

Ngāti Mākino Claims Settlement Bill

Government Bill

As reported from the Māori Affairs
Committee

Commentary

Recommendation

The Māori Affairs Committee has examined the Ngāti Mākino Claims Settlement Bill and recommends that it be passed with the amendments shown.

Introduction

The Ngāti Mākino Claims Settlement Bill would give effect to the deed of settlement entered into by the Crown and Ngāti Mākino on 2 April 2011 for the final settlement of historical claims for breaches of the Treaty of Waitangi. The bill also records the Crown's acknowledgement of the grievances of Ngāti Mākino and the Crown's failure to uphold the Treaty of Waitangi.

Our commentary covers the settlement issues we considered and the amendments we recommend to the bill.

Ngāti Mākino

The bill includes only those elements of redress in the settlement package for which legislative authority is required. The deed of settlement sets out in full the redress provided to Ngāti Mākino in settlement of all its historical claims.

Ngāti Mākino is a small iwi comprising individuals descended from ancestors who exercised customary interests in the Ngāti Mākino area of interest after 6 February 1840 by virtue of being descended from Hei, Waitaha, and Mākino II.

Ngāti Mākino traditionally occupied the area between the Bay of Plenty coastline and lakes Rotoiti, Rotoehu, and Rotomā. Ngāti Mākino's area of interest overlaps with Ngāti Rangitīhi, Ngāti Awa, Ngāti Pīkiao, Ngāti Tūwharetoa (Bay of Plenty) to the east, Ngāti Rangiwewehi, Ngāti Rangiteaorere, Tapuika, Ngāti Whakaue, and Waitaha to the west, and Ngāti Rongomai to the south. We understand that overlapping claims have been largely resolved in respect of the negotiations.

Ngāti Rangitīhi Raupatu Trust Incorporated

We heard opposition to the settlement from the Ngāti Rangitīhi Raupatu Trust, specifically concerning overlaps in Ngāti Mākino's area of interest. The Ngāti Rangitīhi Raupatu Trust told us it had been unaware of the settlement's inclusion of land to the east of the Waitahanui Stream at Ōtamarākau. We were advised that the Ngāti Rangitīhi Raupatu Trust does not have a mandate to speak on behalf of Ngāti Rangitīhi and does not administer Treaty settlement assets. Te Mana o Ngāti Rangitīhi is the post-settlement governance entity which holds Treaty Settlement assets on behalf of all Ngāti Rangitīhi.

We heard that the Ngāti Rangitīhi Raupatu Trust is concerned about the inclusion in the settlement of west Rotoehu Crown Forest licensed land. We understand that the Crown's allocation of land within the Rotoehu Crown Forest between the various groups with overlapping interests, for the settlement of historical claims, was guided by the findings of the Waitangi Tribunal. Forestry redress for Ngāti Rangitīhi is provided through the Central North Island Forests Land Collective Settlement Act 2008. The Minister for Treaty of Waitangi Negotiations wrote to Ngāti Rangitīhi outlining the settlement redress that was to be offered to Ngāti Mākino and, after

discussions, Te Mana o Ngāti Rangitahi expressed its support for the settlement on behalf of Ngāti Rangitahi. We therefore do not accept the trust's assertion that Ngāti Rangitahi would be unfairly affected by Ngāti Mākino's receipt of Crown forestry land as commercial redress. We further consider that an appropriate consultation and engagement process with Ngāti Rangitahi was undertaken by the Crown with Te Mana o Ngāti Rangitahi.

Legal descriptions and encumbrances of properties

We recommend amendments to Schedule 2 and Schedule 3 to reflect the updated legal description following a survey of the Lake Rotohu Scenic Reserve and the Moutoroi Pā site. We also recommend amendments to the encumbrances for the Rākau ō Kauwae Hapa site.

Whenua rāhui

We recommend an amendment to clause 5(3) of the bill to refer to whenua rāhui, to reflect the deed of settlement. The deed of settlement provides that the Lake Rotoma Scenic Reserve would be subject to a whenua rāhui. This means that the New Zealand Conservation Authority or a conservation board would be required to have particular regard to the statement of Ngāti Mākino's values and protection principles in relation to the site.

Application of other enactments

We recommend a correction to a cross-reference by an amendment to clause 83(4) of the bill to delete the words "section 76" and replace with "section 79".

Appendix

Committee process

The Ngāti Mākino Claims Settlement Bill was referred to the committee on 16 February 2012. The closing date for submissions was 22 March 2012. We received and considered three submissions from interested groups and individuals. We heard three submissions via teleconference in Wellington.

We received advice from the Office of Treaty Settlements.

Committee membership

Hon Tau Henare (Chairperson)

Te Ururoa Flavell

Hone Harawira

Brendan Horan

Hon Parekura Horomia

Katrina Shanks

Rino Tirikātene

Metiria Turei

Louise Upston

Nicky Wagner

Louisa Wall

Jonathan Young

Te Pire Whakataunga i ngā Kerēme a Ngāti Mākino

Pire Kāwanatanga

Tērā nā te Komiti Whiriwhiri Take Māori i
whakatakoto

Ngā Kōrero

Tūtohutanga

Kua āta tirohia e te Komiti Whiriwhiri Take Māori te Pire Whakataunga i ngā kerēme a Ngāti Mākino me tana tūtohu kia whakaaetia, tae atu ki ngā whakatikatika kua oti te whakaatu.

Kupu Whakataki

Ka whakamana te Pire Whakataunga i ngā Kerēme a Ngāti Mākino, i te whakaaetanga whakataunga i uru atu rā te Karauna me Ngāti Mākino i te 2 o Paenga-whāwhā 2011, mō tētahi whakataunga oti atu o ngā kerēme o neherā e pā ana ki ngā whatinga o te Tiriti o Waitangi. Kei roto anō hoki i te pire, te whakaaetanga o te Karauna ki ngā whakamau a Ngāti Mākino, me te takanga o te Karauna ki te tautoko i te Tiriti o Waitangi.

Ka kapi i ā mātou kōrero ngā take whakataunga nā mātou i whakaaroaro, ā, ngā whakatikatika hoki nā mātou i tūtohu ki te pire.

Ngāti Mākino

Kei roto i te pire, aua āhuetanga whakatika hapa anake i te mōk-ihi whakataunga ka hiahiatia rā he whakamanatanga ā-ture. Ka whakatakotoria e te whakataunga te katoa o te whakatika hapa i hoatu ki a Ngāti Mākino i te whakataunga o āna kerēme hītori katoa.

He iwi pakupaku noa a Ngāti Mākino o te hunga takitahi i heke mai i ngā tūpuna whakamahi i ō rātou pānga tukunga iho i te pānga wāhi o Ngāti Mākino, whai muri i 6 o Hui-tanguru i te tau 1840, nā te mea hoki, he uri i heke mai i a Hei, Waitaha me Mākino te Tuarua.

Nō mai anō a Ngāti Mākino i noho ai i te takiwā i waenganui i te taku-tai o Te Moana-ā-Toi-te-Huatahi me ngā roto o Rotoiti, o Rotoehu, ā, o Rotomā hoki. Inaki ai ngā pānga wāhi o Ngāti Mākino ki ērā o Ngāti Rangitihī, Ngāti Awa, Ngāti Pīkiao, Ngāti Tūwharetoa (ki Te Moana-ā-Toi-te-Huatahi) i te rāwhiti, ki ērā o Ngāti Rangiwewehi, Ngāti Rangiteaorere, Tapuika, Ngāti Whakauē, Waitaha i te uru, ki tērā hoki o Ngāti Rongomai i te tonga. Ki tō mātou mōhio, kua tatū te nuinga o ngā kerēme inaki e pā ana ki ngā whiriwhiringa.

Te Rangātōpū Poutiaki Raupatu o Ngāti Rangitihī

I rongō whakahēnga mātou mai i Te Poutiaki Raupatu o Ngāti Rangitihī ki te whakataunga, otirā, ērā e inaki ai i ngā pānga wāhi o Ngāti Mākino. Ko tā Te Poutiaki Raupatu o Ngāti Rangitihī ki a mātou, kīhai rawa atu a ia i mōhio ki te whakaurunga ki roto i te whakataunga o te whenua i te taha rāwhiti o te Awa o Waitahanui i Ōtamarākau. Ko tērā kua kite mātou, kīhai i Te Poutiaki Raupatu o Ngāti Rangitihī he mana kōkiri ki te kōrero mō Ngāti Rangitihī, ā, kāore hoki e whakahaere rawa whakataunga Tiriti ana. Pupuri ai Te Mana o Ngāti Rangitihī, tērā hinonga tiaki kaupapa whakataunga-whai muri, i ngā rawa Whakataunga Tiriti mō te katoa o Ngāti Rangitihī.

I rongō mātou, i te māharahara Te Poutiaki Raupatu o Ngāti Rangitihī ki te whakaurunga o te whenua whai raihana a Ngahere Kaurauna i Rotoehu ki te uru, ki roto i te whakataunga. Ki tō mātou mōhio, nā ngā whakataunga a Te Rōpū Whakamana i Te Tiriti o Waitangi i ārahi te tohaina a te Karauna i te whenua i roto iho i te Ngahere Karauna o Rotoehu ki waenganui i ngā momo kohinga, he pānga inaki ō rātou e pā ana ki te whakataunga o ngā kerēme hītori. Mā roto kē i Te Ture Whakataunga a te Ohu Whenua o ngā Ngahere i Te Puku o te Ika a Māui o te tau 2008, te whakatika hapa ngahere mā Ngāti Rangitihī. I

tuhi atu te Minita mō ngā Whiriwhiringa e pā ana ki te Tiriti o Waitangi ki a Ngāti Rangitīhi me te whakamārama i te whakatika hapa whakataunga e tukua ana ki a Ngāti Mākinō, ā, whai muri i ngā mata-pakinga, ka whakapuakina e Te Mana o Ngāti Rangitīhi tōna tautoko mō Ngāti Rangitīhi e pā ana ki te whakataunga. Nā reira, kīhai mātou e whakaae ki te kōrerotanga a te poutiaki kītanga, ka huhunutia kino-tia a Ngāti Rangitīhi mā te whiwhinga a Ngāti Mākinō i te whenua a Ngāhere Karauna hei mea whakatika hapa arumoni. Tua atu hoki, i tika ki a mātou te hātepe rapu whakamaherehere, tūtakitaki hoki i whakahaerea e te Karauna mā Ngāti Rangitīhi.

Ngā whakaahuatanga ā-ture me ngā taumahatanga e pā ana ki ngā pito whenua

Ka tūtohu whakatikatika mātou ki Pukapuka Āpiti 2 me Pukapuka Āpiti 3 kia kitea mai ai, ko tērā te whakaahuatanga ā-ture kua whakahoungia whai ake i tētahi rūrihanga o te Whenua Rāhui Whakakitekite o te Roto o Rotoehu, o te tūnga Moutoroī Pā hoki. Ka tūtohu whakatikatika anō hoki mātou ki ngā taumahatanga mō te tūnga Rākau o Kauwae Hapa.

Whenua rāhui

Ka tūtohu mātou i tētahi whakatikatika ki rara 5(3) o te pire, kia whakahuatia ai te whenua rāhui, kia kitea mai ai hoki, ko te whakaaetanga whakataunga tērā. Hoatu wāhi ai te whakaaetanga whakataunga mō te here i te Whenua Rāhui Whakakitekite o te Roto o Rotoehu ki tētahi whenua rāhui. Ko te tikanga ia o tēnei e mea ana, me arongia e Te Mana Papa Atawhai o Aotearoa, e tētahi poari papa atawhai rānei te tauākī o ngā uara me ngā mātāpono tiaki a Ngāti Mākinō mō te tūnga.

Whakamahinga i ētahi atu whakaturetanga

Ka tūtohu whakatikanga mātou ki tētahi tohutoronga mā tētahi whakatikatika ki rara 83(4) o te pire kia ūkuia atu ngā kupu “tekiona 76” me te whakakapi mā ngā kupu “tekiona 79”.

Tāpiritanga

Hātepe o te komiti

Nō te 16 o Hui-tanguru 2012 te Pire Whataunga i ngā Kerēme a Ngāti Mākino i tonoa ki te komiti. Ko te 22 o Poutū-te-rangi 2012 te rā kati mō ngā tāpaetanga. E toru ngā tāpaetanga a ngā kohinga, a te hunga takitahi whai pānga i whiwhi, i whakaaroarohia e mātou. E toru ngā tāpaetanga ā-waha i rongohia e mātou mā tētahi rūnanga ā-waea i Te Whanga-nui-a-Tara.

I whiwhi whakamaherehere mātou mai i Te Tari Whakatau Take e pā ana ki te Tiriti o Waitangi.

Ngā mema o te komiti, ko

Hōnore Tau Hēnare (Heamana)

Te Ururoa Flavell

Hone Harawira

Brendan Horan

Hōnore Parekura Horomia

Katrina Shanks

Rino Tirikātene

Mētīria Tūrei

Louise Upston

Nicky Wagner

Louisa Wall

Jonathan Young

Ngāti Māhino Claims Settlement Bill

Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

~~text deleted unanimously~~

Hon Christopher Finlayson

Ngāti Mākino Claims Settlement Bill

Government Bill

Contents

	Page
Preamble	7
1 Title	9
2 Commencement	9
Part 1	
Purpose, acknowledgements, interpretation provisions, settlement of historical claims, and miscellaneous matters	
Subpart 1—Purpose and acknowledgements	
3 Purpose	9
4 Act binds the Crown	9
5 Outline	9
6 The Crown’s acknowledgements	11
Subpart 2—Interpretation	
7 Interpretation generally	14
8 Interpretation	14
9 Meaning of Ngāti Mākino	21
10 Meaning of historical claims	22
Subpart 3—Settlement of historical claims	
<i>Historical claims settled and jurisdiction of courts, etc, removed</i>	
11 Settlement of historical claims final	23

Ngāti Māhino Claims Settlement Bill

	<i>Consequential amendment to Treaty of Waitangi Act 1975</i>	
12	Amendment to Treaty of Waitangi Act 1975	23
	<i>Protections no longer apply</i>	
13	Certain enactments do not apply	24
14	Removal of memorials	24
	Subpart 4—Miscellaneous matters	
	<i>Perpetuities</i>	
15	Rule against perpetuities does not apply	25
	<i>Timing of actions or matters</i>	
16	Timing of actions or matters	26
	<i>Access to deed of settlement</i>	
17	Access to deed of settlement	26
	Part 2	
	Cultural redress	
	Subpart 1—Protocols	
	<i>General provisions</i>	
18	Authority to issue, amend, or cancel protocols	26
19	Protocol subject to rights, functions, and obligations	27
20	Enforceability of protocol	27
	<i>Taonga tūturu protocol</i>	
21	Effect of taonga tūturu protocol	28
	<i>Crown minerals protocol</i>	
22	Noting and effect of Crown minerals protocol	28
	Subpart 2—Statutory acknowledgement and deed of recognition	
	<i>Statutory acknowledgement</i>	
23	Statutory acknowledgement by the Crown	28
24	Purposes of statutory acknowledgement	29
25	Relevant consent authorities to have regard to statutory acknowledgement	29
26	Environment Court to have regard to statutory acknowledgement	29
27	Historic Places Trust and Environment Court to have regard to statutory acknowledgement	30
28	Recording statutory acknowledgement on statutory plans	30
29	Distribution of resource consent applications to trustees	31
30	Use of statutory acknowledgement	32

