

Waitaha Claims Settlement Bill

Government Bill

As reported from the Māori Affairs
Committee

Commentary

Recommendation

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

Introduction

The Waitaha Claims Settlement Bill would give effect to the deed of settlement entered into by the Crown and Waitaha on 20 September 2011 for the final settlement of historical claims for breaches of the Treaty of Waitangi. The bill includes only those components of redress in the settlement package for which legislative authority is required. The deed of settlement sets out in full the redress provided to Waitaha in settlement of its historical claims.

Waitaha is the collective group composed of individuals descended from a tūpuna of Waitaha who exercised customary rights predominantly within the Waitaha area of interest on or after 6 February 1840 by virtue of being descended from Hei and Waitaha.

Waitaha's area of interest extends from Tauranga Moana, southeast along the coastline to Maketu, and forms a triangle southwards between Tauranga, Te Puke, and Ōtanewainuku.

Our commentary covers the main amendments we recommend. It does not include comment on all the technical amendments, including those proposed to correct references to land in the bill.

Ngā pae maunga: joint cultural redress properties

We recommend a number of amendments (new subpart 5A in Part 2) to allow the vesting of the peaks of Ōtanewainuku and Pūwhenua in Ngāti Ranginui, Ngāti Pūkenga, Ngāi Te Rangi (including Ngā Pōtiki), Tapuika, Ngāti Rangiwewehi, and Waitaha as tenants in common, with a joint administering body. The vesting would be given effect by Order in Council.

We were told that the Crown and Waitaha had preliminary negotiations about their interests in several maunga of significance, but because of the extent of overlapping claims at the time, the Crown did not offer vestings of these maunga to Waitaha as part of the settlement. Since the Waitaha deed of settlement was signed, we understand that negotiations have progressed with other iwi to allow the joint vesting of the peaks in the six claimant groups.

Consistency between bill and deed of settlement

In the light of a request from Te Kapu o Waitaha to better align the bill with the deed of settlement, we recommend a number of amendments to the bill to do so.

The amendment proposed to the language in the preamble and inserting the definition of “ngā tikanga o Waitaha” in clause 41 would improve the accuracy of the historical account. Inserting a reference to ngā tikanga o Waitaha in clause 45 would ensure the tikanga was considered by the Minister of Conservation as part of the protection principles for the Te Whakairinga Kōrero site. Omitting “before” and substituting “when” in clause 46 makes it clear that the consideration of Waitaha values would be required when decisions were made regarding the Te Whakairinga Kōrero site.

Bylaws and Legislation Act 2012

We recommend inserting new clause 54A to reflect changes that take effect following the enactment of the Legislation Act 2012. The amendment would determine that bylaws made under this legislation would be a legislative instrument and a disallowable instrument for the purposes of the Legislation Act, which must be presented to the House of Representatives.

Tapuika statutory right of access provisions

We recommend deleting clause 70, as Tapuika statutory right of access provisions are no longer required because it is provided through Tapuika's Treaty settlement. We also recommend replacing "Prohibition" with "Restriction" in clause 71 to align the bill with the proposed Tapuika settlement bill.

Authority to transfer balance of Te Houhou

We recommend amendments to clauses 82 and 83 so they refer only to when the Te Houhou and Te Puke properties become available to be transferred to Waitaha. The land would be available for transfer on and from the date the Crown notifies the trustees of this according to the terms of the property redress schedule.

Claimant definition

We considered the request of a number of Waitaha submitters to amend the bill to expand the Waitaha claimant definition to include tūpuna and hapū names not mentioned in the deed of settlement, but do not propose any amendments to the bill.

We were told that during the settlement negotiations, the claimant definition was finalised following cross-claim discussions with Ngāi Te Rangi, and members of the hapū concerned are covered by the settlement through whakapapa. We understand that the settlement does not prevent members of these hapū who are affiliated to iwi other than Waitaha from benefiting from settlements with those other iwi.

Waiari Stream Conservation Area

We considered the objections from members of Waitaha to the vesting of the Waiari Stream Conservation Area in Tapuika, but do not recommend any amendments to the bill.

