ākitai Waiohua, as part of its settlement package, the opportunity to reach agreement with the Ministry for Business, Innovation and Employment, on the terms for development of land, currently held by the Counties Manukau District Health Board, located at Kerrs Road and Great South Road, Manukau, subject to the following conditions:
- 6.11.1 the resolution of overlapping claims to the Crown's satisfaction;
 - 6.11.2 Te Ākitai Waiohua and the Crown signing this agreement in principle; and
 - 6.11.3 Te Ākitai Waiohua and the Crown signing a letter to acknowledge this opportunity as being part of Te Ākitai Waiohua's Treaty settlement.

AGREEMENT IN PRINCIPLE

- 6.12 Any agreement reached between Te Ākitai Waiohua and the Ministry of Business, Innovation and Employment in relation to the development of the Counties Manukau District Health Board land located at Kerrs Road and Great South Road, Manukau, will be recorded in a binding development agreement, which will describe the land to be developed, include the terms of its sale and purchase and all other requirements, such as the number of social and affordable housing units to be built and the time frames for development.

7 OVERLAPPING CLAIMS PROCESS

Process for resolving overlapping claims

- 7.1 The development of this agreement in principle has been informed by the overlapping claims process set out in Table 9, which the parties have agreed to implement. Clause 7.5 lists the groups that have been identified as having interests in the Te Ākitai Waiohū area of interest.
- 7.2 The Crown is ultimately responsible and accountable for the overall overlapping claims process and it must act in accordance with its Treaty obligations. The Crown –
- 7.2.1 has a duty to act in good faith to other claimant groups (including those who have already settled with the Crown (the **settled groups**)) who have interests in the Te Ākitai Waiohū area of interest (refer attachment 1); and
 - 7.2.2 must ensure it actively protects the interests of other claimant groups (whether already mandated or not) and settled groups; and
 - 7.2.3 must avoid unreasonably prejudicing its ability to reach a fair settlement with other claimant groups in the future, while not unduly devaluing the settlement of other settled groups and with Te Ākitai Waiohū.
- 7.3 Following the signing of this agreement in principle, parties will work together with overlapping claimant and settled groups to resolve any overlapping claims matters. If after working together the overlapping claims remain unresolved, the Crown may have to make a final decision. In reaching any decisions on overlapping claims, the Crown is guided by two general principles:
- 7.3.1 the Crown's wish to reach a fair and appropriate settlement with Te Ākitai Waiohū without compromising the existing settlements of settled groups; and
 - 7.3.2 the Crown's wish to maintain, as far as possible, its capability to provide appropriate redress to other claimant groups and achieve a fair settlement of their historical claims.
- 7.4 The process for resolving overlapping claims matters is set out in Table 9 below.

AGREEMENT IN PRINCIPLE

Table 9 – Next steps in overlapping claims process for Te Ākitai Waiohua

Timeframe	Responsibility	Activity
16 Jan 2017*	OTS/the Authority	Further to letters sent prior to signing the agreement in principle, both parties write to neighbouring iwi providing the agreement in principle and seeking feedback on settlement redress by 28 February 2017. Crown / Te Ākitai Waiohua offer to meet if required.
Feb – March*	OTS/the Authority	Facilitated meetings or Crown to attend meeting with Te Ākitai Iwi Authority and overlapping group if requested to discuss the settlement package. Groups agree on a solution to the issue(s). If no agreement reached, then OTS will report to the Minister seeking a preliminary decision on unresolved issues/overlapping claims.
28 Feb 2017*	Overlapping groups	Deadline for neighbouring iwi to provide comments and express any concerns.
March 2017*	OTS	Report to Minister for Treaty of Waitangi Negotiations on Te Ākitai Waiohua's overlapping claims, agreements reached, outstanding issues and proposed solutions once the agreement in principle is signed.
TBC	OTS	Minister for Treaty of Waitangi Negotiations writes to overlapping groups advising of preliminary decision on unresolved issues, seeking further feedback and offering officials to meet to discuss.
TBC	Overlapping groups	Responses from affected overlapping groups on Minister's preliminary decision
TBC	OTS	OTS report to the Minister on final decisions on overlapping claims and Te Ākitai Waiohua settlement package
TBC	OTS	Minister writes to the Authority and overlapping groups to advise of his final decision

*These dates are indicative only and subject to confirmation.

Groups identified as having areas of interest which overlap with the Te Ākitai Waiohua area of interest

7.5 The following groups have been identified as having areas of interest which overlap with the Te Ākitai Waiohua area of interest:

- 7.5.1 Marutūāhu iwi: (Ngāti Maru, Ngāti Pāoa, Ngāti Whanaunga, Ngāti Tamaterā, Te Patukirikiri);
- 7.5.2 Ngāi Tai ki Tāmaki;
- 7.5.3 Ngāpuhi;
- 7.5.4 Ngāti Koheriki;
- 7.5.5 Ngāti Whātua Ōrākei;
- 7.5.6 Ngāti Tamaoho;

AGREEMENT IN PRINCIPLE

- 7.5.7 Ngāti Te Ata;
- 7.5.8 Te Kawerau ā Maki;
- 7.5.9 Te Runanga o Ngāti Whātua; and
- 7.5.10 Waikato Tainui.

8 INTEREST AND TAX

Interest

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

8.1.1 for the period –

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

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

(c) 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.

8.2 The interest is to be –

8.2.1 subject to any tax payable; and

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

Tax

8.3 Subject to the Minister of Finance's consent, the deed of settlement is to provide that the Crown must indemnify the governance entity for any GST or income tax payable in respect of the provision of Crown redress.

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

8.4.1 an input credit for GST purposes; or

8.4.2 a deduction for income tax purposes.