Ngāti Mākino Claims Settlement Bill

31	Trustees may waive rights	32
	<i>Deed of recognition</i>	
32	Authorisation to enter into deed of recognition	33
	<i>General provisions</i>	
33	Exercise or performance of powers, duties, and functions	33
34	Rights not affected	34
35	Limitation of rights	34
	<i>Consequential amendment to Resource Management Act 1991</i>	
36	Amendment to Resource Management Act 1991	34
	Subpart 3—Whenua rāhui	
37	Interpretation	34
38	Declaration of whenua rāhui of Ngāti Mākino	35
39	The Crown’s acknowledgement of Ngāti Mākino values	35
40	Purposes of whenua rāhui	35
41	Agreement on protection principles	36
42	Duties of New Zealand Conservation Authority and conservation boards in relation to Ngāti Mākino values and protection principles	36
43	New Zealand Conservation Authority and conservation boards to consult trustees	37
44	Opportunity to make submissions on draft conservation management strategy	37
45	Noting of whenua rāhui	37
46	Notification of actions in <i>Gazette</i>	38
47	Actions by Director-General	38
48	Amendment of conservation documents	38
49	Regulations	39
50	Bylaws	39
51	Existing classification of whenua rāhui site	40
52	Termination of whenua rāhui	40
53	Exercise of powers, functions, and duties	41
54	Rights not affected	41
55	Limitation of rights	41
	Subpart 4—The Crown not prevented from providing other similar redress	
56	The Crown not prevented from providing other similar redress	41

Ngāti Mākino Claims Settlement Bill

	Subpart 5—Cultural redress properties	
57	Interpretation	42
	<i>Site that vests in fee simple subject to easement</i>	
58	Te Kōhanga site	43
59	Conditions on use and management of Te Kōhanga site	43
60	Transfer of beehive permit	44
61	Application of income from Te Kōhanga site	44
	<i>Site that vests in fee simple subject to conservation covenant</i>	
62	Rākau ō Kauwae Hapa site	45
	<i>Sites that vest in fee simple to be administered as reserves</i>	
63	Lake Rotoehu Scenic Reserve site	46
64	Balance of Matawhāura site	46
65	Ngā Pōrōtai-o-Waitaha-a-Hei site	46
66	Rotoehu Forest Central Wānanga site	47
67	Easements over conservation land	47
	Subpart 6—General provisions relating to vesting of cultural redress properties	
68	Properties vest subject to, or together with, encumbrances and permits	48
69	Registration of ownership	48
70	Application of Part 4A of Conservation Act 1987	49
71	Recording application of Part 4A of Conservation Act 1987 and sections of this Part	49
72	Application of other enactments	51
	<i>Provisions relating to reserve sites</i>	
73	Application of Reserves Act 1977 to reserve sites	51
74	Subsequent transfer of reserve land	51
75	Trustees must not mortgage reserves	53
76	Saving of bylaws, etc, in relation to reserve sites	53
	Subpart 7—Names of reserves and conservation areas	
77	New reserve names	53
	Subpart 8—Moutoroi Pā site	
78	Moutoroi Pā	54

Ngāti Mākino Claims Settlement Bill

Part 3

Commercial redress

Subpart 1—Transfer of licensed land and Ōtamarākau
School site

79	Transfer of licensed land and Ōtamarākau School site to Ngāti Mākino	55
80	Registrar-General to create computer freehold register for Ōtamarākau School site	55
81	Registrar-General to create computer freehold register for licensed land	55
82	Authorised person may grant covenant for later creation of computer freehold register	56
83	Application of other enactments	56

Subpart 2—Licensed land

84	Licensed land ceases to be Crown forest land	57
85	Cancellation of protective covenant over part of Waitahanui Stream	57
86	Trustees confirmed beneficiaries and licensors in relation to licensed land	58
87	Effect of transfer of licensed land	59
88	Minister of Conservation may grant easements	59
89	Public access to licensed land	60
90	Public right of way easement may be granted	60

Subpart 3—Access to protected site

91	Meaning of protected site	60
92	Right of access to protected site	60
93	Right of access subject to Crown forestry licence	61
94	Registrar-General must note right of access	61

Subpart 4—Trustees' right of first refusal in relation to
RFR land

Interpretation

95	Interpretation	62
96	Meaning of RFR land	63

Restrictions on disposal of RFR land

97	Restrictions on disposal of RFR land	64
----	--------------------------------------	----

Trustees' right of first refusal

98	Requirements for offer	64
99	Expiry date of offer	64
100	Withdrawal of offer	65

Ngāti Māhino Claims Settlement Bill

101	Acceptance of offer	65
102	Formation of contract	65
	<i>Disposal if land remains RFR land</i>	
103	Disposal to the Crown or Crown bodies	66
104	Disposal of existing public works to local authority	66
105	Disposal of reserves to administering bodies	66
	<i>Disposal if land may cease to be RFR land</i>	
106	Disposal in accordance with enactment or rule of law	67
107	Disposal in accordance with legal or equitable obligation	67
108	Disposal by the Crown under certain legislation	67
109	Disposal of land held for public works	67
110	Disposals for reserve or conservation purposes	68
111	Disposals for charitable purposes	68
112	Disposals to tenants	68
	<i>RFR landowner's obligations</i>	
113	RFR landowner's obligations under this subpart	68
	<i>Notices</i>	
114	Notice of RFR land with computer register after settlement date	69
115	Notice to trustees of disposal of RFR land to others	69
116	Notice of land ceasing to be RFR land	70
117	Notice requirements	70
	<i>Memorials for RFR land</i>	
118	Recording memorials on computer registers for RFR land	71
119	Removal of memorials when land to be transferred or vested	71
120	Removal of memorials when RFR period ends	72
	<i>General provisions</i>	
121	Waiver and variation	72
122	Disposal of Crown bodies not affected	73
	Schedule 1	74
	Statutory area and whenua rāhui area	
	Schedule 2	75
	Cultural redress properties	
	Schedule 3	78
	Moutoroi Pā	

Schedule 4
Notices relating to RFR land

79

Preamble**Summary of Ngāti Mākino historical account**

- (1) Ngāti Mākino are part of the Te Arawa confederation of tribes and have strong connections to Ngāti Awa. Traditionally, they occupied the area between the Rotorua lakes and the Bay of Plenty coast where they existed as an independent iwi: 5
- (2) Ngāti Mākino did not sign the Treaty of Waitangi, but during the 1840s and 1850s they dwelt peacefully with the few settlers in their rohe. The Crown gradually increased its presence in the Bay of Plenty from 1842 but applied little pressure on local Māori to sell their lands and customary law largely continued to prevail: 10
- (3) The war between the Crown and the Kīngitanga in the Waikato in 1863 brought an extended period of tension to the Bay of Plenty. The need to choose between support for the Crown, degrees of armed neutrality, and support for the Kīngitanga split Ngāti Mākino internally. At Kaokaoroa in 1864, Ngāti Mākino helped fight off a Kingite taua from the east coast. Not long afterwards, again seeking to keep hostilities from their territory, Ngāti Mākino battled Crown forces at Te Ranga, near Tauranga: 15
20
- (4) A new round of conflict began in 1865 when the Crown sought those responsible for the murders of a Crown official and others. Ngāti Mākino played no part in the killings. As a consequence of the conflict, the Crown deemed that certain tribes had been in rebellion and confiscated approximately 448 000 acres of land in the eastern Bay of Plenty under the New Zealand Settlements Act 1863. While the confiscation was not directed specifically at them, all Ngāti Mākino were affected: 25
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- (5) The Crown established a Compensation Court to return land to those who had not been in rebellion. Ngāti Mākino were among those awarded land by the court but some Ngāti

Mākino were deemed to be rebels and were excluded from ownership. The court, moreover, returned land in a form inconsistent with customary tenure:

- (6) Ngāti Mākino’s tribal system was further undermined by the operation of the native land laws introduced by the Crown in the 1860s. These laws established the Native Land Court to convert customary title into individual title derived from the Crown. Customary tenure was generally communal and accommodated multiple and overlapping interests to the same land, but Ngāti Mākino had no alternative but to use the court if they wished to secure legal title to their lands and participate in the new economy. The court, however, caused so much unrest amongst Bay of Plenty iwi that the Crown was forced to suspend its operations for several years: 5 10
- (7) Ngāti Mākino preferred to lease their lands to private parties but by the mid-1880s the Crown had bought the majority of Ngāti Mākino’s lands. In securing title to their lands, Ngāti Mākino incurred heavy survey costs. The Crown emphasised the size of survey debts and wrongly let Ngāti Mākino believe that interest was accruing on them. The Crown also improperly prevented Ngāti Mākino from selling land to private parties: 15 20
- (8) By 1900, Ngāti Mākino were virtually landless. Nonetheless, in the early twentieth century the Crown compulsorily acquired further Ngāti Mākino land for public works and to establish scenic reserves. Private parties continued to purchase what little land remained, including the majority of Ngāti Mākino’s Ōtamarākau and Whakarewa reserves, both of which were originally awarded with inalienable titles. In the 1920s, the Crown introduced schemes to consolidate and develop fragmented Māori land-holdings, but Ngāti Mākino possessed insufficient land to participate or benefit from them as Ngāti Mākino. By 1992, only 0.6% of the combined area of the 3 major blocks in which Ngāti Mākino had interests remained in the hands of the iwi: 25 30 35
- (9) From the 1940s, many Ngāti Mākino moved to forestry settlements looking for work to alleviate poverty and develop new skills. The Crown encouraged this migration and the forest industry became an important part of the economic well-being of

Ngāti Mākino. However, the Forest Service was restructured in the 1980s, causing extensive unemployment and dislocation amongst communities who relied on the forest industry, including Ngāti Mākino:

The Parliament of New Zealand therefore enacts as follows: 5

1 Title

This Act is the Ngāti Mākino Claims Settlement Act **2011**.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

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Part 1

**Purpose, acknowledgements,
interpretation provisions, settlement
of historical claims, and miscellaneous
matters**

15

Subpart 1—Purpose and acknowledgements

3 Purpose

The purpose of this Act is to give effect to certain provisions of the deed of settlement, which is a deed to settle the historical claims of Ngāti Mākino.

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4 Act binds the Crown

This Act binds the Crown.

5 Outline

(1) This section is a guide to the overall scheme and effect of this Act, but does not affect the interpretation or application of this Act or of the deed of settlement.

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(2) This Part—

(a) sets out the purpose of this Act and specifies that it binds the Crown; and

(b) sets out the Crown's acknowledgements to Ngāti Mākino; and

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- (c) defines terms used in this Act, including key terms such as Ngāti Mākino and historical claims; and
- (d) provides that the settlement of the historical claims is final; and
- (e) provides for— 5
- (i) the effect of the settlement on the jurisdiction of a court, tribunal, or other judicial body in respect of the historical claims; and
- (ii) consequential amendments to the Treaty of Waitangi Act 1975; and 10
- (iii) the effect of the settlement on certain memorials; and
- (iv) the exclusion of the law against perpetuities, the timing of actions or matters provided for in this Act, and access to the deed of settlement. 15
- (3) **Part 2** provides for cultural redress, including—
- (a) protocols to be issued to the trustees by the Minister for Arts, Culture and Heritage and the Minister of Energy and Resources; and
- (b) an acknowledgement by the Crown of the statements made by Ngāti Mākino of their cultural, spiritual, historical, and traditional association with 2 statutory areas and the effect of that acknowledgement; and 20
- (c) a deed of recognition between the Crown and the trustees; and 25
- (ca) the declaration that part of Lake Rotoma Scenic Reserve is subject to a whenua rāhui in relation to Ngāti Mākino; and
- (d) the vesting in the trustees of the fee simple estate in 6 cultural redress properties; and 30
- (e) the vesting in the trustees of the fee simple estate in the Moutoroi Pā site.
- (4) **Part 3** provides for commercial redress, including—
- (a) the transfer of the licensed land and the Ōtamarākau School site to the trustees; and 35
- (b) the creation of computer registers, and the effect of registration, in relation to the licensed land and the Ōtamarākau School site; and

- (c) the application of other enactments in relation to the transfer of the licensed land and the Ōtamarākau School site; and
- (d) a right of first refusal in relation to RFR land that may be exercised by the trustees. 5
- (5) There are 4 schedules that—
- (a) describe the 2 statutory areas and the whenua rāhui site to which the statutory acknowledgement and whenua rāhui relate, respectively:
- (b) describe the 6 cultural redress properties: 10
- (c) describe the Moutoroī Pā site:
- (d) set out provisions that apply to notices given in relation to RFR land.
- 6 The Crown’s acknowledgements**
- (1) The Crown acknowledges that the people of Ngāti Mākino have long sought redress for their grievances, and that the Crown’s withdrawal from earlier negotiations and the subsequent delay in settlement had a detrimental effect on Ngāti Mākino. The Crown hereby recognises the legitimacy of the historical grievances of Ngāti Mākino and makes the following acknowledgements. 15 20
- (2) The Crown acknowledges that when it despatched troops to the Bay of Plenty in 1864, following the outbreak of hostilities in the Waikato, Ngāti Mākino were drawn into the war and forced to choose between different allegiances. This split the iwi and pitted individuals and hapū against one another. 25
- (3) The Crown acknowledges that Ngāti Mākino suffered loss of life at the hands of Crown forces in the battle of Te Ranga in 1864.
- (4) The Crown acknowledges that the confiscation in the eastern Bay of Plenty in 1866— 30
- (a) included some of Ngāti Mākino’s land; and
- (b) affected all Ngāti Mākino, even those who had not been in conflict with the Crown; and
- (c) compulsorily extinguished customary title in the confiscation district; and 35
- (d) alienated land from those Ngāti Mākino the Crown deemed to be rebels; and

- (e) was, in its effects on Ngāti Mākino, unjust, indiscriminate, and a breach of the Treaty of Waitangi and its principles.
- (5) The Crown acknowledges that—
- (a) the Compensation Court awarded land to individuals rather than iwi or hapū, which was not consistent with customary tenure. This system was imposed on Ngāti Mākino; and 5
- (b) because some members of the iwi had been identified as rebels, Ngāti Mākino were forced to rely upon links to other iwi in their claims to the Compensation Court. 10
- (6) The Crown acknowledges that—
- (a) Ngāti Mākino sought to retain authority over the determination of the ownership of their land; and
- (b) Ngāti Mākino’s tribal structure was based on collective tribal and hapū custodianship of land; and 15
- (c) the native land laws were enacted, in part, to facilitate the opening up of Māori land to Pākehā settlement. It was expected that Māori would abandon their tribal and communal structures as a result of the new system; and 20
- (d) the Native Land Court awarded land to individual Ngāti Mākino rather than to iwi or hapū, and that this made those lands more susceptible to alienation; and
- (e) the Crown failed to provide an effective form of corporate title until 1894. Such a title would have enabled Ngāti Mākino to exercise control over their land collectively, but by 1894 all Ngāti Mākino lands were held under individualised titles. 25
- (7) The Crown acknowledges that the native land laws contributed to the erosion of the mana, rangatiratanga, and traditional tribal structures of Ngāti Mākino. The Crown also acknowledges that its failure to provide an effective means in the native land legislation for the collective administration of Ngāti Mākino lands until 1894 was a breach of the Treaty of Waitangi. 30
- (8) The Crown acknowledges that— 35
- (a) by seeking to lease rather than sell land, Ngāti Mākino aimed to develop and retain their lands; and
- (b) the Crown undermined these efforts and applied pressure on Ngāti Mākino to sell by—