We were told that the Crown engaged in overlapping claims negotiations with Waitaha and Tapuika, and reached agreement regarding the Waiari Stream in 2011. A deed of recognition was offered to Tapuika over the Waiari Stream, following which Tapuika agreed not to challenge the Waitaha deed of settlement.

Shortly before the Tapuika deed of settlement was due to be initialled, the Crown informed Tapuika that a deed of recognition was no longer possible because there was no land administered by the Commissioner of Crown Lands in the vicinity of the Waiari Stream. We understand that both iwi were then asked to make decisions very quickly regarding possible redress. The iwi were unable to reach agreement within the required time, so the Minister for Treaty of Waitangi Negotiations decided to vest the Waiari Stream Conservation Area (28 hectares) in Tapuika, with the provision that Waitaha would receive the land if Tapuika ever chose to return it to the Crown. We are aware that the preferred option of both iwi was the vesting of two puna near the Waiari Stream in favour of Tapuika, but this was not accepted by the Crown because private land cannot be offered as redress. We also acknowledge that Waitaha objected to the vesting of the Waiari Stream Conservation Area in Tapuika and raised concerns about the way the process was handled by the Crown. However, we are aware that Waitaha leaders have also made clear their desire to proceed with the settlement process.

Coastal statutory acknowledgement and area of interest

We considered the objections of a number of submitters from Ngāi Tukairangi, Ngāti Kahu/Pōtiki and Ngāi Te Rangi to the coastal statutory acknowledgement and area of interest regarding the coast between Mauao and Wairakei on the grounds that it would re-establish customary interests that no longer exist. We also considered the concern of members of Ngāi Te Rangi that the statutory acknowledgement might infringe their mana and kaitiakitanga in the area. We do not however propose any amendment to the bill.

We were told that the Crown is satisfied that Waitaha have a long-standing connection to the area in question. The coastal statutory acknowledgement is also “non-exclusive redress”. Our understanding is that area of interest maps are not redress, and do not indicate Crown recognition of iwi boundaries.

Appendix

Committee process

The Waitaha Claims Settlement Bill was referred to the committee on 19 September 2012. The closing date for submissions was 19 October 2012. We received and considered 20 submissions from interested groups and individuals. We heard nine submissions, which included holding hearings in Te Puke.

We received advice from the Office of Treaty Settlements.

Committee membership

Hon Tau Henare (Chairperson)

Te Ururoa Flavell

Aaron Gilmore

Hone Harawira

Brendan Horan

Hon Parekura Horomia

Hon Nanaia Mahuta

Katrina Shanks

Rino Tirikatene

Metiria Turei

Nicky Wagner

Jonathan Young

Te Pire Whakataunga i ngā Kerēme a Waitaha

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 Waitaha me tana tūtohu, kia whakaetia me ngā whakatikatika kua oti te whakaatu.

Kupu Whakataki

Ka whakamana te Pire Whakataunga i ngā Kerēme a Waitaha i te whakaaetanga whakataunga i uru atu rā te Karauna me Waitaha ki roto, i te 20 o Mahuru i te tau 2011, mō tētahi whakataunga oti atu o ngā kerēme hītori e pā ana ki ngā whatinga o Te Tiriti o Waitangi. Kei roto i te pire aua āhuatanga whakatika hapa anake o te mōkihi whakataunga me whai whakamanatanga ā-ture. Whakatakoto ai te whakaaetanga whakataunga i te katoa o te whakatika hapa i hoatu ki a Waitaha hei whakataunga o āna kerēme hītori.

Ko Waitaha te kohinga ohu o ngā tāngata takitahi i heke iho mai i tētahi tūpuna o Waitaha, nana ake nei hoki ngā tika tukunga iho i whakamahia nuitia i roto ake i te pānga wāhi o Waitaha, i te 6 o

Hui-tanguru i te tau 1840, whai muri mai rānei i taua rā, nā tō rātou hekenga iho mai i a Hei me Waitaha.