9 NEXT STEPS

Disclosure information

- 9.1 The Crown will, as soon as reasonably practicable, prepare and provide to Te Ākitai Waiohua disclosure information in relation to –
- 9.1.1 each potential cultural redress property; and
 - 9.1.2 each potential commercial redress property.

Resolution of final matters

- 9.2 The parties will work together to agree, as soon as reasonably practicable, all matters necessary to complete the deed of settlement, including agreeing on or determining as the case may be –
- 9.2.1 the terms of the –
 - (a) historical account; and
 - (b) Crown’s acknowledgements and apology; and
 - 9.2.2 the cultural redress properties, the commercial redress properties, the deferred selection properties, and if applicable, any conditions that will apply; and
 - 9.2.3 the transfer values of the commercial redress properties (in accordance with the valuation process in schedule 3, or by another valuation process as agreed in writing between the landholding agency and Te Ākitai Waiohua); and
 - 9.2.4 the terms of a registrable ground lease for any leaseback property; and
 - 9.2.5 the initial annual rent for any leaseback commercial redress property other than a school site⁴; and
 - 9.2.6 the official geographic names from the potential official geographic names in the redress table; and
 - 9.2.7 the terms of the following (which will, where appropriate, be based on the terms provided in recent settlement documentation):
 - (a) the cultural redress; and

⁴ For a school site, the initial annual rent will be as a result of the processes in clause 6.4.3.

AGREEMENT IN PRINCIPLE

- (b) the transfer of the commercial redress properties; and
- (c) the right to purchase a deferred selection property, including the process for determining its market value and if it is a leaseback property that is not a school site, its initial annual rent; and
- (d) the tax indemnity; and

9.2.8 the following documents:

- (a) Te Ākitai Waiohua statements of association for each of the statutory areas; and
- (b) the deed of recognition; and
- (c) the protocols; and
- (d) the conservation relationship agreement; and
- (e) the relationship agreement with the Ministry for the Environment; and
- (f) the letters of commitment with the Department of Internal Affairs and the Museum of New Zealand Te Papa Tongarewa; and
- (g) the letter of recognition from the Ministry for Primary Industries with respect to fisheries; and
- (h) letters of introduction; and
- (i) letter of intent from Heritage New Zealand Pouhere Taonga; and
- (j) the settlement legislation; and

9.2.9 all other necessary matters.

10 CONDITIONS

Entry into deed of settlement conditional

10.1 The Crown's entry into the deed of settlement is subject to –

10.1.1 Cabinet agreeing to the settlement and the redress; and

10.1.2 the Crown being satisfied Te Ākitai Waiohua have –

(a) established a governance entity that –

(i) is appropriate to receive the redress; and

(ii) provides, for Te Ākitai Waiohua, –

(I) appropriate representation; and

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

(III) full accountability; and

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

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

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

(iii) signatories to sign the deed of settlement on Te Ākitai Waiohua's behalf.

Settlement legislation

10.2 The deed of settlement is to provide that following the signing of the deed of settlement the Crown will propose a draft settlement bill for introduction to the House of Representatives.

10.3 This draft settlement bill will provide for all matters for which legislation is required to give effect to the deed of settlement.

10.4 The draft settlement bill must:

10.4.1 comply with the drafting standards and conventions of the Parliamentary Counsel Office for Governments Bills, as well as the requirements of the Legislature under Standing Orders, Speakers' Rulings, and conventions; and

AGREEMENT IN PRINCIPLE

10.4.2 be in a form that is satisfactory to Te Ākitai Waiohua and the Crown.

10.5 The deed of settlement is to provide that Te Ākitai Waiohua Iwi Authority and the governance entity must support the passage of the draft settlement bill through Parliament.

Settlement conditional on settlement legislation

10.6 The deed of settlement is to provide that the settlement is conditional on settlement legislation coming into force although some provisions may be binding on and from the date the deed of settlement is signed.

10.7 The development opportunity within the Auckland Vacant and Underutilised Crown Land Programme is conditional on the terms set out in clause 6.11.

11 GENERAL

Nature of this agreement in principle

11.1 This agreement in principle –

11.1.1 is entered into on a without prejudice basis; and

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

11.1.3 is non-binding; and

11.1.4 does not create legal relations.

Termination of this agreement in principle

11.2 The Crown or the mandated negotiators, on behalf of Te Ākitai Waiohū, may terminate this agreement in principle by written notice to the other.

11.3 Before terminating this agreement in principle, the Crown or the mandated negotiators, as the case may be, must give the other at least 20 business days written notice of an intention to terminate.

11.4 This agreement in principle remains without prejudice even if it is terminated.

Definitions

11.5 In this agreement in principle –

11.5.1 the terms defined in the definitions schedule have the meanings given to them by that schedule; and

11.5.2 all parts of speech, and grammatical forms, of a defined term have a corresponding meaning.

Interpretation

11.6 In this agreement in principle –

11.6.1 headings are not to affect its interpretation; and

11.6.2 the singular includes the plural and vice versa.

AGREEMENT IN PRINCIPLE

11.7 Provisions in –

11.7.1 the schedules to this agreement in principle are referred to as paragraphs;
and

11.7.2 other parts of this agreement are referred to as clauses.