-
- (i) leading Ngāti Mākino to believe wrongly that interest was accruing on survey debts; and
 - (ii) improperly using the Native Land Purchases Act 1877 to prevent private parties entering lease or sale negotiations with Ngāti Mākino in relation to the Tāhunaroa block; and 5
 - (c) as a result, Ngāti Mākino felt they had no option other than to sell land to the Crown; and
 - (d) between 1873 and 1900, 82 000 acres of Ngāti Mākino land was alienated. Only 3.6% of the Waitahanui, Tāhunaroa and Whakarewa blocks remained in Ngāti Mākino hands by the end of the nineteenth century; and 10
 - (e) accordingly, the Crown failed to protect actively the interests of Ngāti Mākino in the land it wished to retain. This was a breach of the Treaty of Waitangi and its principles. 15
- (9) The Crown acknowledges that Ngāti Mākino experienced further land loss during the twentieth century through purchases by private parties, and takings by the Crown for public works, including a parcel taken for railway purposes that cut the Ōta-marākau marae off from the sea. 20
- (10) The Crown acknowledges that it compulsorily acquired Ngāti Mākino land to establish scenic reserves. In this context, Ngāti Mākino were left little option but to gift land to the Crown if they were to have any control over which land was to be alienated and how that land was to be managed. 25
- (11) The Crown acknowledges that—
- (a) the cumulative effect of its actions rendered Ngāti Mākino virtually landless by 1900; and
 - (b) Ngāti Mākino were therefore left with insufficient land to participate in, or benefit from, the development and consolidation schemes initiated from the 1920s; and 30
 - (c) by 1992, only 0.6% of the Waitahanui, Tāhunaroa and Whakarewa blocks remained in Ngāti Mākino’s hands; and 35
 - (d) the lands formerly in Ngāti Mākino’s possession have contributed to the wealth and development of New Zealand, while Ngāti Mākino have been deprived of the benefits of those lands; and

- (e) Ngāti Mākino’s physical, cultural, and spiritual wellbeing was compromised by the loss of their land and that this suffering and hardship has continued to the present day; and
- (f) the Crown’s failure to ensure that Ngāti Mākino were left with sufficient land for their present and future needs was a breach of the Treaty of Waitangi and its principles. 5
- (12) Through these acts, the Crown, its Ministers, and government departments have dishonoured the Treaty of Waitangi, its principles, and its spirit, denigrating te mana motuhake o Ngāti Mākino. In so doing, the Crown acknowledges that it has brought dishonour upon itself. 10
- It now falls time for these grievances to be lifted.
- It is the desire of the Crown to build a foundation of trust and commitment, so that Ngāti Mākino and the Crown can work together to revitalise te rangatiratanga o Ngāti Mākino. 15
- Na ēnei mahinga kino a te Karauna, ōna Minita me ngā Tari Kāwanatanga kua takakinotia te Tiriti o Waitangi, tōna Mauri, tōna Wairua me te mahi whakaiti i te mana motuhake o Ngāti Mākino. Na runga i tēna, e whakaae atu ana na te Karauna ano a ia i māteatea. 20
- Kua eke ki te wā kia hikitia ake i ēnei mamae.
- Ko tā te Karauna ko te hanga i te tūāpapa i runga i te pono, i te tika me te whakawhirinaki atu a tētahi ki tētahi kia mahitahi ai te Karauna me Ngāti Mākino i runga i te wairua o te kotahitanga, kia tutuki ai kia mana ai te rangatiratanga o Ngāti Mākino. 25

Subpart 2—Interpretation

- 7 Interpretation generally** 30
- It is the intention of Parliament that the provisions of this Act are interpreted in a manner that best furthers the agreements expressed in the deed of settlement.
- 8 Interpretation**
- In this Act, unless the context otherwise requires,— 35

administering body has the meaning given in section 2(1) of the Reserves Act 1977

affected person has the meaning given in section 2AA(2) of the Resource Management Act 1991

authorised person,— 5

(a) in respect of a cultural redress property, has the meaning given in **section 69(7)**; and

(b) in respect of the licensed land and the Ōtamarākau School site, has the meaning given in **section 80(3) or 94(4)**, as the case requires 10

business day means a day of the week other than—

(a) Saturday, Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign’s birthday, and Labour Day; and

(b) a day in the period commencing with 25 December in any year and ending with the close of 15 January in the following year; and 15

(c) the day observed as the anniversary of the province of Wellington; and

(d) the day observed as the anniversary of the province of Auckland, being the day that is locally observed in the Bay of Plenty as its anniversary 20

concession has the meaning given in section 2(1) of the Conservation Act 1987

consent authority has the meaning given in section 2(1) of the Resource Management Act 1991 25

control, for the purposes of **paragraph (d)** of the definition of Crown body, means,—

(a) in relation to a company, control of the composition of the company’s board of directors; and 30

(b) in relation to another body, control of the composition of the group that would be the body’s board of directors if the body were a company

Crown has the meaning given in section 2(1) of the Public Finance Act 1989 35

Crown body means—

(a) a Crown entity (as defined in section 7(1) of the Crown Entities Act 2004); and

- (b) a State enterprise (as defined in section 2 of the State-Owned Enterprises Act 1986); and
- (c) the New Zealand Railways Corporation; and
- (d) a company or body that is wholly owned or controlled by any 1 or more of the following: 5
 - (i) the Crown;
 - (ii) a Crown entity;
 - (iii) a State enterprise;
 - (iv) the New Zealand Railways Corporation; and
- (e) a subsidiary, or related company, of a company or body referred to in **paragraph (d)** 10

Crown forest land has the meaning given in section 2(1) of the Crown Forest Assets Act 1989

Crown forestry licence—

- (a) has the meaning given in section 2(1) of the Crown Forest Assets Act 1989; and 15
- (b) in relation to the licensed land, means the licence held in computer register SA58A/550

Crown forestry rental trust deed means the trust deed made on 30 April 1990 establishing the Crown forestry rental trust under section 34 of the Crown Forest Assets Act 1989 20

Crown mineral means a mineral as defined in section 2(1) of the Crown Minerals Act 1991—

- (a) that is the property of the Crown under section 10 or 11 of the Crown Minerals Act 1991; or 25
- (b) over which the Crown has jurisdiction under the Continental Shelf Act 1964

Crown minerals protocol means a protocol issued by the Minister of Energy and Resources under **section 18(1)(a)**, and includes any amendments made under **section 18(1)(b)** 30

Crown minerals protocol area means the area shown on the map attached to the Crown minerals protocol

cultural redress property has the meaning given in **section 57**

date of the deed of settlement means 2 April 2011 35

deed of recognition means the deed issued by the Crown to the trustees under **section 32**

deed of settlement and deed—

- (a) mean the deed of settlement dated 2 April 2011 and signed by—
- (i) the Minister for Treaty of Waitangi Negotiations, the Honourable Christopher Finlayson, and the Minister of Finance, the Honourable Simon William English, on behalf of the Crown; and 5
 - (ii) Te Ariki Morehu, Awhi Awhimate, Neville Nepia, Hilda Sykes, Tohu Ripeka Te Whata, Heneri Ngatai, Hare Wiremu, and Laurence Tamati as trustees of Ngāti Mākino Iwi Authority; and 10
- (b) include—
- (i) the general matters schedule, the property redress schedule, the documents schedule, and any attachments to the deed; and 15
 - (ii) any amendments to the deed, its schedules, or its attachments

deed plan means a deed plan in Part 2 of the attachments to the deed of settlement that generally indicates the location of an area referred to in this Act 20

Director-General means the Director-General of Conservation

documents schedule means the schedule of that name that forms part of the deed of settlement 25

effective date means the date that is 6 months after the settlement date

encumbrance means a lease, tenancy, licence, licence to occupy, easement, covenant, or other right or obligation affecting a property 30

general matters schedule means the schedule of that name that forms part of the deed of settlement

Historic Places Trust means the New Zealand Historic Places Trust (Pouhere Taonga) continued by section 38 of the Historic Places Act 1993 35

historical claims has the meaning given in **section 10**

land holding agency, in relation to—

- (a) a cultural redress property, means the Department of Conservation:
- (b) the licensed land, means LINZ:
- (c) Ōtamārakau School site, means the Ministry of Education: 5
- (d) the Moutoroī Pā site, means LINZ

licensed land—

- (a) means the land described as licensed land in Part 3 of the property redress schedule; but 10
- (b) excludes—
 - (i) all trees growing, standing, or lying on the land; and
 - (ii) all improvements that have been—
 - (A) acquired by a purchaser of the trees on that land; or 15
 - (B) made, after the acquisition of the trees, by the purchaser or the licensee

licensee means the registered holder for the time being of the Crown forestry licence 20

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

LINZ means Land Information New Zealand

local authority has the meaning given in section 5(1) of the Local Government Act 2002 25

member of Ngāti Mākino means an individual referred to in **section 9(1)(a)**

Moutoroī Pā site has the meaning given in **section 78(1)**

Ngāti Mākino area of interest and **area of interest** mean the area that Ngāti Mākino identifies as its area of interest, as set out in part 1 of the attachments to the deed of settlement 30

Ngāti Mākino Iwi Authority means the trust established by the Deed of Trust of Ngāti Mākino Iwi Authority dated 23 March 2011

Ngāti Mākino values has the meaning given in **section 37** 35

Ōtamārakau School site means the land described by that name in Part 4 of the property redress schedule

- Ōtamarākau School site settlement date** means the date on which settlement of the Ōtamarākau School site takes place in accordance with paragraph 5.7 of the property redress schedule
- property redress schedule** means the schedule of that name that forms part of the deed of settlement 5
- protected site** has the meaning given in **section 91**
- protection principles** has the meaning given in **section 37**
- protocol** means a protocol issued under **section 18(1)(a)**, including any amendments made under **section 18(1)(b)** 10
- regional council** has the meaning given in section 2(1) of the Resource Management Act 1991
- Registrar-General** means the Registrar-General of Land appointed under section 4 of the Land Transfer Act 1952
- related company** has the meaning given in section 2(3) of the Companies Act 1993 15
- relevant consent authority**, in relation to a statutory area, means a consent authority of a region or district that contains, or is adjacent to, the statutory area
- representative entity** means— 20
- (a) the trustees; and
 - (b) any person (including any trustees) acting for, or on behalf of,—
 - (i) the collective group referred to in **section 9**; or
 - (ii) 1 or more of the whānau, hapū, or groups that together form that collective group; or 25
 - (iii) 1 or more members of Ngāti Mākino
- reserve land** has the meaning given in **section 74(1)**
- reserve site** has the meaning given in **section 57**
- resource consent** has the meaning given in section 2(1) of the Resource Management Act 1991 30
- responsible department** means,—
- (a) for a taonga tūturu protocol, ~~the Ministry for Culture and Heritage~~ the department responsible for the administration of the Protected Objects Act 1975: 35

(b) for a Crown minerals protocol, ~~the Ministry of Economic Development~~ the department responsible for the administration of the Crown Minerals Act 1991:

(c) any other department of State authorised by the Prime Minister to exercise powers or perform functions and duties under **subpart 1 of Part 2** 5

responsible Minister means,—

(a) for a taonga tūturu protocol, the Minister for Arts, Culture and Heritage:

(b) for a Crown minerals protocol, the Minister of Energy and Resources: 10

(c) any other Minister of the Crown authorised by the Prime Minister to exercise powers and perform functions and duties under **subpart 1 of Part 2**

RFR land has the meaning given in **section 96** 15

settlement date means the date that is 20 business days after the date on which this Act comes into force

statements of association has the meaning given in **section 23(2)**

statutory acknowledgement means the acknowledgement made by the Crown in **section 23(1)** in respect of each statutory area, on the terms set out in **subpart 2 of Part 2** 20

statutory area means an area described as a statutory area in **Schedule 1**, the general location of which is indicated in yellow on the deed plan referred to in relation to that area in that schedule (although the deed plan does not establish the precise boundaries of the statutory area) 25

statutory plan—

(a) means a district plan, regional coastal plan, regional plan, regional policy statement, or proposed policy statement as defined in section 43AA of the Resource Management Act 1991; and 30

(b) includes a proposed plan as defined in section 43AAC of the Resource Management Act 1991

subsidiary has the meaning given in section 5 of the Companies Act 1993 35

taonga tūturu—

- (a) has the meaning given in section 2(1) of the Protected Objects Act 1975; and
- (b) includes ngā taonga tūturu (which has the meaning given in section 2(1) of that Act)

5

taonga tūturu protocol means a protocol issued by the Minister for Arts, Culture and Heritage under **section 18(1)(a)**, and includes any amendments made to the protocol under **section 18(1)(b)**

trustees means the trustees of the Ngāti Mākino Iwi Authority

10

whenua rāhui has the meaning given in **section 37(1)**

whenua rāhui site has the meaning given in **section 37(2)**.

9 Meaning of Ngāti Mākino

(1) In this Act, **Ngāti Mākino** means—

- (a) the collective group composed of individuals who are descended from a tipuna of Ngāti Mākino; and
- (b) includes those individuals; and
- (c) includes any whānau, hapū, or group to the extent that it is composed of those individuals.

15

(2) In this section,—

20

customary rights means rights according to Ngāti Mākino tikanga (Ngāti Mākino 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

25

descended means that a person is descended from another person by—

- (a) birth; or
- (b) legal adoption; or
- (c) Māori customary adoption in accordance with the tikanga (customary values and practices) of Ngāti Mākino

30

tipuna of Ngāti Mākino means an individual—

- (a) who exercised customary rights by virtue of being descended from all of—
 - (i) Hei:

35

- (ii) Waitaha;
- (iii) Mākino II; and
- (b) who exercised the customary rights predominantly in relation to the Ngāti Mākino area of interest at any time after 6 February 1840. 5

10 Meaning of historical claims

- (1) In this Act, **historical claims**—
 - (a) means the claims described in **subsection (2)**; and
 - (b) includes the claims described in **subsection (3)**; but
 - (c) does not include the claims described in **subsection (4)**. 10
- (2) The historical claims are every claim (whether or not the claim has arisen or been considered, researched, notified, or made by or on the settlement date) that Ngāti Mākino (or a representative entity) had on or before the settlement date, or may have after the settlement date, and that— 15
 - (a) is, or is founded on, a right arising—
 - (i) from the Treaty of Waitangi or its principles; or
 - (ii) under legislation; or
 - (iii) at common law (including aboriginal title or customary law); or 20
 - (iv) from fiduciary duty; or
 - (v) otherwise; and
 - (b) arises from, or relates to, acts or omissions before 21 September 1992— 25
 - (i) by, or on behalf of, the Crown; or
 - (ii) by or under legislation.
- (3) The historical claims include—
 - (a) every claim to the Waitangi Tribunal to which **subsection (2)** applies that relates exclusively to Ngāti Mākino or a representative entity, including— 30
 - (i) Wai 275—Tāhunaroa and Waitahanui Blocks claim; and
 - (ii) Wai 334—Matata land claim; and
 - (b) every other claim to the Waitangi Tribunal to which **subsection (2)** applies, so far as it relates to Ngāti Mākino (or a representative entity). 35
- (4) However, **historical claims** does not include—

- (a) a claim that a member of Ngāti Mākino, or a whānau, hapū, or group referred to in **section 9(1)(c)**, had or 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 **section 9(1)(a)**; or 5
- (b) a claim that a representative entity had or may have to the extent that it is founded on a claim referred to in **paragraph (a)**.

Subpart 3—Settlement of historical claims

Historical claims settled and jurisdiction of courts, etc, removed 10

11 Settlement of historical claims final

- (1) The historical claims are settled.
- (2) The settlement of the historical claims is final and, on and from the settlement date, the Crown is released and discharged from all obligations and liabilities in respect of those claims. 15
- (3) **Subsections (1) and (2)** do not limit the acknowledgements expressed in, or the provisions of, the deed of settlement.
- (4) Despite any other enactment or rule of law, on and from the settlement date, no court, tribunal, or other judicial body has jurisdiction (including, without limitation, the jurisdiction to inquire or further inquire into, or to make a finding or recommendation) in respect of— 20
- (a) the historical claims; or
- (b) the deed of settlement; or 25
- (c) this Act; or
- (d) the redress provided under the deed of settlement or this Act.
- (5) **Subsection (4)** does not exclude the jurisdiction of a court, tribunal, or other judicial body in respect of the interpretation or implementation of the deed of settlement or this Act. 30

Consequential amendment to Treaty of Waitangi Act 1975

12 Amendment to Treaty of Waitangi Act 1975

- (1) This section amends the Treaty of Waitangi Act 1975. 35

- (2) Schedule 3 is amended by inserting the following item in its appropriate alphabetical order: “Ngāti Mākino Claims Settlement Act **2011**, **section 11(4) and (5)**”.