Toro ai te pānga wāhi o Waitaha, atu i Tauranga Moana me te whai whaka-paeroa haere i te takutai ki Maketū, kia tū hanga tapatoru ai me te heke whaka-te-tonga ki waenganui i a Tauranga, Te Puke me Ōtānewainuku hoki.

Ka kapi i ā mātou kōrero ngā whakatikatika matua ka tūtohungia. Kāore he kōrero i roto mō ngā whakatikatika hangarau katoa, tae atu ki aua kōrero i whakatakotoria mō te whakatika i ngā whakapuakanga ki te whenua i roto i te pire.

Ngā pae maunga: ngā pito whenua whakatika hapa tikanga tuku iho ngātahi

He huhua ngā whakatikatika ka tūtohungia e mātou (he wāhanga iti 5A hou i Wāhanga 2) kia taea ai te tuku i ngā pae maunga o Ōtānewainuku me Pūwhenua i Ngāti Ranginui, Ngāti Pūkenga, Ngāi Te Rangi (tae atu i Ngā Pōtiki), Tapuika, Ngāti Rangiwewehi me Waitaha hoki, hei kairīhi noa i te taha o tētahi rangatōpū whakahaere ngātahi. Mā te Whakataunga ā-Ture a Te Kāwana Tianara e whakamana te tukunga.

Ko te kōrero ki a mātou, i tū ngā whiriwhiringa whakataki tuatahi i waenganui i te Karauna me Waitaha, mō ā rātou pānga ki te huhua o ngā maunga whakahirahira ēngari, nā te whānuitanga o ngā kerēme inaki i taua wā, kāore te Karauna i tāpae tukunga o ngā maunga nei ki a Waitaha hei wāhanga o te whakataunga. Nā, mai anō i te hainatanga o te whakaaetanga whakataunga a Waitaha, kua neke whakamua ngā whiriwhiringa i te taha o ētahi atu iwi kia taea ai te tukunga ngātahi, o ngā pae maunga ki roto i ngā ringaringa o ngā kohinga kaikerēme e ono.

Te ōritetanga i waenganui i te pire me te whakaaetanga whakataunga

Nā runga i te tonono a Te Kapu o Waitaha, kia pai kē atu ai te hāngai o te pire me te whakaaetanga whakataunga, ka tūtohu mātou i ētahi whakatikatika ki te pire kia pērā ai.

Ko te ngako o te whakatikatika i whakatakotoria mō te āhua o te reo i roto i te whakataki, me te whakaurunga o te whakamāramatanga e pā

ana ki “ngā tikanga o Waitaha” ki roto i a rara 41, ko te whakapai atu i te tika o te kōrero hītori. Mā te whakaurunga o tētahi whakapuakanga ki roto i a rara 45, e āta mōhiotia ai i whakaaroarohia te tikanga e te Minita mō ngā Take Papa Atawhai, hei wāhanga o te mahi tiaki i ngā mātāpono mō te tūnga Te Whakairinga Kōrero. Mā te tango atu i te kupu “before” me te whakauru atu i te kupu “when” ki roto i a rara 46, e mārama ai te kite atu me whakaaroarohia ngā uara a Waitaha ka tika, i te wā ka whakatakotoria he whakataunga mō te tūnga Te Whakairinga Kōrero.

Ngā Ture ā-Rohe me Te Hanganga Ture o te tau 2012

Ka tūtohu mātou kia whakaurua he rara 54A hou kia kitea mai ai, ko ērā ngā whakarerekētanga ka whai mana whai muri i te whakamanatanga o Te Hanganga Ture o te tau 2012. Ko tā te whakatikatika he whakatau, he huarahi ā-ture ngā ture ā-rohe i whakatūria i raro i te hanganga ture nei, ā, he huarahi whakakore hoki mō ngā take e pā ana ki Te Hanganga Ture, otirā, me te tino whakatakoto hoki ki mua i te aroaro o te Whare Māngai.