AGREEMENT IN PRINCIPLE

SIGNED on 16th day of December 2016

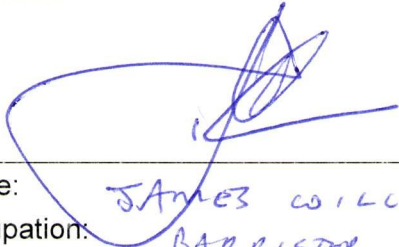
SIGNED for and on behalf of **THE CROWN** by

The Minister for Treaty of Waitangi
Negotiations in the presence of



Hon Christopher Finlayson

WITNESS



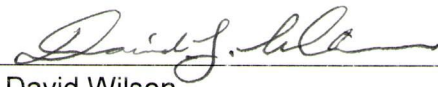
Name: JAMES WILLIS
Occupation: BARRISTER
Address: WELLINGTON

AGREEMENT IN PRINCIPLE

SIGNED for and on behalf of Te Ākitai Waiohūa Iwi Authority by:



Karen Wilson
Chair



David Wilson
Representative



Nigel Denny Jr
Representative

Joseph Wilson passed shortly before the signing of this agreement in principle

Joseph Wilson
Representative

WITNESS



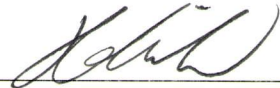
Name:
Occupation:
Address:

S P IHAKA
CONSULTANT
15 POTOMARU ST
BOULCOTT
LOWER HUTT

AGREEMENT IN PRINCIPLE

Other members of Te Ākitai Waiohua who support the agreement in principle

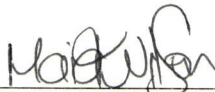
We, the undersigned, acknowledge the mahi of Joseph Wilson in negotiating the Te Ākitai Waiohua agreement in principle, and affirm our determination to complete his work to settle our historical grievances against the Crown.



Kahikatea Joseph Wilson
Son of Joseph Wilson



Karen Teomarama Wilson
Daughter of Joseph Wilson



Maia Kahurangi Wilson
Daughter of Joseph Wilson

AGREEMENT IN PRINCIPLE

Other members of Te Ākitai Waiohua who support the agreement in principle

AGREEMENT IN PRINCIPLE

Other members of Te Ākitai Waiohua who support the agreement in principle

AGREEMENT IN PRINCIPLE

Other members of Te Ākitai Waiohua who support the agreement in principle

SCHEDULES

1 DEFINITIONS

Historical claims

1.1 The deed of settlement will provide that historical claims –

1.1.1 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 Te Ākitai Waiohū, or a representative entity, had at, or at any time before, the settlement date, or may have at any time after the settlement date, and that -

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

(i) from the Treaty of Waitangi/te Tiriti o Waitangi or its principles; or

(ii) under legislation; or

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

(iv) from fiduciary duty; or

(v) otherwise; and

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

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

(ii) by or under legislation; and

1.1.2 includes every claim to the Waitangi Tribunal to which paragraph 1.1.1 applies that relates exclusively to Te Ākitai Waiohū or a representative entity, including the following claims:

(a) Wai 961 – Waiohū ki te Ākitai Land and Resources Claim; and

(b) Wai 2122 – The Te Ākitai Claim 2008 claim; and

1.1.3 includes every other claim to the Waitangi Tribunal to which paragraph 1.1.1 applies, so far as it relates to the settling group or a representative entity, including the following claims:

(a) Wai 8 – Te Puaha ki Manuka claim.

1.1.4 However, **historical claims** does not include the following claims –

(a) a claim that a member of Te Ākitai Waiohū, or a whānau, hapū, or group referred to in paragraph 1.4.2, may have that is, or is founded on, a right arising as a result of being descended from an ancestor who is not referred to in paragraph 1.4.1:

AGREEMENT IN PRINCIPLE

- (b) a claim that a representative entity may have to the extent the claim is, or is founded, on a claim referred to in clause 1.1.1(a).
- 1.2 To avoid doubt, the settlement of the historical claims of Te Ākitai Waiohua will not affect the right of iwi, hapū or whānau to apply for the recognition of protected customary rights or customary marine title under the Marine and Coastal Area (Takutai Moana) Act 2011.
- 1.3 The deed of settlement will, to avoid doubt, provide paragraph 1.1.1 is not limited by paragraphs 1.1.2 or 1.1.3.

Te Ākitai Waiohua

- 1.4 The deed of settlement will provide Te Ākitai Waiohua or the settling group means —
 - 1.4.1 the collective group composed of individuals who descend from a Te Ākitai Waiohua tūpuna; and
 - 1.4.2 every whānau, hapū, or group to the extent that it is composed of individuals referred to in paragraph 1.4.1; and
 - 1.4.3 every individual referred to in paragraph 1.4.1.
- 1.5 The deed of settlement will provide, for the purposes of paragraph 1.4.1 —
 - 1.5.1 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) customary adoption; and
 - 1.5.2 Subject to further investigation and potential refinement during deed of settlement negotiations, Te Ākitai Waiohua **tūpuna** means an individual who:
 - (a) exercised customary rights by virtue of being descended from:
 - (i) Kiwi Tamaki; or
 - (ii) Rangimatoru; or
 - (iii) Pepene te Tihi; or
 - (iv) Ihaka Wirihana Takaanini; or
 - (v) Te Wirihana; or

AGREEMENT IN PRINCIPLE

- (vi) a recognised ancestor of any Te Ākitai Waiohua groups in paragraph 1.4.2; and
 - (b) exercised the customary rights referred to in 1.5.2 (a) predominantly in relation to the Te Ākitai Waiohua Area of Interest after 6 February 1840.
- 1.5.3 **customary rights** means rights according to tikanga Māori (Māori customary values and practices) including -
- (a) rights to occupy land; and
 - (b) rights in relation to the use of land or other natural or physical resources.