Protections no longer apply

- 13 Certain enactments do not apply** 5
- (1) The enactments listed in **subsection (2)** do not apply—
- (a) to the cultural redress property; or
 - (b) to the licensed land; or
 - (c) to the Moutoroi Pā site; or
 - (d) to the Ōtamarākau School site, but only on and from the 10
Ōtamarākau School site settlement date; or
 - (e) to the RFR land; or
 - (f) for the benefit of Ngāti Mākino or a representative entity.
- (2) The enactments are— 15
- (a) sections 8A to 8HJ of the Treaty of Waitangi Act 1975:
 - (b) sections 27A to 27C of the State-Owned Enterprises Act 1986:
 - (c) sections 211 to 213 of the Education Act 1989:
 - (d) Part 3 of the Crown Forest Assets Act 1989: 20
 - (e) Part 3 of the New Zealand Railways Corporation Restructuring Act 1990.
- 14 Removal of memorials**
- (1) The chief executive of LINZ must issue to the Registrar-General a certificate that identifies (by reference to the relevant 25
legal description, certificate of title, or computer register) each allotment that—
- (a) is all or part of land described in **section 13(1)**; and
 - (b) is contained in a certificate of title or computer register 30
that has a memorial entered under any enactment referred to in **section 13(2)**.
- (2) The chief executive of LINZ must issue a certificate under **subsection (1)** as soon as is reasonably practicable after—
- (a) the settlement date, in the case of land described in **section 13(1)(a), (b), (c), and (e)**; and 35

- (b) the Ōtamarākau School site settlement date, in the case of the Ōtamarākau School site.
- (3) Each certificate must state that it is issued under this section.
- (4) The Registrar-General must, as soon as is reasonably practicable after receiving a certificate issued under **subsection (1)**,—
- (a) register the certificate against each certificate of title or computer register identified in the certificate; and
- (b) cancel, in respect of each allotment identified in the certificate, each memorial that is entered (in accordance with any enactment referred to in **section 13(2)**) on a certificate of title or computer register identified in the certificate.

Subpart 4—Miscellaneous matters

Perpetuities

- 15 Rule against perpetuities does not apply** 15
- (1) Neither the rule against perpetuities nor any provisions of the Perpetuities Act 1964—
- (a) prescribe or restrict the period during which—
- (i) the Ngāti Mākino Iwi Authority may exist in law; or
- (ii) the trustees, in their capacity as trustees, may hold or deal with property (including income derived from property); or
- (b) apply to a document entered into in order to give effect to the deed of settlement if the application of that rule or the provisions of that Act would otherwise make the document, or a right conferred by the document, invalid or ineffective.
- (2) However, if the Ngāti Mākino Iwi Authority is, or becomes, a charitable trust, the application (if any) of the rule against perpetuities or any provision of the Perpetuities Act 1964 to that trust must be determined under the general law.

Timing of actions or matters

- 16 Timing of actions or matters**
- (1) Actions or matters occurring under this Act occur or take effect on and from the settlement date.
- (2) However, if a provision of this Act requires an action or matter to occur or take effect on a date other than the settlement date, that action or matter occurs or takes effect on and from that other date. 5

Access to deed of settlement

- 17 Access to deed of settlement** 10
- The chief executive of the Ministry of Justice must make copies of the deed of settlement available—
- (a) for inspection free of charge, and for purchase at a reasonable price, at the head office of the Ministry of Justice in Wellington between 9 am and 5 pm on any business day; and 15
- (b) free of charge on an Internet site maintained by or on behalf of the Ministry of Justice.

Part 2**Cultural redress** 20

Subpart 1—Protocols

General provisions

- 18 Authority to issue, amend, or cancel protocols**
- (1) A responsible Minister may— 25
- (a) issue a protocol to the trustees; and
- (b) amend or cancel the protocol.
- (2) The protocol may be amended or cancelled under **subsection (1)** on the initiative of either— 30
- (a) the trustees; or
- (b) the responsible Minister.
- (3) The responsible Minister may amend or cancel the protocol only after consulting, and having particular regard to the views of, the trustees.

- (4) A Crown minerals protocol must be in the form set out in Part 5 of the documents schedule at the settlement date.
- (5) A taonga tūturu protocol must be in the form set out in Part 4 of the documents schedule at the settlement date.

19 Protocol subject to rights, functions, and obligations 5

A protocol does not restrict—

- (a) the ability of the Crown to exercise its powers and perform its functions and duties in accordance with the law and government policy, which includes (without limitation) the ability to— 10
- (i) introduce legislation and change government policy; and
- (ii) interact with or consult a person the Crown considers appropriate, including (without limitation) any iwi, hapū, marae, whānau, or other representative of tangata whenua; or 15
- (b) the responsibilities of the responsible Minister or responsible department; or
- (c) the legal rights of Ngāti Mākino or a representative entity. 20

20 Enforceability of protocol

- (1) The Crown must comply with a protocol while it is in force.
- (2) If the Crown fails, without good cause, to comply with the protocol, the trustees may, subject to the Crown Proceedings Act 1950, enforce the protocol. 25
- (3) Despite **subsection (2)**, damages or any form of monetary compensation are not available as a remedy for a failure by the Crown to comply with the protocol.
- (4) To avoid doubt,—
- (a) **subsections (1) and (2)** do not apply to guidelines developed for the implementation of the protocol; and 30
- (b) **subsection (3)** does not affect the ability of a court to award costs incurred by the trustees in enforcing the protocol under **subsection (2)**.

*Taonga tūturu protocol***21 Effect of taonga tūturu protocol**

The taonga tūturu protocol does not have the effect of granting, creating, or providing evidence of an estate or interest in, or rights relating to, taonga tūturu.

5

*Crown minerals protocol***22 Noting and effect of Crown minerals protocol**

(1) A summary of the terms of the Crown minerals protocol must be noted in—

- (a) a register of protocols maintained by the chief executive of the Ministry of Economic Development responsible department; and
- (b) the minerals programmes that affect the Crown minerals protocol area when those programmes are replaced.

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(2) The noting of the Crown minerals protocol—

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- (a) is for the purpose of public notice only; and
- (b) is not an amendment to the minerals programmes for the purposes of the Crown Minerals Act 1991.

(3) The Crown minerals protocol does not have the effect of granting, creating, or providing evidence of an estate or interest in, or rights relating to, Crown minerals.

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(4) In this section, **minerals programme** has the meaning given to it in section 2(1) of the Crown Minerals Act 1991.

Subpart 2—Statutory acknowledgement and deed of recognition

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*Statutory acknowledgement***23 Statutory acknowledgement by the Crown**

(1) The Crown acknowledges the statements of association.

(2) In this subpart, **statements of association** means the statements—

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- (a) that are made by Ngāti Mākino of their particular cultural, spiritual, historical, and traditional association with each statutory area; and
- (b) that are in the form set out in Part 2 of the documents schedule at the settlement date.

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24 Purposes of statutory acknowledgement

- (1) The only purposes of the statutory acknowledgement are to—
- (a) require relevant consent authorities, the Environment Court, and the Historic Places Trust to have regard to the statutory acknowledgement, as provided for in **sections 25 to 27**; and 5
 - (b) require relevant consent authorities to give summaries and notices of resource consent applications to the trustees, as provided for in **section 29**; and
 - (c) enable the trustees and any member of Ngāti Mākino to cite the statutory acknowledgement as evidence of the association of Ngāti Mākino with the relevant statutory areas, as provided for in **section 30**. 10
- (2) This section does not limit **sections 33 to 35**.

25 Relevant consent authorities to have regard to statutory acknowledgement 15

- (1) This section applies to a relevant consent authority that has received an application for a resource consent for an activity within, adjacent to, or directly affecting a statutory area.
- (2) On and from the effective date, the relevant consent authority must have regard to the statutory acknowledgement relating to the statutory area in deciding, under section 95E of the Resource Management Act 1991, if the trustees are affected persons in relation to the activity. 20
- (3) **Subsection (2)** does not limit the obligations of a relevant consent authority under the Resource Management Act 1991. 25

26 Environment Court to have regard to statutory acknowledgement

- (1) This section applies to proceedings before the Environment Court in relation to an application for a resource consent for activities within, adjacent to, or directly affecting a statutory area. 30
- (2) On and from the effective date, the Environment Court must have regard to the statutory acknowledgement relating to the statutory area in deciding, under section 274 of the Resource Management Act 1991, if the trustees are persons with an in- 35

terest in the proceedings greater than that of the general public in respect of the application.

- (3) **Subsection (2)** does not limit the obligations of the Environment Court under the Resource Management Act 1991.

27 Historic Places Trust and Environment Court to have regard to statutory acknowledgement 5

- (1) This section applies if, on or after the effective date, an application is made under section 11 or 12 of the Historic Places Act 1993 for an authority to destroy, damage, or modify an archaeological site within a statutory area. 10

- (2) The Historic Places Trust must have regard to the statutory acknowledgement relating to the statutory area in exercising its powers under section 14 of the Historic Places Act 1993 in relation to the application, including determining whether the trustees are directly affected by an extension of time. 15

- (3) The Environment Court must have regard to the statutory acknowledgement relating to the statutory area in determining, under section 20 of the Historic Places Act 1993, an appeal against a decision of the Historic Places Trust in relation to the application, including determining whether the trustees are directly affected by the decision. 20

- (4) In this section, **archaeological site** has the meaning given in section 2 of the Historic Places Act 1993.

28 Recording statutory acknowledgement on statutory plans 25

- (1) On and from the effective date, each relevant consent authority must attach a record of the statutory acknowledgement to all statutory plans that wholly or partly cover a statutory area.

- (2) The record attached to a statutory plan must include— 30
- (a) the relevant provisions of **sections 24 to 27** in full; and
 - (b) the descriptions of the statutory areas wholly or partly covered by the plan; and
 - (c) any statements of association for the statutory areas.

- (3) The attachment of the record to a statutory plan under this section is for the purpose of public information only, and the information is not— 35

- (a) part of the statutory plan, unless adopted by the relevant consent authority; or
- (b) subject to the provisions of Schedule 1 of the Resource Management Act 1991, unless adopted as part of the statutory plan.

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29 Distribution of resource consent applications to trustees

- (1) Each relevant consent authority must, for a period of 20 years starting on the effective date, give the following to the trustees for each resource consent application for an activity within, adjacent to, or directly affecting a statutory area:
 - (a) if the application is received by the consent authority, a summary of the application; or
 - (b) if notice of the application is served on the consent authority under section 145(10) of the Resource Management Act 1991, a copy of the notice.
- (2) The information provided in a summary of an application must be the same as would be given to an affected person by limited notification under section 95B of the Resource Management Act 1991, or may be agreed between the trustees and the relevant consent authority.
- (3) A summary of an application must be provided under **subsection (1)(a)**—
 - (a) as soon as is reasonably practicable after the consent authority receives the application; and
 - (b) before the consent authority decides under section 95(a) of the Resource Management Act 1991 whether to notify the application.
- (4) A copy of the notice of an application must be provided to the trustees under **subsection (1)(b)** no later than 10 business days after the day on which the consent authority receives the notice.
- (5) This section does not affect a relevant consent authority's obligation,—
 - (a) under section 95(a) of the Resource Management Act 1991, to decide whether to notify an application;
 - (b) under section 95E of that Act, to decide whether the trustees are affected persons in relation to an application.

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30 Use of statutory acknowledgement

- (1) The trustees and any member of Ngāti Mākino may, as evidence of the association of Ngāti Mākino with a statutory area, cite the statutory acknowledgement that relates to that area in submissions to, and proceedings before, a relevant consent authority, the Environmental Protection Authority or a board of inquiry under Part 6AA of the Resource Management Act 1991, the Environment Court, or the Historic Places Trust concerning activities within, adjacent to, or directly affecting the statutory area. 5 10
- (2) The content of a statement of association is not, by virtue of the statutory acknowledgement, binding as fact on—
- (a) relevant consent authorities:
 - (b) the Environmental Protection Authority or a board of inquiry under Part 6AA of the Resource Management Act 1991: 15
 - (c) the Environment Court:
 - (d) the Historic Places Trust:
 - (e) parties to proceedings before those bodies:
 - (f) any other person who is entitled to participate in those proceedings. 20
- (3) Despite **subsection (2)**, the statutory acknowledgement may be taken into account by the bodies and persons specified in that subsection.
- (4) To avoid doubt,— 25
- (a) neither the trustees nor members of Ngāti Mākino are precluded from stating that Ngāti Mākino have an association with a statutory area that is not described in the statutory acknowledgement; and
 - (b) the content and existence of the statutory acknowledgement do not limit any statement made. 30

31 Trustees may waive rights

- (1) The trustees may waive the right to be given summaries, and copies of notices, of resource consent applications under **section 29** in relation to a statutory area. 35
- (2) The trustees may waive the right to have a relevant consent authority, the Environment Court, or the Historic Places Trust

have regard to the statutory acknowledgement under **sections 25 to 27** in relation to a statutory area.

- (3) Rights must be waived by written notice to the relevant consent authority, the Environment Court, or the Historic Places Trust, stating— 5
- (a) the scope of the waiver; and
 - (b) the period for which it applies.
- (4) An obligation under this subpart does not apply to the extent that the corresponding right has been waived under this section. 10

Deed of recognition

32 Authorisation to enter into deed of recognition

- (1) The Minister of Conservation and the Director-General may—
- (a) make a deed of recognition in relation to the statutory area referred to as part of Lake Rotoma Scenic Reserve: 15
 - (b) amend the deed of recognition, but only with the consent of the trustees.
- (2) The deed of recognition must be substantially in the form set out in Part 3 of the documents schedule.

General provisions 20

33 Exercise or performance of powers, duties, and functions

- (1) Except as expressly provided in this subpart,—
- (a) neither the statutory acknowledgement nor a deed of recognition affects, or may be taken into account by, a person exercising a power or performing a function or duty under legislation or a bylaw; and 25
 - (b) no person, in considering a matter or making a decision or recommendation under legislation or a bylaw, may give greater or lesser weight to the association of Ngāti Mākino with a statutory area than that person 30 would give if there were no statutory acknowledgement or deed of recognition for the statutory area.
- (2) **Subsection (1)(b)** does not affect the operation of **subsection (1)(a)**.

34 Rights not affected

Except as expressly provided in this subpart, neither the statutory acknowledgement nor a deed of recognition affects the lawful rights or interests of any person who is not a party to the deed of settlement.

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35 Limitation of rights

Except as expressly provided in this subpart, neither the statutory acknowledgement nor a deed of recognition has the effect of granting, creating, or providing evidence of an estate or interest in, or rights relating to, a statutory area.

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*Consequential amendment to Resource
Management Act 1991*

36 Amendment to Resource Management Act 1991

(1) This section amends the Resource Management Act 1991.

(2) Schedule 11 is amended by inserting the following item in its appropriate alphabetical order: “Ngāti Mākino Claims Settlement Act **2011**”.

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Subpart 3—Whenua rāhui

37 Interpretation

(1) In this Act, **whenua rāhui** means the application of this subpart to the whenua rāhui site.

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(2) In this subpart,—

conservation board means a board established under section 6L of the Conservation Act 1987

conservation management plan has the meaning given in section 2(1) of the Conservation Act 1987

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conservation management strategy has the meaning given in section 2(1) of the Conservation Act 1987

national park management plan means a management plan prepared and approved for a national park in accordance with sections 45 to 48 of the National Parks Act 1980

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New Zealand Conservation Authority means the authority established under section 6A of the Conservation Act 1987

Ngāti Mākino values means the values set out in relation to the whenua rāhui site in the statement of Ngāti Mākino values
protection principles means the protection principles set out in relation to the whenua rāhui site in paragraph 1.3 of the documents schedule at the settlement date, including any amendments made to the principles under **section 41(4) and (5)** 5

statement of general policy means a statement of general policy approved under section 17B of the Conservation Act 1987 or adopted under section 44 of the National Parks Act 1980 10

statement of Ngāti Mākino values means the statement of values made by Ngāti Mākino in relation to the whenua rāhui site and set out in paragraph 1.2 of the documents schedule

whenua rāhui site—

- (a) means the site that is declared under **section 38** to be subject to the whenua rāhui; but 15
- (b) does not include an area that is declared under **section 52(1)** to be no longer subject to the whenua rāhui.