Te tika o Tapuika ki te whai urunga ki ngā whakaratonga i raro i te ture

Ko tā mātou ka tūtohu, me tangohia atu a rara 70 i te mea, kua kore kē te tika o Tapuika ki te whai urunga ki ngā whakaratonga i raro i te ture e hiahiaia nā te mea, kua hoatu he wāhi urunga māna mā roto i te whakataunga Tiriti a Tapuika. Ka tūtohu hoki mātou kia whakanohoa te kupu “Prohibition” ki te wāhi o te kupu “Restriction” i rara 71, kia hāngai ai te pire ki tērā e whakatakotoria ake nei, arā, te pire whakataunga a Tapuika.

Te mana ki te whakawhiti i te toenga o Te Houhou

Ka tūtohu whakatikatika mātou ki a rara 82 me rara 83 kia pā noa ai ki te wā anake ka wātea mai ngā pito whenua o Te Houhou me Te Puke, ka whakawhitia ana ki a Waitaha. Ka wātea mai te whenua kia whakawhitia i te rā, ā, mai i te rā ka whakaatu ai te Karauna i tēnei ki ngā kaitiaki, e ai ki ngā ritenga o te pukapuka āpiti whakatika hapa pito whenua.

Whakamāramatanga kaikerēme

I whakaarohia e mātou te tonono a te tokomaha o ngā tāngata whakatakoto tāpaetanga o Waitaha, kia whakatikaina te pire kia whānui kē atu ai te whakamāramatanga kaikerēme o Waitaha, kia uru atu ai ngā ingoa tūpuna, ngā ingoa hapū kīhai i whakahuatia ake i roto i te whakaaetanga whakataunga ēngari, kāore he whakatikatika ki te pire i te whakaarohia.

Ko te kōrero ki a mātou, i te wā whiriwhiringa whakataunga, i whakaotia te whakamāramatanga kaikerēme i te mutunga o ngā matapakinga kerēme-whakawhitinga i te taha o Ngāi Te Rangī, ā, e kapi ana ngā tāngata o te hapū e pā ana, mā roto whakapapa. Kei te mōhio mātou, tua atu i a Waitaha, kīhai ngā tāngata o ngā hapū nei, ā, he whanaunga hoki, i te katia atu e te whakataunga ki te whiwhi i ngā hua mai i ngā whakataunga a aua iwi kē.

Wāhi Atawhai Whenua o Manga Waiari

I whakaarohia e mātou ngā whakahēnga ā ngā tāngata o Waitaha ki te tukunga o te Wāhi Atawhai Whenua o Manga Waiari, ki roto i ngā ringaringa o Tapuika ēngari, kāore mātou e tūtohu whakatikatika ki te pire.

Ko te kōrero ki a mātou, i uru atu te Karauna ki ngā whiriwhiringa kerēme inaki i te taha o Waitaha me Tapuika, ā, i tutuki he whakaaro tahi mō Manga Waiari i te tau 2011. Ka tāpaea he whakaaetanga whakamihi ki a Tapuika mō Manga Waiari, ā, whai atu i tērā, ka whakaae a Tapuika, kāore te whakaaetanga whakataunga a Waitaha e werohia.

I mua tata tonu mai o te whakareta i te whakaaetanga whakataunga a Tapuika, ka whakaatu te Karauna ki a Tapuika kua kore he whakaaetanga whakamihi e taea nā te mea, kua kāore hoki he whenua hei whakahaere mā te Kaikomihana o ngā Whenua Karauna tata atu ki Manga Waiari. Nā, ki tō mātou mōhio, ka tonohia ngā iwi e rua nei kia tere tonu tā rātou whakatakoto whakataunga mō tētahi whakatika hapa pea. Kīhai rāua i kaha ki te whakatutuki whakaaro tahi i te wā i hiahiatia, ā, nā runga i tēnei, ka whakatau Te Minita mō ngā Whiriwhiringa e pā ana ki Te Tiriti o Waitangi, kia tukua te Wāhi Atawhai Whenua o Manga Waiari (e 28 heketea) ki roto i ngā ringaringa o Tapuika, me te whakaritenga anō ka whiwhi i a Waitaha te whenua i te wā ka kōwhiri a Tapuika, kia whakahokia taua whenua ki te Ka-