Other definitions

1.6 In this agreement in principle –

arbitration commencement date, in relation to the determination of the market value and/or market rental of a valuation property means:

- (a) in relation to a referral under paragraph 3.12.2 of schedule 3 the date of that referral; and,
- (b) in relation to an appointment under paragraph 3.12.3 or 3.12.4 of schedule 3, a date specified by the valuation arbitrator; and

arbitration meeting, in relation to the determination of the market value and/or market rental of a valuation property, means the meeting notified by the valuation arbitrator under paragraph 3.13.1 of schedule 3; and

area of interest means the area identified as the area of interest in the attachment; and

business day means a day that is not –

- (a) a Saturday or Sunday; or
- (b) Waitangi Day, Good Friday, Easter Monday, ANZAC Day, the Sovereign's Birthday, or Labour day; or
- (c) if Waitangi Day or ANZAC Day falls on a Saturday or Sunday, the following Monday; or
- (d) a day in the period commencing with 25 December in any year and ending with 15 January in the following year; or
- (e) a day that is observed as the anniversary of the province of –
 - (i) Wellington; or

AGREEMENT IN PRINCIPLE

- (ii) Auckland; and

commercial redress property means each property described as a commercial redress property in the deed of settlement; and

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

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

Crown leaseback, in relation to a leaseback commercial redress property or a leaseback deferred selection property, means the lease the deed of settlement will provide to be entered into by the governance entity and the Crown as described in clauses 6.4 and 6.6; and

Crown redress –

(a) means redress –

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

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

- (i) to acquire a deferred selection property; but

(c) does not include

- (i) an obligation of the Crown under the settlement documentation to transfer a deferred selection property; or
- (ii) a deferred selection property; and

cultural redress means the redress to be provided under the settlement documentation referred to in part 5; and

cultural redress property means each property described as a cultural redress property in the deed of settlement; and

customary adoption means any person adopted in accordance with the tikanga of Te Ākitai Waiohū but excludes any issue and relatives of that person including his or her children, grandchildren, siblings and birth parents that are not already descended from Te Ākitai Waiohū by birth or legal adoption; and

deed of settlement means the deed of settlement to be developed under clause 2.1.2 and includes the deed of settlement schedules and the attachments; and

AGREEMENT IN PRINCIPLE

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

disclosure information means –

- (a) in relation to a redress property, the information provided by the Crown to the governance entity under clause 9.1; and
- (b) in relation to a purchased deferred selection property, the disclosure information about the property the deed of settlement requires to be provided by the Crown to the governance entity; and

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

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

financial and commercial redress amount means the amount referred to as the financial and commercial redress amount in clause 6.2; and

governance entity means the Te Ākitai Waiohua Settlement Trust; and

initial annual rent, in relation to a leaseback property, means the rent payable under the Crown leaseback from its commencement determined or agreed in accordance with schedule 3; and

land holding agency, in relation to a potential commercial redress property, a potential deferred selection property, means the department specified opposite that property in Tables 7 and 8, as the case may be; and

leaseback commercial redress property means a commercial redress property identified in the deed of settlement as a leaseback property; and

leaseback deferred selection property means –

- (a) a potential deferred selection property that Table 8 identifies as a leaseback property; or
- (b) a deferred selection property identified in the deed of settlement as a leaseback deferred selection property; and

leaseback property means each leaseback commercial redress property and each leaseback deferred selection property; and

mandated negotiators means –

- (a) the following individuals:
 - (i) Karen Wilson, 85B Pukaki Road, Mangere, Auckland 2022;

AGREEMENT IN PRINCIPLE

- (ii) Brownie Rauwhero, 87/17A Pukaki Road, Mangere, Auckland 2022;
 - (iii) David Takaanini Wilson, 85B Pukaki Road, Mangere, Auckland 2022;
 - (iv) Joseph Wilson, 85B Pukaki Road, Mangere, Auckland 2022;
 - (v) Nigel Denny Jr, 6G/105 Albert Street, CBD, Auckland 1010; or
- (b) if one or more individuals named in paragraph (a) dies, or becomes incapacitated, the remaining individuals; and

mandated body means **Te Ākitai Waiohua Iwi Authority**; and

market rental, in relation to a valuation property, has the meaning provided in the valuation instructions in appendix 1 to schedule 3; and

market value, in relation to a valuation property, has the meaning provided in the valuation instructions in appendix 1 to schedule 3; and

Ngā Mana Whenua o Tāmaki Makaurau has the meaning given to it by clause 11.2 of the Tāmaki Makaurau Collective Redress Deed; and

party means each of Te Ākitai Waiohua and the Crown; and

potential commercial redress property means each property described as a potential commercial redress property in Table 7; and

potential cultural redress property means each property described as a potential cultural redress property in Table 1; and

potential deferred selection property means each property described as a potential deferred selection property in Table 8; and

protocol means a protocol referred to in Table 6; and

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

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

- (a) the Crown’s acknowledgment and apology referred to in clause 4.1; and
- (b) the financial and commercial redress; and
- (c) the cultural redress; and

redress property means –

AGREEMENT IN PRINCIPLE

(a) each cultural redress property; and

(b) each commercial redress property; and

registered valuer means any valuer for the time being registered under the Valuers Act 1948; and

representative entity means a person or persons acting for or on behalf of Te Ākitai Waiohū; and

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

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

(b) 211 of the Education Act 1989; or

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

school site means a leaseback property in respect of which the land holding agency is the Ministry of Education; and

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

settlement date means the date that will be defined in the deed of settlement and settlement legislation; and

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

settlement documentation means the deed of settlement and the settlement legislation; and

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

settlement property means –

(a) each cultural redress property; and

(b) each commercial redress property; and

(c) each deferred selection property; and

statement of association means each statement of association referred to in clause 5.5.1 and 5.12; and

AGREEMENT IN PRINCIPLE

statutory acknowledgement means the acknowledgement to be made by the Crown in the settlement legislation referred to in clause 5.5.1 on the terms to be provided by the settlement legislation; and

statutory area means an area referred to in Table 2 as a statutory area and a coastal marine area referred to in clause 5.6; and