38 Declaration of whenua rāhui of Ngāti Mākino

Part of Lake Rotoma Scenic Reserve as described in **Schedule 1** is subject to a whenua rāhui in relation to Ngāti Mākino. 20

39 The Crown’s acknowledgement of Ngāti Mākino values

The Crown acknowledges the statement of Ngāti Mākino values relating to the whenua rāhui site.

40 Purposes of whenua rāhui 25

The only purposes of the declaration of a whenua rāhui under **section 38** and of the Crown’s acknowledgement under **section 39** of Ngāti Mākino values in relation to the whenua rāhui site are—

- (a) to require the New Zealand Conservation Authority and relevant conservation boards to have particular regard to the statement of Ngāti Mākino values and the protection principles, as provided in **section 42**, and to the views of the trustees as provided in **section 43**: 30

- (b) to require the New Zealand Conservation Authority to give the trustees an opportunity to make submissions, as provided for in **section 44**;
- (c) to enable the taking of action under **sections 45 to 50**.

41	Agreement on protection principles	5
(1)	The trustees and the Crown may agree on, and publicise, protection principles.	
(2)	The purpose of the protection principles is to assist the Minister of Conservation in avoiding—	
	(a) harm to the Ngāti Mākino values; or	10
	(b) diminishing the Ngāti Mākino values.	
(3)	The protection principles set out in paragraph 1.3 of the documents schedule at the settlement date are to be treated as having been agreed by the trustees and the Crown under subsection (1) .	15
(4)	The trustees and the Crown may amend the protection principles by agreement in writing.	
(5)	Despite subsection (3) , the Crown may amend the protection principles to take account of a deed of settlement entered into by the Crown with another person or group with an interest in the whenua rāhui site.	20
(6)	However, before amending the protection principles under subsection (4) , the Crown must consult the trustees.	
42	Duties of New Zealand Conservation Authority and conservation boards in relation to Ngāti Mākino values and protection principles	25
(1)	This section applies when the New Zealand Conservation Authority or a conservation board considers or approves a statement of general policy, a conservation management strategy, a conservation management plan, or a national park management plan in relation to the whenua rāhui site.	30
(2)	The New Zealand Conservation Authority or the conservation board must have particular regard to—	
	(a) the statement of Ngāti Mākino values; and	
	(b) the protection principles.	35

- 43 New Zealand Conservation Authority and conservation boards to consult trustees**
- (1) This section applies before the New Zealand Conservation Authority or a conservation board approves a statement of general policy, a conservation management strategy, a conservation management plan, or a national park management plan in relation to the whenua rāhui site. 5
- (2) The New Zealand Conservation Authority or the conservation board must—
- (a) consult the trustees; and 10
- (b) have particular regard to the views of the trustees as to the effect of the policy, strategy, or plan on—
- (i) Ngāti Mākino values; and
- (ii) the protection principles.
- 44 Opportunity to make submissions on draft conservation management strategy** 15
- (1) This section applies if the trustees advise the New Zealand Conservation Authority in writing that they have significant concerns about a draft conservation management strategy that relates to the whenua rāhui site. 20
- (2) The New Zealand Conservation Authority must, before approving the strategy, give the trustees an opportunity to make submissions in relation to their concerns.
- 45 Noting of whenua rāhui**
- (1) The declaration of the whenua rāhui must be noted in the following documents if the documents affect the whenua rāhui site: 25
- (a) a conservation management strategy:
- (b) a conservation management plan:
- (c) a national park management plan. 30
- (2) The noting of the whenua rāhui under **subsection (1)**—
- (a) is for the purpose of public notice only; and
- (b) is not an amendment to a document for the purposes of section 17I of the Conservation Act 1987 or section 46 of the National Parks Act 1980. 35

46 Notification of actions in *Gazette*

- (1) As soon as practicable after the settlement date, the Minister of Conservation must notify in the *Gazette*—
- (a) the declaration that part of Lake Rotoma Scenic Reserve is subject to the whenua rāhui; and 5
 - (b) the protection principles.
- (2) The Minister of Conservation must notify any amendments to the protection principles agreed under **section 41** in the *Gazette* as soon as practicable after the amendment has been agreed in writing. 10
- (3) The Director-General may, at his or her discretion, notify in the *Gazette* any action taken or intended to be taken under any of **sections 47 to 50**.

47 Actions by Director-General

- (1) After the Minister of Conservation notifies the protection principles in the *Gazette*, the Director-General must take action (as described in paragraph 1.4 of the documents schedule) in relation to those principles. 15
- (2) The Director-General retains a complete discretion to determine the method and extent of the action to be taken under **subsection (1)**. 20
- (3) The Director-General must notify the trustees in writing of the action the Director-General intends to take under **subsection (1)**.
- (4) If requested in writing by the trustees, the Director-General must not take action in respect of the protection principles to which the request relates. 25
- (5) **Subsection (1)** applies subject to **subsections (2) to (4)**.

48 Amendment of conservation documents

- (1) The Director-General may initiate an amendment to a conservation management strategy or plan, or a national park management plan to incorporate objectives relating to the protection principles (including incorporating a recommendation to make regulations or bylaws). 30
- (2) The Director-General must consult relevant conservation boards before initiating an amendment under **subsection (1)**. 35

- (3) An amendment initiated under **subsection (1)** is an amendment for the purposes of section 171(1) to (3) of the Conservation Act 1987 or section 46(1) to (4) of the National Parks Act 1980, as the case requires.
- (4) This section does not limit **section 47(2)**. 5

49 Regulations

The Governor-General may, by Order in Council made on the recommendation of the Minister of Conservation, make regulations for 1 or more of the following purposes:

- (a) to provide for the implementation of objectives included in a strategy or plan under **section 48(1)**: 10
- (b) to regulate or prohibit activities or conduct by members of the public in the whenua rāhui site:
- (c) to create offences for breaches of regulations made under **paragraph (b)**: 15
- (d) to provide for the following fines to be imposed:
- (i) for an offence referred to in **paragraph (c)**, a fine not exceeding \$5,000; and
- (ii) for a continuing offence, an additional amount not exceeding \$50 for every day during which the offence continues. 20

50 Bylaws

- (1) The Minister of Conservation may make bylaws for 1 or more of the following purposes:
- (a) to provide for the implementation of objectives included in a strategy or plan under **section 48(1)**: 25
- (b) to regulate or prohibit activities or conduct by members of the public in the whenua rāhui site:
- (c) to create offences for breaches of bylaws made under **paragraph (b)**: 30
- (d) to provide for the following fines to be imposed:
- (i) for an offence referred to in **paragraph (c)**, a fine not exceeding \$1,000; and
- (ii) for a continuing offence, an additional amount not exceeding \$50 for every day during which the offence continues. 35

- (2) Bylaws made under this section are regulations for the purposes of the Acts and Regulations Publication Act 1989 and the Regulations Disallowance Act 1989.

51 Existing classification of whenua rāhui site

- (1) This section applies if the whenua rāhui applies to any land 5
in—
- (a) a national park under the National Parks Act 1980; or
 - (b) a conservation area under the Conservation Act 1987;
or
 - (c) a reserve under the Reserves Act 1977. 10
- (2) The whenua rāhui does not affect—
- (a) the purpose of the national park, conservation area, or
reserve; or
 - (b) the classification of the land as a national park, conser-
vation area, or reserve. 15

52 Termination of whenua rāhui

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister of Conservation, declare that all or part of the whenua rāhui site is no longer subject to the whenua rāhui. 20
- (2) The Minister of Conservation must not make a recommendation for the purposes of **subsection (1)** unless—
- (a) the trustees and the Minister of Conservation have agreed in writing that the whenua rāhui is no longer appropriate for the area concerned; or 25
 - (b) the area concerned is to be or has been disposed of by the Crown; or
 - (c) the responsibility for managing the area concerned is to be or has been transferred to a different Minister of the Crown or the Commissioner of Crown Lands. 30
- (3) **Subsection (4)** applies if—
- (a) **subsection (2)(c)** applies; or
 - (b) there is a change in the statutory management regime that applies to all or part of the whenua rāhui site.

- (4) The Crown must take reasonable steps to try to ensure that the trustees continue to have the opportunity to contribute to the management of the area concerned.

53 Exercise of powers, functions, and duties

- (1) This section applies except to the extent that this subpart expressly provides otherwise. 5
- (2) The declaration under **section 38** and the acknowledgement under **section 39** do not affect, and may not be taken into account by, a person exercising a power or performing a function or duty under legislation or a bylaw. 10
- (3) No person, in considering a matter or making a decision or recommendation under legislation or a bylaw, may give greater or lesser weight to Ngāti Mākino values than that person would give under the relevant legislation or bylaw if the whenua rāhui site had not been declared subject to the whenua rāhui and the statements of Ngāti Mākino values had not been acknowledged. 15
- (4) **Subsection (3)** does not limit **subsection (2)**.

54 Rights not affected

Sections 38 and 39 do not affect the lawful rights or interests of a person who is not a party to the deed of settlement, except as expressly provided in this subpart. 20

55 Limitation of rights

Sections 38 and 39 do not have the effect of granting, creating, or providing evidence of an estate or interest in, or rights relating to, the whenua rāhui site, except as expressly provided in this subpart. 25

Subpart 4—The Crown not prevented from providing other similar redress

56 The Crown not prevented from providing other similar redress 30

- (1) The provision of the cultural redress in **subparts 1, 2, and 3** (which relate to redress by way of a protocol, a statutory acknowledgement, a deed of recognition, and a whenua rāhui)

does not prevent the Crown from doing anything that is consistent with that cultural redress, including—

- (a) providing, or agreeing to introduce legislation providing or enabling, the same or similar redress to any person other than Ngāti Mākino or the trustees: 5
 - (b) disposing of land.
- (2) However, **subsection (1)** is not an acknowledgement by the Crown or Ngāti Mākino that any other iwi or group has interests in relation to land or an area to which any of the cultural redress relates. 10

Subpart 5—Cultural redress properties

57 Interpretation

In this Part,—

cultural redress property means any of the following sites, and each site means the land described by that name in **Schedule 2**: 15

- (a) *Site that vests in fee simple subject to easement*
Te Kōhanga site: 20
- (b) *Site that vests in fee simple subject to conservation covenant*
the Rākau ō Kauwae Hapa site: 20
- (c) *Sites that vest in fee simple to be administered as scenic reserves*
the Lake Rotoehu Scenic Reserve site: 25
- (d) the Balance of Matawhāura site: 25
- (e) Ngā Pōrōtai-o-Waitaha-a-Hei site: 25
- (f) *Site that vests in fee simple to be administered as local purpose (conservation and education) reserve*
the Rotoehu Forest Central Wānanga site 30

joint entity means the entity described in section 118 of the Affiliate Te Arawa Iwi and Hapu Claims Settlement Act 2008 (the Pikiāo entity) 30

Matawhāura (part of the Lake Rotoiti Scenic Reserve) has the meaning given in section 118 of the Affiliate Te Arawa Iwi and Hapu Claims Settlement Act 2008 35

reserve site means—

- (a) the Lake Rotoehu Scenic Reserve site:
- (b) the Balance of Matawhāura site:
- (c) Ngā Pōrōtai-o-Waitaha-a-Hei site:
- (d) the Rotoehu Forest Central Wānanga site. 5

Site that vests in fee simple subject to easement

58 Te Kōhanga site

- (1) Te Kōhanga site ceases to be a conservation area under the Conservation Act 1987.
- (2) The fee simple estate in Te Kōhanga site vests in the trustees. 10
- (3) However, before **subsections (1) and (2)** take effect, the trustees must provide the Crown with a registrable right of way easement in gross in favour of the Minister of Conservation over the routes shown marked A and B on deed plan OTS-275-06 (subject to survey) and on the terms and conditions set out in subpart B of Part 8 of the documents schedule (**Te Kōhanga site easement**). 15
- (4) The Minister of Conservation must, by or on the settlement date, provide the trustees with a registrable right of way easement that provides the trustees with access to Te Kōhanga site over— 20
 - (a) the route shown marked A and B on the diagram attached to the form of easement in subpart E of Part 8 of the documents schedule (**Te Kōhanga easement**) (subject to survey); and 25
 - (b) the area shown marked as A on SO 379094.

59 Conditions on use and management of Te Kōhanga site

- (1) The trustees must use and manage Te Kōhanga site in a way that—
 - (a) is consistent with the site’s location in a corridor of significant indigenous ecological value; and 30
 - (b) does not detract from the status of the adjoining land as an ecological area under the Conservation Act 1987.
- (2) The trustees must ensure that, in relation to Te Kōhanga site,—
 - (a) the risk of fire is minimised; and 35

- (b) areas containing farm animals are fenced so that the animals cannot enter areas of native vegetation; and
 - (c) diverse uses of the site are promoted while the amount of open or cleared land is minimised; and
 - (d) the introduction of domestic animals other than farmed animals is prevented; and 5
 - (e) the presence and spread of weeds are minimised.
- (3) To avoid doubt, the following activities are prohibited on Te Kōhanga site:
- (a) the clear felling of indigenous vegetation: 10
 - (b) the conversion of all of the site to pasture:
 - (c) open-cast mining:
 - (d) the farming of animals controlled under the Wild Animal Control Act 1977.
- 60 Transfer of beehive permit** 15
- (1) This section applies to the beehive permit on and after the settlement date.
- (2) The Conservation Act 1987 ceases to apply to the beehive permit to the extent that the permit applies to Te Kōhanga site.
- (3) The beehive permit continues to apply to Te Kōhanga site as if— 20
- (a) the permit were a contract between the holder of the permit (referred to as the applicant or the concessionaire in the permit) and the registered proprietor of Te Kōhanga site; and 25
 - (b) every reference to the Minister of Conservation or the grantor were a reference to the registered proprietor of Te Kōhanga site.
- (4) In this section, **beehive permit** means concession number BP-26475-OTH granted to Kintail Honey Te Puke Limited under section 17Q of the Conservation Act 1987. 30
- 61 Application of income from Te Kōhanga site**
- (1) The trustees must ensure that any income received by the trustees as payment for the use of Te Kōhanga is used for conservation purposes in relation to 1 or more of— 35
- (a) Matawhāura (part of the Lake Rotoiti Scenic Reserve):

- (b) the Balance of Matawhāura site:
 - (c) the Lake Rotoehu Scenic Reserve site:
 - (d) Ngā Pōrōtai-o-Waitaha-a-Hei site:
 - (e) the Rotoehu Forest Central Wānanga site:
 - (f) the Rākau ō Kauwae Hapa site. 5
- (2) Despite **subsection (1)**, the trustees may apply so much of the income as is needed to meet the reasonable expenses incurred in relation to Te Kōhanga site.
- (3) In this section, **conservation purposes** means the preservation and protection of natural and historic resources for the purposes of— 10
- (a) maintaining their intrinsic values; and
 - (b) providing for their appreciation and recreational enjoyment by the public; and
 - (c) safeguarding the choices of future generations; and 15
 - (d) providing educational services relating to the matters described in **paragraphs (a) to (c)**.