rauna. Nā, matatau ana mātou, ko te kōwhiringa i hiahiatia e ngā iwi e rua nei, me tuku ngā puna e rua tata atu ki Manga Waiari ki roto i ngā ringaringa o Tapuika ēngari, kāore te Karauna i whakaae ki tēnei nā te mea, kāore he whenua tūmataiti e taea te tāpae hei whakatika hapa. Ka whakaae anō hoki mātou i whakahē a Waitaha ki te tukunga o te Wāhi Atawhai Whenua o Manga Waiari ki roto i ngā ringaringa o Tapuika, ā, ka whakaara māharahara hoki mātou mō te whakahaere a te Karauna i te hātepe. Heoi anō rā, e matatau ana hoki mātou kua mārama kē te whakaatu mai a ngā rangatira o Waitaha i tō rātou pīrangī, kia haere tonu te hātepe whakataunga.

Whākinatanga ā-ture mō te takutai me te wāhi pānga

I whakaaroarohia e mātou ngā whakahēnga o ētahi kaiwhakatakoto tāpaetanga nō mai i a Ngāi Tūkairangi, Ngāti Kahu/Pōtiki, me Ngāi Te Rangi ki te whākingatanga ā-ture mō te takutai me te wāhi pānga e pā ana ki te takutai i waenganui i a Mauao me Wairākei nā runga i te take, ka whakatūria anōtia ake ngā pānga tuku iho kua roa noa atu nei e kore ana. Ka whakaaroarohia anōtia hoki e mātou ngā māharahara o ngā tāngata o Ngāi Te Rangi, tērā pea ka takahia e te whākingatanga ā-ture, o rātou mana me o rātou kaitiakitanga i roto i te rohe. Heoi anō, kāore mātou e whakatakoto whakatikatika ki te pire.

Ko te kōrero ki a mātou, i ngata te Karauna he hononga tā Waitaha nō mai anō rā ki te wāhi e kōrerohia ake nei. He “whakatika hapa uru-tomo-kore” hoki te whākingatanga ā-ture takutai. Kei te mōhio mātou ēhara ngā mahere whenua o te wāhi pānga i tētahi mea whakatika hapa, ā, kāore hoki he tohu aronga Karauna ki nga rohe iwi.

Tāpiritanga

Hātepe komiti

I tonoa te Pire Whakataunga i ngā Kerēme a Waitaha ki te komiti i te 19 o Mahuru i te tau 2012. Ko te 19 o Whiringa-ā-nuku i te tau 2012 te rā katinga mō ngā tāpaetanga. E 20 ngā tāpaetanga a ngā tāngata takitahi me ngā kohinga whai pānga i whiwhi i a mātou. E iwa ngā tāpaetanga ā-waha i rongohia e mātou tae atu ki te whakatū whakawātanga i Te Puke.

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

Ko ngā mema o te koti, ko

Hōnore Tau Hēnare (Heamana)