Tāmaki Makaurau Area means the area shown in Attachment 1 to the Tāmaki Makaurau Collective Redress Deed; and

Tāmaki Makaurau Region means the area shown in Attachment A of the Conservation Relationship Agreement in Part 2 of the Documents Schedule of the Tāmaki Makaurau Collective Redress Deed and

tax indemnity means the indemnity to be provided in the deed of settlement under clauses 8.3 and 8.4; and

transfer value, in relation to a potential commercial redress property, means the amount payable by the governance entity for the transfer of the property determined or agreed in accordance with schedule 3; and

Treaty of Waitangi/Te tiriti o Waitangi means the Treaty of Waitangi as set out in schedule 1 to the Treaty of Waitangi Act 1975; and

valuation arbitrator, in relation to a valuation property means the person appointed under paragraphs 3.3.2 or 3.4 in schedule 3, in relation to the determination of its market value, and if applicable its market rental; and

valuation date, in relation to a valuation property, means the notification date in relation to the property; and

valuation property means each potential commercial redress property that is to be valued in accordance with schedule 3.

2 TERMS OF SETTLEMENT

Rights unaffected

- 2.1 The deed of settlement is to provide that, except as provided in the settlement documentation, the rights and obligations of the parties will remain unaffected.

Acknowledgments

- 2.2 Each party to the deed of settlement is to acknowledge in the deed of settlement that –
- 2.2.1 the other party has acted honourably and reasonably in relation to the settlement; but
 - 2.2.2 full compensation of Te Ākitai Waiohua is not possible; and
 - 2.2.3 Te Ākitai Waiohua intends their foregoing of full compensation to contribute to New Zealand's development; and
 - 2.2.4 the settlement is intended to enhance the ongoing relationship between Te Ākitai Waiohua and the Crown (in terms of the Treaty of Waitangi/Te tiriti o Waitangi, its principles, and otherwise).
- 2.3 Te Ākitai Waiohua is to acknowledge in the deed of settlement that –
- 2.3.1 taking all matters into consideration (some of which are specified in paragraph 3.4), the settlement is fair in the circumstances; and
 - 2.3.2 the redress –
 - (a) is intended to benefit Te Ākitai Waiohua collectively; but
 - (b) may benefit particular members, or particular groups of members, of Te Ākitai Waiohua if the governance entity so determines in accordance with the governance entity's procedures.

Implementation

- 2.4 The deed of settlement is to provide the settlement legislation will, on terms agreed by the parties (based on the terms in recent settlement legislation), –
- 2.4.1 settle the historical claims; and
 - 2.4.2 exclude the jurisdiction of any court, tribunal, or other judicial body in relation to the historical claims and the settlement; and
 - 2.4.3 provide that certain enactments do not apply –

AGREEMENT IN PRINCIPLE

- (a) to a redress property or, a purchased deferred selection property; or
 - (b) for the benefit of Te Ākitai Waiohūa or a representative entity; and
- 2.4.4 require any resumptive memorials to be removed from the certificates of title to, or the computer registers for, the redress properties and purchased deferred selection properties; and
- 2.4.5 provide that the rule against perpetuities and the Perpetuities Act 1964 does not apply –
 - (a) where relevant, to any entity that is a common law trust; and
 - (b) to any settlement documentation; and
- 2.4.6 require the Secretary for Justice to make copies of the deed of settlement publicly available.
- 2.5 The deed of settlement is to provide –
 - 2.5.1 the governance entity must use its best endeavours to ensure every historical claim is discontinued by the settlement date or as soon as practicable afterwards; and
 - 2.5.2 the Crown may –
 - (a) cease any land bank arrangement in relation to Te Ākitai Waiohūa, the governance entity, or any representative entity, except to the extent necessary to comply with its obligations under the deed;
 - (b) after the settlement date, advise the Waitangi Tribunal (or any other tribunal, court, or judicial body) of the settlement.

3 VALUATION PROCESS FOR POTENTIAL COMMERCIAL REDRESS PROPERTIES

Note: Unless otherwise agreed in writing between the relevant landholding agency and Te Ākitai Waiohua, the parties will enter into the following valuation process for potential commercial redress properties

A DETERMINING THE TRANSFER VALUE AND INITIAL ANNUAL RENT OF A PROPERTY

APPLICATION OF THIS SUBPART

- 3.1 This subpart provides how the following are to be determined in relation to a valuation property:
- 3.1.1 its transfer value; and
 - 3.1.2 if it is a leaseback property that is not a school site, its initial annual rent.
- 3.2 The transfer value, and if applicable the initial annual rent, are to be determined as at a date agreed upon in writing by the parties (the **notification date**).

APPOINTMENT OF VALUERS AND VALUATION ARBITRATOR

- 3.3 The parties, in relation to a property, not later than [10] business days after the notification date:
- 3.3.1 must each:
 - (a) instruct a valuer using the form of instructions in appendix 1; and
 - (b) give written notice to the other of the valuer instructed; and
 - 3.3.2 may agree and jointly appoint the person to act as the valuation arbitrator in respect of the property.
- 3.4 If the parties do not agree and do not jointly appoint a person to act as a valuation arbitrator within 15 business days after the notification date, either party may request that the Arbitrators' and Mediators' Institute of New Zealand appoint the valuation arbitrator as soon as is reasonably practicable.
- 3.5 The parties must ensure the terms of appointment of their respective registered valuers require the valuers to participate in the valuation process.

QUALIFICATION OF VALUERS AND VALUATION ARBITRATOR

- 3.6 Each valuer must be a registered valuer.