*Site that vests in fee simple subject to
conservation covenant*

- 62 Rākau ō Kauwae Hapa site** 20
- (1) The Rākau ō Kauwae Hapa site ceases to be a conservation area under the Conservation Act 1987.
- (2) The fee simple estate in the Rākau ō Kauwae Hapa site vests in the trustees.
- (3) However, before **subsections (1) and (2)** take effect, the trustees must provide the Crown with a registrable covenant in relation to the Rākau ō Kauwae Hapa site in the form described as the Rākau ō Kauwae Hapa covenant set out in subpart A of Part 8 of the documents schedule. 25
- (4) The Rākau ō Kauwae Hapa covenant is a conservation covenant for the purposes of section 77 of the Reserves Act 1977. 30

*Sites that vest in fee simple to be administered
as reserves*

63 Lake Rotoehu Scenic Reserve site

- (1) The reservation of the Lake Rotoehu Scenic Reserve site as a scenic reserve subject to section 19 of the Reserves Act 1977 is revoked. 5
- (2) The fee simple estate in the Lake Rotoehu Scenic Reserve site vests in the trustees.
- (3) The Lake Rotoehu Scenic Reserve site is declared a reserve and classified as a scenic reserve for the purposes specified in section 19(1)(a) of the Reserves Act 1977. 10
- (4) The name of the reserve created under **subsection (3)** is Lake Rotoehu Scenic Reserve.

64 Balance of Matawhāura site

- (1) The reservation of the Balance of Matawhāura site as a scenic reserve subject to section 19 of the Reserves Act 1977 is revoked. 15
- (2) The fee simple estate in the Balance of Matawhāura site vests in the trustees.
- (3) The Balance of Matawhāura site is declared a reserve and classified as a scenic reserve for the purposes specified in section 19(1)(a) of the Reserves Act 1977. 20

65 Ngā Pōrōtai-o-Waitaha-a-Hei site

- (1) Ngā Pōrōtai-o-Waitaha-a-Hei site ceases to be a conservation area under the Conservation Act 1987. 25
- (2) The fee simple estate in Ngā Pōrōtai-o-Waitaha-a-Hei site vests in the trustees.
- (3) Ngā Pōrōtai-o-Waitaha-a-Hei site is declared a reserve and classified as a scenic reserve for the purposes specified in section 19(1)(a) of the Reserves Act 1977. 30
- (4) The name of the reserve created under **subsection (3)** is Ngā Pōrōtai-o-Waitaha-a-Hei Scenic Reserve.
- (5) The Minister of Conservation must, by or on the settlement date, provide the trustees with a registrable right of way easement that provides the trustees with access to Ngā Pōrōtai-o- 35

Waitaha-a-Hei site over the route the general location of which is shown marked A on the diagram attached to the form of easement in subpart C of Part 8 of the documents schedule (**Ngā Pōrōtai-o-Waitaha-a-Hei site easement**) and which is subject to survey. 5

66 Rotoehu Forest Central Wānanga site

- (1) The Rotoehu Forest Central Wānanga site ceases to be a conservation area under the Conservation Act 1987.
- (2) The fee simple estate in the Rotoehu Forest Central Wānanga site vests in the trustees. 10
- (3) The Rotoehu Forest Central Wānanga site is declared a reserve and classified as a local purpose (conservation and education) reserve for the purposes specified in section 23 of the Reserves Act 1977.
- (4) The name of the reserve created under **subsection (3)** is Rotoehu Forest Central Wānanga Local Purpose Reserve. 15
- (5) The Minister of Conservation must, by or on the settlement date, provide the trustees with a registrable right of way easement that provides the trustees with access to the Rotoehu Forest Central Wānanga site over the route the general location of which is shown marked A on the diagram attached to the form of easement in subpart D of Part 8 of the documents schedule (**Rotoehu Forest Central Wānanga site easement**) and which is subject to survey. 20

67 Easements over conservation land 25

- (1) Despite Part 3B of the Conservation Act 1987, the Minister of Conservation may grant the trustees a registrable right of way easement over a conservation area as required by **sections 58, 65, and 66**.
- (2) An easement granted under this section— 30
 - (a) is enforceable in accordance with its terms; and
 - (b) must be treated as if it were granted under Part 3B of the Conservation Act 1987; and
 - (c) is registrable under section 17ZA(2) of the Conservation Act 1987 as if it were a deed to which that section applies. 35

Subpart 6—General provisions relating to
vesting of cultural redress properties

68 Properties vest subject to, or together with, encumbrances and permits

Each cultural redress property vests under **subpart 5** subject to, or together with, any encumbrances listed in relation to the property in **Schedule 2**. 5

69 Registration of ownership

- (1) This section applies in relation to the fee simple estate in a cultural redress property vested in the trustees under **subpart 5**. 10
- (2) The Registrar-General must, on written application by an authorised person, comply with **subsections (3) and (4)**.
- (3) To the extent that a cultural redress property is all of the land contained in a computer freehold register, the Registrar-General must— 15
- (a) register the trustees as the proprietors of the fee simple estate in the land; and
 - (b) make any entries in the register, and do all other things, that are necessary to give effect to this Part and to Part 5 of the deed of settlement. 20
- (4) To the extent that a cultural redress property is not all of the land contained in a computer freehold register, or there is no computer freehold register for all or part of the property, the Registrar-General must, in accordance with an application received from an authorised person,— 25
- (a) create 1 or more computer freehold registers for the fee simple estate in the property in the names of the trustees; and
 - (b) enter on the register any encumbrances that are registered, notified, or notifiable and that are described in the application. 30
- (5) **Subsection (4)** applies subject to the completion of any survey necessary to create the computer freehold register.
- (6) A computer freehold register must be created under this section as soon as is reasonably practicable after the settlement date, but no later than— 35
- (a) 24 months after the settlement date; or

- (b) any later date that may be agreed in writing by the trustees and the Crown.
- (7) In this section, **authorised person** means a person authorised by the chief executive of the landholding agency.
- 70 Application of Part 4A of Conservation Act 1987** 5
- (1) The vesting of the fee simple estate in a cultural redress property in the trustees under **subpart 5** is a disposition for the purposes of Part 4A of the Conservation Act 1987, but sections 24(2A), 24A, and 24AA of that Act do not apply to the disposition. 10
- (2) Despite **subsection (1)**, the rest of section 24 of the Conservation Act 1987 does not apply to the vesting of a reserve site under **subpart 5**.
- (3) If the reservation of a reserve site under **subpart 5** is revoked in relation to all or part of the site, the vesting of the site is no longer exempt from the rest of section 24 of the Conservation Act 1987 in relation to all or that part of the site, as the case requires. 15
- 71 Recording application of Part 4A of Conservation Act 1987 and sections of this Part** 20
- (1) The Registrar-General must record on the computer freehold register for—
- (a) a reserve site (other than the Balance of Matawhāura site) that—
- (i) the land is subject to Part 4A of the Conservation Act 1987, but that section 24 of that Act does not apply; and 25
- (ii) the land is subject to **sections 70(3) and 74(1) to (7) of this Act**; and
- (b) the Balance of Matawhāura site that— 30
- (i) the land is subject to Part 4A of the Conservation Act 1987, but that section 24 of that Act does not apply; and
- (ii) the land is subject to **sections 70(3) and 74 of this Act**; and 35
- (c) Te Kōhanga site that the land is subject to—
- (i) Part 4A of the Conservation Act 1987; and

- (ii) **sections 59 and 61 of this Act**; and
- (d) any other cultural redress property that the land is subject to Part 4A of the Conservation Act 1987.
- (2) A notification made under **subsection (1)** that land is subject to Part 4A of the Conservation Act 1987 is to be treated as having been made under section 24D(1) of that Act. 5
- (3) If the reservation under **subpart 5** of the Balance of Matawhāura site as a reserve is revoked in relation to—
- (a) all of the site, the Director-General must apply in writing to the Registrar-General to remove from the computer freehold register for the site the notifications that— 10
- (i) section 24 of the Conservation Act 1987 does not apply to the site; and
- (ii) the site is subject to **sections 70(3) and 74 of this Act**; or 15
- (b) part of the site, the Registrar-General must ensure that the notifications referred to in **paragraph (a)** remain on the computer freehold register only for the part of the site that remains a reserve. 20
- (4) If the reservation under **subpart 5** of a reserve site (other than the Balance of Matawhāura site) is revoked in relation to—
- (a) all of the site, the Director-General must apply in writing to the Registrar-General to remove from the computer freehold register for the site the notifications that— 25
- (i) section 24 of the Conservation Act 1987 does not apply to the site; and
- (ii) the site is subject to **sections 70(3) and 74(1) to (7) of this Act**; or 30
- (b) part of the site, the Registrar-General must ensure that the notifications referred to in **paragraph (a)** remain on the computer freehold register only for the part of the site that remains a reserve.
- (5) The Registrar-General must comply with an application received in accordance with **subsection (3)(a) or (4)(a)**. 35

72 Application of other enactments

- (1) Sections 24 and 25 of the Reserves Act 1977 do not apply to the revocation, under **subpart 5**, of the reserve status of a cultural redress property.
- (2) Section 11 and Part 10 of the Resource Management Act 1991 do not apply to—
- (a) the vesting of the fee simple estate in a cultural redress property under **subpart 5**; or
 - (b) any matter incidental to, or required for the purpose of, the vesting.
- (3) The vesting of the fee simple estate in a cultural redress property under **subpart 5** does not—
- (a) limit section 10 or 11 of the Crown Minerals Act 1991; or
 - (b) affect other rights to subsurface minerals.
- (4) The permission of a council under section 348 of the Local Government Act 1974 is not required for laying out, forming, granting, or reserving a private road, private way, or right of way required to fulfil the terms of the deed of settlement in relation to a cultural redress property.

*Provisions relating to reserve sites***73 Application of Reserves Act 1977 to reserve sites**

- (1) The trustees are the administering body of a reserve site for the purposes of the Reserves Act 1977.
- (2) Despite sections 48A(6), 114(5), and 115(6) of the Reserves Act 1977, sections 48A, 114, and 115 of that Act apply to a reserve site.
- (3) Sections 78(1)(a), 79 to 81, and 88 of the Reserves Act 1977 do not apply in relation to a reserve site.
- (4) If the reservation under **subpart 5** of a reserve site is revoked under section 24 of the Reserves Act 1977 in relation to all or part of the site, section 25 of that Act, except subsection (2) of that provision, does not apply to the revocation.

74 Subsequent transfer of reserve land

- (1) This section applies to all, or the part, of a reserve site that, at any time after vesting in the trustees under **subpart 5**, con-

- tinues to be a reserve under the Reserves Act 1977 (the **reserve land**).
- (2) The fee simple estate in the reserve land may be transferred to any other person, but only in accordance with this section, despite any other enactment or rule of law. 5
- (3) The Minister of Conservation must give written consent to the transfer of the fee simple estate in the reserve land to another person or persons (the **new owners**) if, upon written application, the registered proprietors of the reserve land satisfy the Minister that the new owners are able to— 10
- (a) comply with the requirements of the Reserves Act 1977; and
- (b) perform the duties of an administering body under that Act.
- (4) The Registrar-General must, upon receiving the documents specified in **subsection (5)**, register the new owners as the proprietors of the fee simple estate in the reserve land. 15
- (5) The documents are—
- (a) a transfer instrument to transfer the fee simple estate in the reserve land to the new owners, including a notification that the new owners are to hold the reserve land for the same reserve purposes as those for which it was held by the administering body immediately before the transfer; and 20
- (b) the written consent of the Minister of Conservation to the transfer of the reserve land; and 25
- (c) any other document required for registration of the transfer instrument.
- (6) The new owners, from the time of registration under **subsection (4)**,— 30
- (a) are the administering body of the reserve land for the purposes of the Reserves Act 1977; and
- (b) hold the reserve land for the same reserve purposes as those for which it was held by the administering body immediately before the transfer. 35
- (7) Despite **subsections (1) and (2)**, **subsections (3) to (6)** do not apply to the transfer of the fee simple estate in reserve land if—

- (a) the transferors of the reserve land are or were the trustees of a trust; and
- (b) the transferees are the trustees of the same trust, after any new trustee has been appointed to the trust or any transferor has ceased to be a trustee of the trust; and 5
- (c) the instrument to transfer the reserve land is accompanied by a certificate given by the transferees, or the transferees' solicitor, verifying that **paragraphs (a) and (b)** apply.
- (8) Despite **subsections (1) and (2)**,— 10
- (a) **subsection (3)** does not apply to the transfer of the fee simple estate in the Balance of Matawhāura site to the joint entity in accordance with clause 5.18 of the deed of settlement; and
- (b) **subsection (4)** applies to the transfer as if **subsection (5)(b)** had not been enacted. 15

75 Trustees must not mortgage reserves

The registered proprietors of a reserve site must not mortgage, or give a security interest in, all or any part of the site that, at any time after vesting in the trustees under **subpart 5**, remains a reserve under the Reserves Act 1977. 20

76 Saving of bylaws, etc, in relation to reserve sites

- (1) This section applies to any bylaw, prohibition, or restriction on use or access that an administering body or the Minister made under the Reserves Act 1977 or the Conservation Act 1987 in relation to a reserve site before the site vested in the trustees under **subpart 5**. 25
- (2) The bylaw, prohibition, or restriction on use or access remains in force until it expires or is revoked under the Reserves Act 1977 or the Conservation Act 1987. 30

Subpart 7—Names of reserves and conservation areas

77 New reserve names

- (1) If a site vested under **subpart 5** comprised, immediately before the vesting, the whole of a reserve or conservation area, 35

and an official geographic name was assigned under the New Zealand Geographic Board (Ngā Pou Taunaha o Aotearoa) Act 2008 to the site,—

- (a) that official geographic name is discontinued; and
 - (b) the Board must ensure that, as soon as is reasonably practicable, the official geographic name is removed from the Gazetteer. 5
- (2) However, if a site vested under **subpart 5** comprises only part of a reserve or conservation area,—
- (a) **subsection (1)(a)** applies only to the part of the site that is vested under **subpart 5**; and 10
 - (b) the Board must amend the Gazetteer so that the official geographic name applies only to the part of the reserve or conservation area that is not vested under **subpart 5**.
- (3) If a site is vested under **subpart 5** and reserved and classified as a scenic reserve under that subpart, the scenic reserve does not become a Crown protected area. 15
- (4) In this section,—
- Board** means the New Zealand Geographic Board Ngā Pou Taunaha o Aotearoa continued by section 7 of the New Zealand Geographic Board (Ngā Pou Taunaha o Aotearoa) Act 2008 20
- Crown protected area, Gazetteer, and official geographic name** have the meanings given by section 4 of the New Zealand Geographic Board (Ngā Pou Taunaha o Aotearoa) Act 2008. 25

Subpart 8—Moutoroi Pā site

78 Moutoroi Pā

- (1) In this Act, **Moutoroi Pā site** means the land described by that name in **Schedule 3**. 30
- (2) The fee simple estate in the Moutoroi Pā site vests in the trustees.
- (3) **Sections 69 to 72** of this Act apply to the Moutoroi Pā site as if the site were a cultural redress property.

Part 3 Commercial redress

Subpart 1—Transfer of licensed land and Ōtamarākau School site

- 79 Transfer of licensed land and Ōtamarākau School site to Ngāti Mākino** 5
- To give effect to Part 6 of the deed of settlement, the Crown (acting by and through the chief executive of the land holding agency) is authorised to do 1 or both of the following:
- (a) transfer the fee simple estate in the licensed land or the Ōtamarākau School site to the trustees: 10
 - (b) sign a transfer instrument or other document, or do any other thing to effect that transfer.
- 80 Registrar-General to create computer freehold register for Ōtamarākau School site** 15
- (1) This section applies to the Ōtamarākau School site to the extent that it is not all of the land contained in a computer freehold register, or there is no computer freehold register for all or part of the property.
 - (2) The Registrar-General must, in accordance with a written application by an authorised person, and after completion of any necessary survey, create a computer freehold register for the fee simple estate in the property in the name of the Crown—
 - (a) subject to, and together with, any encumbrances that are registered, notified, or notifiable and that are described in the written application; but 20
 - (b) without any statement of purpose.
 - (3) In this section and **sections 81 and 82**, **authorised person** means a person authorised by the chief executive of the land holding agency for the licensed land or the Ōtamarākau School site (as applicable). 30
- 81 Registrar-General to create computer freehold register for licensed land**
- (1) This section applies to the licensed land.
 - (2) The Registrar-General must, in accordance with a written application by an authorised person and after completion of any 35

necessary survey, create 1 computer freehold register in the name of the Crown—

- (a) subject to, and together with, any encumbrances that are registered, notified, or notifiable and that are described in the written application; but 5
- (b) without any statement of purpose.

82 Authorised person may grant covenant for later creation of computer freehold register

- (1) For the purposes of **sections 80 and 81**, the authorised person may grant a covenant to arrange for the later creation of a computer freehold register for the licensed land or the Ōtamarākau School site. 10
- (2) Despite the Land Transfer Act 1952,—
 - (a) the authorised person may request the Registrar-General to register a covenant (referred to in **subsection (1)**) under the Land Transfer Act 1952 by creating a computer interest register; and 15
 - (b) the Registrar-General must register the covenant in accordance with **paragraph (a)**.

83 Application of other enactments 20

- (1) Section 11 and Part 10 of the Resource Management Act 1991 do not apply to—
 - (a) the transfer to the trustees of the licensed land or the Ōtamarākau School site; or
 - (b) any matter incidental to, or required for the purpose of, the transfer. 25
- (2) The transfer of the licensed land or the Ōtamarākau School site to the trustees does not—
 - (a) limit section 10 or 11 of the Crown Minerals Act 1991; or 30
 - (b) affect other rights to subsurface minerals.
- (3) The transfer of the licensed land or the Ōtamarākau School site to the trustees is a disposition for the purposes of Part 4A of the Conservation Act 1987, but sections 24(2A), 24A, and 24AA of that Act do not apply to the disposition. 35

- (4) In exercising the powers conferred by **section 76 79**, the Crown is not required to comply with any other enactment that would otherwise regulate or apply to the transfer of the licensed land or the Ōtamarākau School site.
- (5) **Subsection (4)** is subject to **subsections (2) and (3)**. 5
- (6) The permission of a council under section 348 of the Local Government Act 1974 is not required for laying out, forming, granting, or reserving a private road, private way, or right of way required to fulfil the terms of Part 6 of the deed of settlement and Part 3 of the property redress schedule in relation to the transfer of the licensed land. 10

Subpart 2—Licensed land

84 Licensed land ceases to be Crown forest land

- (1) The licensed land ceases to be Crown forest land on the registration of the transfer of the fee simple estate in the land to the trustees. 15
- (2) However, although the licensed land does not cease to be Crown forest land until the transfer of the fee simple estate in the land to the trustees is registered, neither the Crown nor any court or tribunal may do any thing, or omit to do any thing, if that act or omission would, between the settlement date and the date of registration, be inconsistent with this Part or Part 6 of the deed of settlement. 20
- (3) **Subsection (2)** applies even if the act or omission would be consistent with the Crown Forest Assets Act 1989. 25

85 Cancellation of protective covenant over part of Waitahanui Stream

- (1) The Minister for State Owned Enterprises must vary the protective covenant over Waitahanui Stream by cancelling the covenant to the extent that it relates to the area shown on deed plan OTS-275-12 as soon as practicable after the settlement date. The area is subject to survey. 30
- (2) Section 21 of the Crown Forest Assets Act 1989 applies to the variation of the protective covenant.
- (3) However, section 22 of the Crown Forest Assets Act 1989 does not apply to the variation of the protective covenant. 35

- (4) In this section, **protective covenant** means protective covenant number 5, which is included in the Crown forestry licence in accordance with section 18 of the Crown Forest Assets Act 1989, and the terms of which are included in protective covenant certificate B264450.3 and recorded in computer interest register SA58A/600. 5

86 Trustees confirmed beneficiaries and licensors in relation to licensed land

- (1) The trustees are, in relation to the licensed land, the confirmed beneficiaries under clause 11.1 of the Crown forestry rental trust deed. 10
- (2) The effect of **subsection (1)** is that—
- (a) the trustees are entitled to the rental proceeds payable since the commencement of the Crown forestry licence; and 15
 - (b) all the provisions of the Crown forestry rental trust deed apply on the basis that the trustees are the confirmed beneficiaries.
- (3) The Crown must give notice under section 17(4)(b) of the Crown Forest Assets Act 1989 in respect of the Crown forestry licence, even though the Waitangi Tribunal has not made a recommendation under section 8HB(1)(a) of the Treaty of Waitangi Act 1975 for the return of the licensed land. 20
- (4) Notice given by the Crown under **subsection (3)** has effect as if— 25
- (a) the Waitangi Tribunal had made a recommendation under section 8HB(1)(a) of the Treaty of Waitangi Act 1975 for the return of the licensed land; and
 - (b) the recommendation had become final on the settlement date. 30
- (5) The trustees are the licensor under the Crown forestry licence as if the licensed land had been returned to Māori ownership—
- (a) on the settlement date; and
 - (b) under section 36 of the Crown Forest Assets Act 1989.
- (6) However, section 36(1)(b) of the Crown Forest Assets Act 1989 does not apply to the licensed land. 35

87 Effect of transfer of licensed land

- (1) **Section 86** applies whether or not—
- (a) the transfer of the fee simple estate in the licensed land has been registered; or
 - (b) the processes described in clause 17.4 of the Crown forestry licence have been completed. 5
- (2) To the extent that the Crown has not completed the processes referred to in **subsection (1)(b)** before the settlement date, it must continue those processes—
- (a) after the settlement date; and 10
 - (b) until the processes are completed.
- (3) For the period from the settlement date until the completion of the processes referred to in **subsections (1) and (2)**, the licence fee payable under the Crown forestry licence in respect of the licensed land is the amount calculated in the manner described in paragraphs 6.24 and 6.25 of the property redress schedule. 15
- (4) With effect on and from the settlement date, references to the prospective proprietors in clause 17.4 of the Crown forestry licence must, in relation to the licensed land, be read as if they were references to the trustees. 20

88 Minister of Conservation may grant easements

- (1) Despite Part 3B of the Conservation Act 1987, the Minister of Conservation may grant the trustees a right of way easement over a conservation area that provides the trustees with access to the licensed land as described in the column headed encumbrances in part 3 of the property redress schedule and being the right of way easements noted in that schedule as referred to in clause 6.3.2(c) or (d) of the deed of settlement. 25
- (2) An easement granted under this section— 30
- (a) is enforceable in accordance with its terms; and
 - (b) must be treated as if it were granted under Part 3B of the Conservation Act 1987; and
 - (c) is registrable under section 17ZA(2) of the Conservation Act 1987, as if it were a deed to which that provision applied. 35

89 Public access to licensed land

- (1) Clause 6.2 of the Crown forestry licence (which relates to public entry for recreational purposes) continues to apply even though the Crown is no longer the licensor under the licence because the land has been transferred to the trustees under **section 79**. 5
- (2) A notification to the same effect as described in **subsection (1)** must—
- (a) be recorded against the computer freehold register for the licensed land; and 10
 - (b) on application by the registered proprietor, be removed from the computer freehold register for the licensed land on the expiry of the Crown forestry licence.

90 Public right of way easement may be granted

- (1) A public right of way easement may be granted under section 8 of the Crown Forest Assets Act 1989 in relation to the licensed land and is enforceable in accordance with its terms, despite its subject matter. 15
- (2) Sections 26 and 27 of the Crown Forest Assets Act 1989 apply to any variation, renewal, or cancellation under section 8(b) of that Act of a public right of way easement. 20
- (3) In this section, **public right of way easement** means an easement in gross granted in relation to the licensed land in the form in subpart G of Part 8 of the documents schedule.

Subpart 3—Access to protected site 25

91 Meaning of protected site

In this subpart, **protected site** means an area of land situated in the licensed land that—

- (a) is wāhi tapu or a wāhi tapu area within the meaning of section 2 of the Historic Places Act 1993; and 30
- (b) is, or may at any future time become, a registered place within the meaning of section 2 of that Act.

92 Right of access to protected site

- (1) The owner of the land on which a protected site is situated and any person holding an interest in, or right of occupancy to, that 35

- land must allow access across the land to each protected site to Māori for whom the protected site is of spiritual, cultural, or historical significance.
- (2) The right of access may be exercised by vehicles or by foot over any reasonably convenient routes specified by the owner. 5
- (3) The right of access is subject to the following conditions:
- (a) a person intending to exercise the right of access must give the owner reasonable notice in writing of his or her intention to exercise that right; and
- (b) the right of access may be exercised only at reasonable times and during daylight hours; and 10
- (c) a person exercising the right of access must observe any reasonable conditions imposed by the owner relating to the time, location, or manner of access as are reasonably required— 15
- (i) for the safety of people; or
- (ii) for the protection of land, improvements, flora and fauna, plant and equipment, or livestock; or
- (iii) for operational reasons.
- 93 Right of access subject to Crown forestry licence** 20
- (1) The right of access conferred by **section 92** is subject to and does not override the terms of any Crown forestry licence, except where the licensee has agreed to an exercise of the right of access.
- (2) An amendment to a Crown forestry licence will be of no effect to the extent that it purports to— 25
- (a) delay the date from which a person who has a right of access under **section 92** may exercise that right; or
- (b) otherwise adversely affect the right of access.
- 94 Registrar-General must note right of access** 30
- (1) The Registrar-General must, in accordance with a written application by an authorised person, make a notation on the computer freehold register for the licensed land that the land is, or may at any future time become, subject to the right of access set out in **section 92**. 35

- (2) An application must be made as soon as is reasonably practicable after the settlement date.
- (3) However, if the computer freehold register has not been created by the settlement date, an application must be made as soon as is reasonably practicable after the register has been created. 5
- (4) In this section, **authorised person** means a person authorised by the chief executive of LINZ.

Subpart 4—Trustees’ right of first refusal in relation to RFR land 10

Interpretation

95 Interpretation

In this subpart and **Schedule 4**, unless the context requires another meaning,—

dispose of, in relation to RFR land,— 15

(a) means to—

- (i) transfer or vest the fee simple estate in the land; or
- (ii) grant a lease of the land for a term that is, or will be (if any rights of renewal or extension are exercised under the lease), for 50 years or longer; but 20

(b) to avoid doubt, does not include to—

- (i) mortgage, or give a security interest in, the land; or 25
- (ii) grant an easement over the land; or
- (iii) consent to an assignment of a lease, or to a sub-lease, of the land; or
- (iv) remove an improvement, fixture, or fitting from the land 30

expiry date, in relation to an offer, means its expiry date under **sections 98(a) and 99**

notice means a notice under this subpart

offer means an offer, made in accordance with **section 98**, by an RFR landowner to dispose of RFR land to the trustees 35

public work has the meaning given in section 2 of the Public Works Act 1981

RFR means right of first refusal

RFR land has the meaning given in **section 96**

RFR landowner, in relation to RFR land,— 5

(a) means the Crown, if the land is vested in the Crown or the Crown holds the fee simple estate in the land; and

(b) means a Crown body, if the body holds the fee simple estate in the land; and

(c) includes a local authority to which RFR land has been disposed of under **section 104(1)** 10

RFR period means the period of 100 years from the settlement date.

96 Meaning of RFR land

(1) In this Act, **RFR land** means— 15

(a) land described in attachment 5 of the deed of settlement if, on the settlement date, the land is vested in the Crown or the Crown holds the fee simple estate in the land; and

(b) land obtained in exchange for RFR land disposed of under **section 109(1)(c) or 110.** 20

(2) However, land ceases to be RFR land if—

(a) the RFR landowner transfers the fee simple estate in the land to—

(i) the trustees or their nominee (for example, under **section 102**); or 25

(ii) any other person (including the Crown or a Crown body) in accordance with **section 97(c)**; or

(b) the RFR landowner transfers the fee simple estate in the land to, or vests the fee simple estate in the land in, a person other than the Crown or a Crown body under any of **sections 106 to 113** (which relate to permitted disposal of RFR land); or 30

(c) the RFR period ends.

*Restrictions on disposal of RFR land***97 Restrictions on disposal of RFR land**

An RFR landowner must not dispose of RFR land to a person other than the trustees or their nominee unless the land is disposed of—

- (a) under any of **sections 103 to 112**; or
- (b) as required by a matter referred to in **section 113(1)**; or
- (c) within 2 years after the expiry date of an offer by the RFR landowner to dispose of the land to the trustees, if the offer—
 - (i) was made in accordance with **section 98**; and
 - (ii) was on terms that were the same as, or more favourable to the trustees than, the terms of the disposal to the person; and
 - (iii) was not withdrawn under **section 100**; and
 - (iv) was not accepted under **section 101**.

*Trustees' right of first refusal***98 Requirements for offer**

An offer by an RFR landowner to dispose of RFR land to the trustees must be by notice to the trustees, incorporating—

- (a) the terms of the offer, including its expiry date; and
- (b) a legal description of the land, including any encumbrances affecting it and the reference for any computer register that applies to the land; and
- (c) a street address for the land (if applicable); and
- (d) a street address, postal address, and fax number for the trustees to give notices to the RFR landowner in relation to the offer.

99 Expiry date of offer

- (1) The expiry date of an offer must be on or after the date that is 20 business days after the trustees receive notice of the offer.
- (2) However, the expiry date of an offer may be on or after the date that is 10 business days after the trustees receive notice of the offer if—

- (a) the trustees received an earlier offer to dispose of the land; and
- (b) the expiry date of the earlier offer was not more than 6 months before the expiry date of the later offer; and
- (c) the earlier offer was not withdrawn. 5

100 Withdrawal of offer

The RFR landowner may, by notice to the trustees, withdraw an offer at any time before it is accepted.

101 Acceptance of offer

- (1) The trustees may, by notice to the RFR landowner who made an offer, accept the offer if— 10
 - (a) it has not been withdrawn; and
 - (b) its expiry date has not passed.
- (2) The trustees must accept all the RFR land offered, unless the offer permits them to accept less. 15

102 Formation of contract

- (1) If the trustees accept an offer by an RFR landowner to dispose of RFR land, a contract for the disposal of the land is formed between the landowner and the trustees on the terms in the offer. 20
- (2) The terms of the contract may be varied by written agreement between the landowner and the trustees.
- (3) Under the contract, the trustees may nominate any person other than the trustees (the **nominee**) to receive the transfer of the RFR land. 25
- (4) The trustees may nominate a nominee only—
 - (a) if the nominee is lawfully able to hold the RFR land; and
 - (b) by giving notice to the RFR landowner on or before the day that is 10 business days before the day on which the transfer is to settle. 30
- (5) The notice must specify—
 - (a) the full name of the nominee; and

- (b) any other details about the nominee that the RFR landowner needs in order to transfer the RFR land to the nominee.
- (6) If the trustee nominates a nominee, the trustee remains liable for the obligations of the transferee under the contract. 5

Disposal if land remains RFR land

103 Disposal to the Crown or Crown bodies

- (1) An RFR landowner may dispose of RFR land to—
 - (a) the Crown; or
 - (b) a Crown body. 10
- (2) To avoid doubt, if the RFR landowner is the Crown, it may dispose of RFR land to a Crown body in accordance with section 143(5) or 206 of the Education Act 1989.

104 Disposal of existing public works to local authority

- (1) An RFR landowner may dispose of RFR land that is a public work, or part of a public work, in accordance with section 50 of the Public Works Act 1981 to a local authority (as defined in section 2 of that Act). 15
- (2) To avoid doubt, if RFR land is disposed of to a local authority under **subsection (1)**, the local authority becomes— 20
 - (a) an RFR landowner of the land; and
 - (b) subject to the obligations of an RFR landowner under this subpart.