AGREEMENT IN PRINCIPLE

- 3.7 The valuation arbitrator –
- 3.7.1 must be suitably qualified and experienced in determining disputes about –
- (a) the market value of similar properties; and
 - (b) if applicable, the market rental of similar properties; and
- 3.7.2 is appointed when he or she confirms his or her willingness to act.

VALUATION REPORTS FOR A PROPERTY

- 3.8 Each party must, in relation to a valuation, not later than:
- 3.8.1 [50] business days after the notification date, provide a copy of its final valuation report to the other party; and
- 3.8.2 [60] business days after the notification date, provide its valuer's written analysis report to the other party.
- 3.9 Valuation reports must comply with the International Valuation Standards [2012], or explain where they are at variance with those standards.

EFFECT OF DELIVERY OF ONE VALUATION REPORT FOR A PROPERTY

- 3.10 If only one valuation report for a property that is not a school site is delivered by the required date, the transfer value of the property, and if applicable its initial annual rent, is the market value and the market rental, as assessed in the report.
- 3.11 If only one valuation report for a property that is a school site is delivered by the required date, the transfer value of the property is the market value as assessed in the report, (based on highest and best use calculated on the zoning of the property in force at the valuation date, less 20%),

NEGOTIATIONS TO AGREE A TRANSFER VALUE AND INITIAL ANNUAL RENT FOR A PROPERTY

- 3.12 If both valuation reports for a property are delivered by the required date:
- 3.12.1 the parties must endeavour to agree in writing:
- (a) the transfer value of a property that is not a school site; or
 - (b) if the property is a school site, the transfer value (being the agreed market value based on highest and best use calculated on the zoning of the property in force at the valuation date, less 20%); and
 - (c) if the property is a leaseback property that is not a school site, its initial annual rent;

AGREEMENT IN PRINCIPLE

- 3.12.2 either party may, if the transfer value of the property, or if applicable, its initial annual rent, is not agreed in writing within [70] business days after the notification date and if a valuation arbitrator has been appointed under paragraph 3.3.2 or paragraph 3.4, refer that matter to the determination of the valuation arbitrator; or
- 3.12.3 if that agreement has not been reached within the [70] business day period but the valuation arbitrator has not been appointed under paragraph 3.3.2 or paragraph 3.4, the parties must attempt to agree and appoint a person to act as the valuation arbitrator within a further [5] business days; and
- 3.12.4 if paragraph 3.12.3 applies, but the parties do not jointly appoint a person to act as a valuation arbitrator within the further [5] business days, either party may request that the Arbitrators' and Mediators' Institute of New Zealand appoint the valuation arbitrator as soon as is reasonably practicable; and
- 3.12.5 the valuation arbitrator, must promptly on his or her appointment, specify to the parties the arbitration commencement date.

VALUATION ARBITRATION

- 3.13 The valuation arbitrator must, not later than [10] business days after the arbitration commencement date, –
 - 3.13.1 give written notice to the parties of the arbitration meeting, which must be held –
 - (a) at a date, time, and venue determined by the valuation arbitrator after consulting with the parties; but
 - (b) not later than [30] business days after the arbitration commencement date; and
 - 3.13.2 establish the procedure for the arbitration meeting, including providing each party with the right to examine and re-examine, or cross-examine, as applicable, –
 - (a) each valuer; and
 - (b) any other person giving evidence.
- 3.14 Each party must –
 - 3.14.1 not later than 5pm on the day that is [5] business days before the arbitration meeting, give to the valuation arbitrator, the other party, and the other party's valuer –
 - (a) its valuation report; and
 - (b) its submission; and
 - (c) any sales, rental, or expert evidence that it will present at the meeting; and
 - 3.14.2 attend the arbitration meeting with its valuer.

AGREEMENT IN PRINCIPLE

- 3.15 The valuation arbitrator must –
- 3.15.1 have regard to the requirements of natural justice at the arbitration meeting; and
 - 3.15.2 no later than [50] business days after the arbitration commencement date, give his or her determination –
 - (a) of the market value of the property (which in respect of a school site is to be the market value based on highest and best use calculated on the zoning of the property in force at the valuation date, less 20%); and
 - (b) if applicable, of its market rental; and
 - (c) being no higher than the higher, and no lower than the lower, assessment of market value and/or market rental, as the case may be, contained in the parties' valuation reports.
- 3.16 An arbitration under this subpart is an arbitration for the purposes of the Arbitration Act 1996.

TRANSFER VALUE AND INITIAL ANNUAL RENT FOR ALL PROPERTIES

- 3.17 The transfer value of the property, and if applicable its initial annual rent, is:
- 3.17.1 determined under paragraph 3.10 or 3.11, (as the case may be); or
 - 3.17.2 agreed under paragraph 3.12.1; or
 - 3.17.3 the market value and, if applicable, market rental determined by the valuation arbitrator under paragraph 3.15.2, if the determination is in respect of a property that is not a school site; or
 - 3.17.4 if the property is a school site, the market value determined by the valuation arbitrator under paragraph 3.15.2, (based on highest and best use calculated on the zoning of the property in force at the valuation date, less 20%).

B GENERAL PROVISIONS

TIME LIMITS

- 3.18 In relation to the time limits each party must use reasonable endeavours to ensure -
- 3.18.1 those time limits are met and delays are minimised; and
 - 3.18.2 in particular, if a valuer or a valuation arbitrator appointed under this part is unable to act, a replacement is appointed as soon as is reasonably practicable.

DETERMINATION FINAL AND BINDING

- 3.19 The valuation arbitrator's determination under subpart A is final and binding.

AGREEMENT IN PRINCIPLE

COSTS

- 3.20 In relation to the determination of the transfer value, and initial annual rent, of a property, each party must pay –
- 3.20.1 its costs; and
 - 3.20.2 half the costs of a valuation arbitration; or
 - 3.20.3 such other proportion of the costs of a valuation arbitration awarded by the valuation arbitrator as the result of a party's unreasonable conduct.

AGREEMENT IN PRINCIPLE

APPENDIX 1

INTERNAL OTS NOTE ONLY

If these instructions apply to-

- *a non-leaseback property, references connected with a leaseback (including references to assessing the property's market rental) must be deleted; or*
- *a leaseback property -*
 - *that is to be leased back to the Ministry of Education, references to assessing the property's market rental must be deleted; or*
 - *that is not to be leased back to the Ministry of Education, references to a lease to the Ministry of Education and to the market value of a school site must be deleted.*

These instructions may be modified to apply to more than one property.

[Valuer's name]

[Address]

Valuation instructions

INTRODUCTION

Te Ākitai Waiohua and the Crown have entered into an agreement in principle to settle the historical claims of Te Ākitai Waiohua dated [date] (the **agreement in principle**).

PROPERTY TO BE VALUED

Te Ākitai Waiohua have given the land holding agency an expression of interest in purchasing -

[describe the property including its legal description]

[PROPERTY TO BE LEASED BACK

If Te Ākitai Waiohua purchases the property from the Crown as a commercial redress property under its deed of settlement, the governance entity will lease the property back to the Crown on the terms provided by the attached lease in (the **agreed lease**).

As the agreed lease is a ground lease, the ownership of the improvements on the property (the **Lessee's improvements**), remains unaffected by the transfer.]

AGREEMENT IN PRINCIPLE

A copy of the agreement in principle is enclosed.

Your attention is drawn to –

- (a) schedule 3; and
- (b) the attached agreed lease of the property].

AGREEMENT IN PRINCIPLE

All references in this letter to subparts or paragraphs are to subparts or paragraphs of schedule 4.

A term defined in the agreement in principle has the same meaning when used in these instructions.

The property is a property for the purposes of part 6. Subpart A of schedule 4 applies to the valuation of properties.

ASSESSMENT OF MARKET VALUE REQUIRED

You are required to undertake a valuation to assess the market value of the property [that is a school site in accordance with the methodology below] as at [date] (the **valuation date**).

[As the Lessee's improvements will not transfer, the market value of the property is to be the market value of its land (i.e. not including any Lessee's improvements).]

The [land holding agency][Te Ākitai Waiohū][~~delete one~~] will require another registered valuer to assess the market value of the property [,and its market rental,] as at the valuation date.

The two valuations are to enable the market value of the property, [,and its market rental,] to be determined either:

- (a) by agreement between the parties; or
- (b) by arbitration.

The market value of the property so determined will be the basis of establishing the "transfer value" at which [**settling group**] may elect to purchase the property as a commercial redress property under part 6, plus GST (if any).

[MARKET VALUE OF A SCHOOL SITE

For the purposes of these instructions the intention of the parties in respect of a school site is to determine a transfer value to reflect the designation and use of the land for education purposes.

The market value of a school site is to be calculated as the market value of the property, exclusive of improvements, based on highest and best use calculated on the zoning of the property in force at the valuation date, less 20%.

A two step process is required:

- 1) firstly, the assessment of the unencumbered market value (based on highest and best use) by;
 - a) disregarding the designation and the Crown leaseback; and
 - b) considering the zoning in force at the valuation date and
 - c) excluding any improvements on the land; and;
- 2) secondly the application of a 20% discount to the unencumbered market value to determine the market value as a school site (transfer value).]

AGREEMENT IN PRINCIPLE

[If, in the relevant district or unitary plan, the zoning for the school site is Specialised (as defined below), the zoning for the school site for the purposes of step 1(b) of the two-step process above will be deemed to be the Alternative Zoning (as defined below).

For the purposes of these instructions:

- “Specialised” means specialised for a school site or otherwise specialised to a public or community use or public work (including education purposes).
- "Alternative Zoning" means the most appropriate probable zoning which provides for the highest and best use of the school site as if the school (or any other public or community use or public work, including education purposes) was hypothetically not present. The Alternative Zoning will be determined with reference to (in no particular order):
 - (a) the underlying zoning for the school site (if any);
 - (b) the zoning for the school site immediately prior to its Specialised zoning;
 - (c) the zoning of land adjacent to or in the immediate vicinity of the school site (or both) if there is a uniform neighbouring zone;
 - (d) if the school site is within the area governed by Auckland Council, the underlying zoning applied to the school site in the Draft Auckland Unitary Plan publicly notified 15 March 2013, namely *[insert the zoning from the Draft Auckland Unitary Plan publicly notified 15 March 2013]*; and
 - (e) any other relevant consideration in the reasonable opinion of a registered valuer that would support the most probable zoning which provides for the highest and best use of the school site.

The transfer value is used to determine the initial annual rent based on an agreed rental percentage of the agreed transfer value, determined in accordance with the Crown leaseback (plus GST, if any, on the amount so determined).]

[ASSESSMENT OF MARKET RENTAL REQUIRED

You are also required to assess the market rental (exclusive of GST) for the property, as at the valuation date, being the rental payable from the commencement of the agreed lease.

The market rental for the property is to be the market rental payable under the agreed lease, being a ground lease. So it will be the rent payable for its land (i.e. excluding any Lessee's improvements).]