105 Disposal of reserves to administering bodies

- (1) An RFR landowner may dispose of RFR land in accordance with section 26 or 26A of the Reserves Act 1977. 25
- (2) To avoid doubt, if RFR land that is reserve is vested in an administering body under **subsection (1)**, the administering body does not become—
 - (a) the RFR landowner of the land; or 30
 - (b) subject to the obligations of an RFR landowner under this subpart.
- (3) However, if RFR land vests back in the Crown under section 25 or 27 of the Reserves Act 1977, the Crown becomes—
 - (a) the RFR landowner of the land; and 35

- (b) subject to the obligations of an RFR landowner under this subpart.

Disposal if land may cease to be RFR land

- 106 Disposal in accordance with enactment or rule of law** 5
An RFR landowner may dispose of RFR land in accordance with an obligation under any enactment or rule of law.
- 107 Disposal in accordance with legal or equitable obligation**
An RFR landowner may dispose of RFR land in accordance with—
- (a) a legal or an equitable obligation that— 10
- (i) was unconditional before the settlement date; or
- (ii) was conditional before the settlement date but became unconditional on or after the settlement date; or
- (iii) arose after the exercise (whether before, on, or after the settlement date) of an option existing before the settlement date; or 15
- (b) the requirements, existing before the settlement date, of a gift, endowment, or trust relating to the land.
- 108 Disposal by the Crown under certain legislation** 20
The Crown may dispose of RFR land in accordance with—
- (a) section 54(1)(d) of the Land Act 1948; or
- (b) section 355(3) of the Resource Management Act 1991; or
- (c) subpart 3 of Part 2 of the Marine and Coastal Area (Takutai Moana) Act 2011. 25
- 109 Disposal of land held for public works**
- (1) An RFR landowner may dispose of RFR land in accordance with—
- (a) section 40(2) or (4) or 41 of the Public Works Act 1981 (including as applied by another enactment); or 30
- (b) section 52, 105(1), 106, 114(3), 117(7), or 119 of the Public Works Act 1981; or
- (c) section 117(3)(a) of the Public Works Act 1981; or

- (d) section 117(3)(b) of the Public Works Act 1981 if the land is disposed of to the owner of adjoining land; or
 - (e) section 23(1) or (4), 24(4), or 26 of the New Zealand Railways Corporation Restructuring Act 1990.
- (2) To avoid doubt, RFR land may be disposed of by an order of the Maori Land Court under section 134 of Te Ture Whenua Maori Act 1993 after an application by an RFR landowner under section 41(e) of the Public Works Act 1981. 5
- 110 Disposals for reserve or conservation purposes** 10
An RFR landowner may dispose of RFR land in accordance with—
- (a) section 15 of the Reserves Act 1977; or
 - (b) section 16A or 24E of the Conservation Act 1987.
- 111 Disposals for charitable purposes**
An RFR landowner may dispose of RFR land as a gift for charitable purposes. 15
- 112 Disposals to tenants**
The Crown may dispose of RFR land—
- (a) that was held on settlement date for education purposes to a person who, immediately before the disposal, is a tenant of the land or all or part of a building on the land; or 20
 - (b) under section 67 of the Land Act 1948, if the disposal is to a lessee under a lease of the land granted—
 - (i) before the settlement date; or 25
 - (ii) on or after the settlement date as a renewal of a lease granted before the settlement date; or
 - (c) under section 93(4) of the Land Act 1948.

RFR landowner's obligations

- 113 RFR landowner's obligations under this subpart** 30
- (1) An RFR landowner's obligations under this subpart in relation to RFR land are subject to—

- (a) any other enactment or rule of law but, in the case of a Crown body, the obligations apply despite the purpose, functions, or objectives of the Crown body; and
 - (b) any encumbrance, or legal or equitable obligation,—
 - (i) that prevents or limits an RFR landowner’s disposal of RFR land to the trustees; and 5
 - (ii) that the RFR landowner cannot satisfy by taking reasonable steps; and
 - (c) the terms of a mortgage over, or security interest in, RFR land. 10
- (2) Reasonable steps, for the purposes of **subsection (1)(b)(ii)**, do not include steps to promote the passing of an enactment.
- (3) This subpart does not limit any of the things referred to in **subsection (1)**.

Notices

15

114 Notice of RFR land with computer register after settlement date

- (1) If a computer register is first created for RFR land after the settlement date, the RFR landowner must give the chief executive of LINZ notice that the register has been created. 20
- (2) If land for which there is a computer register becomes RFR land after the settlement date, the RFR landowner must give the chief executive of LINZ notice that the land has become RFR land.
- (3) The notice must be given as soon as is reasonably practicable after a computer register is first created for the RFR land or after the land becomes RFR land. 25
- (4) The notice must include the reference for the computer register and a legal description of the land.

115 Notice to trustees of disposal of RFR land to others

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- (1) An RFR landowner must give the trustees notice of the disposal of RFR land by the landowner to a person other than the trustees.
- (2) The notice must be given at least on or before the date that is 20 business days before the disposal. 35
- (3) The notice must—

- (a) include a legal description of the land, including any encumbrances affecting it; and
- (b) identify any computer register that applies to the land; and
- (c) include a street address for the land (if applicable); and 5
- (d) identify the person to whom the land is being disposed of; and
- (e) explain how the disposal complies with **section 97**; and
- (f) if the disposal is made under **section 97(c)**, include a copy of any written contract for the disposal. 10

116 Notice of land ceasing to be RFR land

- (1) This section applies if land described in a computer register ceases to be RFR land because—
 - (a) the RFR landowner transfers the fee simple estate in the land to— 15
 - (i) the trustees (for example, under **section 101**); or
 - (ii) any other person (including the Crown or a Crown body) under **section 97(c)**; or 20
 - (b) the RFR landowner transfers the fee simple estate in the land to, or vests the fee simple estate in the land in, a person other than the Crown or a Crown body under **sections 106 to 113**.
- (2) The RFR landowner must, as early as practicable before the transfer or vesting, give the chief executive of LINZ notice that the land is to cease being RFR land. 25
- (3) The notice must—
 - (a) include a legal description of the land and identify the computer register that applies to the land; and 30
 - (b) specify the details of the transfer or vesting of the land.

117 Notice requirements

- Schedule 4** applies to notices given under this subpart by or to—
- (a) an RFR landowner; or 35
 - (b) the trustees.

*Memorials for RFR land***118 Recording memorials on computer registers for RFR land**

- (1) The chief executive of LINZ must issue to the Registrar-General 1 or more certificates that specify the legal descriptions of, and identify the computer registers that apply to,— 5
- (a) the RFR land for which there is a computer register on the settlement date; and
 - (b) the RFR land for which a computer register is first created after the settlement date; and
 - (c) land for which there is a computer register that becomes RFR land after the settlement date. 10
- (2) The chief executive must issue a certificate as soon as is reasonably practicable after—
- (a) the settlement date, in the case of RFR land for which there is a computer register on the settlement date; or 15
 - (b) receiving a notice under **section 114** that a computer register has been created for the RFR land or that the land has become RFR land, in any other case.
- (3) Each certificate must state that it is issued under this section.
- (4) The chief executive must provide a copy of each certificate to the trustees as soon as is reasonably practicable after issuing the certificate. 20
- (5) The Registrar-General must, as soon as is reasonably practicable after receiving a certificate issued under this section, record on the computer register for the RFR land identified in the certificate that the land— 25
- (a) is RFR land as defined in **section 96**; and
 - (b) is subject to the restrictions under this subpart.

119 Removal of memorials when land to be transferred or vested 30

- (1) The chief executive of LINZ must, as soon as practicable after receiving a notice that land has ceased to be RFR land under **section 116(2)** and before registration of the transfer or vesting, issue to the Registrar-General a certificate that—
- (a) specifies the legal description of the land and identifies the computer register that applies to the land; and 35

- (b) specifies the details of the transfer or vesting of the land; and
- (c) states that it is issued under this section.
- (2) The chief executive must provide a copy of each certificate to the trustees as soon as is reasonably practicable after issuing the certificate. 5
- (3) If the Registrar-General receives a certificate issued under this section, he or she must, immediately before registering the transfer or vesting of the land described in the certificate, remove the memorial recorded under **section 118** from the computer register for the land. 10

120 Removal of memorials when RFR period ends

- (1) The chief executive of LINZ must, as soon as is reasonably practicable after the RFR period ends, issue to the Registrar-General a certificate that— 15
 - (a) identifies each computer register that still has a memorial recorded on it under **section 118**; and
 - (b) states that it is issued under this section.
- (2) The chief executive must provide a copy of each certificate to the trustees as soon as is reasonably practicable after issuing the certificate. 20
- (3) The Registrar-General must, as soon as is reasonably practicable after receiving a certificate issued under this section, remove the memorial recorded under **section 118** from any computer register identified in the certificate. 25

General provisions

121 Waiver and variation

- (1) The trustees may, by notice to an RFR landowner, waive any or all of the rights the trustees have in relation to the landowner under this subpart. 30
- (2) The trustees and an RFR landowner may agree in writing to vary or waive any of the rights each has in relation to the other under this subpart.
- (3) A waiver or agreement under this section is on the terms, and applies for the period, specified in it. 35

122 Disposal of Crown bodies not affected

This subpart does not limit the ability of the Crown, or a Crown body, to sell or dispose of a Crown body.

Schedule 1**ss 8, 38****Statutory area and whenua rāhui area**

Statutory area	Location
Part of Lake Rotoma Scenic Reserve	as shown marked in yellow on deed plan OTS-275-10.
Part of Lake Rotoiti Scenic Reserve	as shown marked in yellow on deed plan OTS-275-11.
Whenua rāhui site	Location
Part of Lake Rotoma Scenic Reserve	256 hectares approximately, being 10A Rotoiti Block, Sections 15 and 16, Block VI Rotoma Survey District and Sections 1, 6, 12, and 16 Block XI Rotoma Survey District (as shown marked in yellow on deed plan OTS-275-13).

Schedule 2

ss 57, 68

Cultural redress properties

Site that vests in fee simple subject to easement

Name of site	Description	Encumbrances
Te Kōhanga site	<p>South Auckland Land District–Western Bay of Plenty District.</p> <p>202 hectares, approximately, being part Section 1 SO 60652. Part <i>Gazette</i> 1940 page 2595, part <i>Gazette</i> 1920 page 2109, and part <i>Gazette</i> 1937 page 1711. Subject to survey.</p> <p>As shown on OTS-275-06.</p>	<p>Subject to right of way easement in gross referred to in section 58(3).</p> <p>Together with the right of way easement referred to in section 58(4).</p>

Site that vests in fee simple subject to conservation covenant

Name of site	Description	Encumbrances
Rākau ō Kauwae Hapa site	<p>South Auckland Land District–Whakatane District.</p> <p>274.83290 hectares, more or less, being Section 2 SO 60650. Part <i>Gazette</i> 1981 page 2680.</p>	<p>Subject to a right of way easement over part of Section 2 SO 60650 marked A on SO 378784 in favour of Lot 2 <u>DPS 35012</u>, Lots 3 and 4 <u>DPS 35013</u>, Lot 5 <u>DPS 35014</u>, Lot 1 <u>DPS 57549</u>, Lots 1 and 2 <u>DPS 57553</u>, and Lot 6 <u>DPS 35014</u>.</p> <p>Subject to a right of way easement created by deed of easement 6405090.4 and held in Computer Interest Register (Provisional) 220529.</p> <p>Subject to the conservation covenant referred to in section 62(3) and (4).</p>

Sites that vest in fee simple to be administered as scenic reserves

Name of site	Description	Encumbrances
Ngā Pōrōtai-o-Waitaha-a-Hei site	South Auckland Land District–Western Bay of Plenty District. 23 hectares, approximately, being part Section 1 SO 60652. Part <i>Gazette</i> 1940 page 2595. Subject to survey. As shown on OTS-275-08.	Scenic reserve subject to section 19(1)(a) of the Reserves Act 1977. Together with the right of way easement referred to in section 65(5) .
Lake Rotoehu Scenic Reserve site	South Auckland Land District–Rotorua District. 41.2779 hectares, more or less, being Section 20 Block VI Rotoma Survey District. <i>All Gazette</i> 1973 page 1693. 33.5000 hectares, more or less, being Section 27 <u>Block VI</u> Rotoma Survey District. <i>All Gazette</i> 1977 <u>page 2638</u> page 2638. 45.0260 <u>26.0560</u> hectares, more or less, being Sections 28, 29, <u>and 30</u> , and 31 Block VI Rotoma Survey District. <i>All Gazette</i> 1978 page 2532. <u>18.9700 hectares, more or less, being Section 31 Block VI Rotoma Survey District.</u> <u><i>All Gazette</i> 1978 page 2532.</u>	Scenic reserve subject to section 19(1)(a) of the Reserves Act 1977. Subject to a water supply easement held in computer interest register SA 48C/94 (affecting Section 20 Block VI Rotoma Survey District).

Name of site	Description	Encumbrances
	11.2700 hectares, more or less, being Sections 32 and 33 Block VI Rotoma Survey District. All <i>Gazette</i> 1979 page 1095.	
	0.2800 hectares, more or less, being Sections 1, 3, 5, 6, 7, and 8 SO 47354.	
	0.6194 hectares, more or less, being Sections 3 and 5 SO 47355.	
	0.1077 hectares, more or less, being Sections 1 and 2 SO 47356.	
Balance of Matawhāura site	South Auckland Land District–Rotorua District. 53 hectares, approximately, being part Section 2 SO 382301. Part Proclamation 5125. Subject to survey. As shown on OTS-275-02.	Scenic reserve subject to section 19(1)(a) of the Reserves Act 1977.

Site that vests in fee simple to be administered as local purpose (conservation and education) reserve

Name of site	Description	Encumbrances
Rotoehu Forest Central Wānanga site	South Auckland Land District–Western Bay of Plenty District. 3 hectares, approximately, being part Section 1 SO 60652. Part <i>Gazette</i> 1940 page 2595 and part <i>Gazette</i> 1920 page 2109. Subject to survey. As shown on OTS-275-07.	Local purpose (conservation and education) reserve subject to section 23 of the Reserves Act 1977. Together with the right of way easement referred to in section 66(5) .

Schedule 3

Moutoroī Pā

s 78

Name of site	Description	Encumbrances
Moutoroī Pā site	South Auckland Land District–Western Bay of Plenty District. 0.2093 hectares approximately, being part Section 1A Block X Waihi South Survey District. Subject to survey, more or less, being Section 1 SO 453968. Part Gazette 1937 page 1712. As shown on OTS-275-09.	

Schedule 4**ss 95, 117****Notices relating to RFR land****1 Requirements for giving notice**

A notice by or to an RFR landowner, or the trustees, under **subpart 4 of Part 3** must be—

- (a) in writing and signed by—
 - (i) the person giving it; or
 - (ii) at least 2 of the trustees, in the case of a notice given by the trustees; and
- (b) addressed to the recipient at the street address, postal address, or fax number—
 - (i) specified for the trustees in accordance with the deed of settlement, in the case of a notice to the trustees; or
 - (ii) specified by the RFR landowner in an offer made under **section 98**, or specified in a later notice given to the trustees, in the case of a notice by the trustees to an RFR landowner; or
 - (iii) of the national office of LINZ, in the case of a notice given to the chief executive of LINZ under **section 114 or 116**; and
- (c) given by—
 - (i) delivering it by hand to the recipient's street address; or
 - (ii) posting it to the recipient's postal address; or
 - (iii) faxing it to the recipient's fax number.

2 Time when notice received

- (1) A notice is to be treated as having been received—
 - (a) at the time of delivery, if delivered by hand; or
 - (b) on the second day after posting, if posted; or
 - (c) at the time of transmission, if faxed.
- (2) However, a notice is to be treated as having been received on the next business day if, under **subclause (1)**, it would be treated as having been received—
 - (a) after 5 pm on a business day; or
 - (b) on a day that is not a business day.

Ngāti Mākino Claims Settlement Bill

Legislative history

4 October 2011
16 February 2012

Introduction (Bill 335–2)
First reading and referral to Māori Affairs
Committee