VALUATION OF PROPERTY

You must, in relation to a property:

- (a) before inspecting the property, determine with the other valuer:
 - (i) the valuation method or methods applicable to the property; and

AGREEMENT IN PRINCIPLE

- (ii) the comparable sales[, and comparable market rentals if the property is not a school site,] to be used in determining the market value of the property [and its market rental if the property is not a school site]; and
- (b) inspect the property, where practical, together with the valuer appointed by the other party; and
- (c) attempt to resolve any matters or issues arising from your inspections and input assumptions; and
- (d) by not later than [30] business days after the valuation date prepare, and deliver to us, a draft valuation report; and
- (e) by not later than [45] business days after the valuation date:
 - (i) review your draft valuation report, after taking into account any comments made by us or a peer review of the report obtained by us; and
 - (ii) deliver a copy of your final valuation report to us; and
- (f) by not later than [55] business days after the valuation date, prepare and deliver to us a written analysis of both valuation reports to assist in the determination of the market value of the property [and its market rental if the property is not a school site]; and
- (g) by not later than [65] business days after the valuation date, meet with the other valuer and discuss your respective valuation reports and written analysis reports with a view to reaching consensus on the market value [and its market rental if the property is not a school site]; and
- (h) if a consensus on market value [and its market rental if the property is not a school site] is reached, record it in writing signed by you and the other valuer and deliver it to both parties; and
- (i) participate in any meetings, including any peer review process, as required by us and the other party to agree the market value of the property [and its market rental if the property is not a school site]; and
- (j) if a review valuer has been appointed by parties, you must within 5 business days of receipt of the review valuer's report, review your market valuation report, taking into account the findings of the review valuer, and provide us with a written report of your assessment of the market value of the property; and
- (k) participate in any arbitration process required under subpart A to determine the market value of the property [and its market rental if the property is not a school site].

REQUIREMENTS OF YOUR VALUATION

Our requirements for your valuation are as follows.

You are to assume that –

AGREEMENT IN PRINCIPLE

- (a) the property is a current asset and was available for immediate sale as at the valuation date; and
- (b) all legislative processes that the Crown must meet before disposing of the property have been met.

Your valuation is –

- (a) to assess market value on the basis of market value as defined in the current edition of the Australia and New Zealand Valuation and Property Standards [2009] and International Valuation Standards [2012]; and
- (b) to take into account –
 - (i) any encumbrances, interests, or other matters affecting or benefiting the property that were noted on its title on the valuation date]; and
 - (ii) the terms of the agreed lease]; and
 - (iii) the attached disclosure information about the property that has been given by the land holding agency to Te Ākitai Waiohū, including the disclosed encumbrances; and
 - (iv) the attached terms of transfer (that will apply to a purchase of the property by the governance entity); but
- (c) not to take into account a claim in relation to the property by or on behalf of Te Ākitai Waiohū ; and
- (d) in relation to the market rental for the property, to be on the basis of a willing lessor and a willing lessee, in an arm's length transaction, the parties having acted knowledgeably, prudently, and without compulsion].

REQUIREMENTS FOR YOUR VALUATION REPORT

We require a full valuation report in accordance with the current edition of the Australia and New Zealand Valuation and Property Standards [2009] and International Valuation Standards [2012], including -

- (a) an executive summary, containing a summary of –
 - (i) the valuation; and
 - (ii) [the market rental; and]
 - (iii) the key valuation parameters; and
 - (iv) the key variables affecting value; and
- (b) a detailed description, and a clear statement, of the land value; and
- (c) a clear statement as to any impact of –

AGREEMENT IN PRINCIPLE

- (i) the disclosed encumbrances[; and
- (ii) the agreed lease]; and
- (d) details of your assessment of the highest and best use of the property; and
- (e) comment on the rationale of likely purchasers[, and tenants,] of the property; and
- (f) a clear identification of the key variables which have a material impact on the valuation; and
- (g) full details of the valuation method or methods; and
- (h) appendices setting out –
 - (i) a statement of the valuation methodology and policies; and
 - (ii) relevant market and sales information.

Your report must comply with the minimum requirements set out in section 5 of the International Valuation Standard 1 Market Value Basis of Valuation, and other relevant standards, insofar as they are consistent with subpart A.

You may, with our prior consent, obtain specialist advice, such as engineering or planning advice.

ACCEPTANCE OF THESE INSTRUCTIONS

By accepting these instructions, you agree to comply with these instructions and, in particular, not later than:

- (a) [30] business days after the valuation date, to prepare and deliver to us a draft valuation report; and
- (b) [45] business days after the valuation date, to:
 - (i) review your draft valuation report after taking into account any comments made by us or a peer review of the report obtained by us; and
 - (ii) deliver a copy of your final valuation report to us; and
- (c) [55] business days after the valuation date, to prepare and deliver to us a written analysis of both valuation reports; and
- (d) [65] business days after the valuation date, to meet with the other valuer to discuss your respective valuation reports and written analysis reports.

ACCESS

[You should not enter on to the property without first arranging access through the **[landholding agency]** **[give contact details].**]

AGREEMENT IN PRINCIPLE

[Where the property is a school site, you should not enter on to **[insert name(s) of school site(s)]** without first arranging access through the Ministry of Education **[give contact details]** and should not contact the school(s) directly.]

OPEN AND TRANSPARENT VALUATION

The parties intend this valuation to be undertaken in an open and transparent manner, and for all dealings and discussions to be undertaken in good faith.

In particular, you must:

- (a) copy any questions you have or receive with regard to the valuation, together with the responses, to Te Ākitai Waiohua, the land holding agency, and the other valuer: and
- (b) make all reasonable attempts throughout this valuation process to resolve differences between you and the other valuer before delivering a copy of your final valuation report to us.

Yours faithfully

[Name of signatory]

[Position]

[Te Ākitai Waiohua /Land holding agency][delete one]

ATTACHMENT

1 AREA OF INTEREST



AGREEMENT IN PRINCIPLE