Te Ururoa Flavell

Aaron Gilmore

Hone Harawira

Brendan Horan

Hōnore Parekura Horomia

Hōnore Nanaia Mahuta

Katrina Shanks

Rino Tirikātene

Mētīria Tūrei

Nicky Wagner

Jonathan Young

Waitaha 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

Waitaha Claims Settlement Bill

Government Bill

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Preamble

- (1) Recitals (2) to (12) of this Preamble present, in summary form, the historical account set out in the deed of settlement entered into by Waitaha and the Crown:
- (2) Waitaha are an ancient iwi ~~descended from~~ who descend from Hei and his son Waitaha who arrived on the waka Te Arawa. Their area of interest extends from Waimapu to Mauao along the coastline to Maketu, and inland to Ōtanewainuku. By the 1840s, Waitaha primarily occupied the land between Tauranga harbour and Te Puke. During the 1840s and 1850s, the Waitaha leader and prophet, Hakaraia, preached peaceful engagement with Pākehā:
- (3) When Crown forces invaded the Waikato in July 1863 a number of Waitaha fought for the Kīngitanga, while some sided with the Crown. Others remained neutral. These internal divisions created enmity amongst Waitaha and also with neighbouring iwi:
- (4) War came to Tauranga in 1864. Hakaraia was a spiritual leader for the Māori force which defeated Crown troops at Gate Pā in April. When Crown troops defeated Kīngitanga Māori at Te Ranga in June, Waitaha men were among the casualties:
- (5) The Crown regarded those Māori who fought at Gate Pā and Te Ranga as rebels. In May 1865, the Crown confiscated 214 000

acres of land around Tauranga including land in which Waitaha had customary interests. The Crown announced that it would retain only a quarter of the confiscated land and that the remainder would be returned to Māori:

- (6) Hakaraia rose to prominence as a leader of the resistance to the survey of confiscation. In January 1867, using scorched earth tactics, government forces assaulted Waitaha settlements near Te Puke, destroying houses, crops, and livestock as “a special punishment” for Hakaraia. ~~Using scorched earth tactics the~~ The Crown pursued Hakaraia to his death and ultimately took his life in 1870: 5 10
- (7) In 1868, the Crown extended the boundary of the confiscation district by 75 000 acres to include much land claimed by Waitaha and also Ōtawa, a maunga sacred to Waitaha. The Crown accepted the ancestral claims of Waitaha to approximately 25 000 acres in the confiscation district but ~~withheld~~ did not return much of this “in payment for the sin” of Hakaraia: 15
- (8) The Crown opened negotiations with Waitaha for land at Te Puke in 1873 before the Native Land Court had determined the ~~block’s~~ land’s ownership. The Court, which was created under the native land laws introduced by the Crown in the 1860s, was established to convert customary title, which was communal and fluid, into individualised and permanent titles derived from the Crown: 20
- (9) Waitaha did not initially wish to sell or lease its land at Te Puke. However, in September 1873, rival claims over the land motivated Waitaha to sell part of the block. The Crown pressured Waitaha into selling more land and told Waitaha the block would be mortgaged to the government if they did not sell, on account of a survey debt owed by another claimant to Te Puke: 25 30
- (10) Waitaha were by this time suffering great economic hardship and wanted the Crown to pay the balance of the purchase money without waiting for the Court to determine title. When the Crown refused, Waitaha tried to withdraw from the sale in order to sell to a private party. The Crown would not relinquish its purchase and barred private parties from attempting to acquire the land. The Native Land Court eventually awarded title 35

to Te Puke to Waitaha in October 1878. The Crown completed its purchase over the next 8 years:

- (11) Waitaha took part in many Native Land Court hearings in the 1880s and early 1890s. Most of the land Waitaha were awarded was sold in the 1880s and 1890s, largely to the Crown: 5
- (12) By the end of the 19th century Waitaha were virtually landless and had insufficient land and resources to sustain the tribe themselves. According to Waitaha, this forced some members of the iwi to follow other tribal affiliations. Waitaha express 10 this impact in the whakataukī, “Kō Waitaha te iwi, he tangata ngākauria”: Waitaha was once a powerful tribe, but because of the loss of land they became fragmented and have never been able to unite again:

The Parliament of New Zealand therefore enacts as follows: 15

1 Title

This Act is the Waitaha Claims Settlement Act **2012**.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent. 20

Part 1
Preliminary provisions,
acknowledgements and apology,
settlement of historical claims, and
miscellaneous matters 5

Subpart 1—Preliminary provisions,
acknowledgements and apology

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 Waitaha. 10

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. 15

(2) This Part—

(a) sets out the purpose of the Act, records the acknowledgements and apology given by the Crown to Waitaha, and specifies that it binds the Crown; and 20

(b) defines terms used in the Act, including key terms such as Waitaha and historical claims; and

(c) provides that the settlement of the historical claims is final; and 25

(d) provides for—

(i) the effect of the settlement on the jurisdiction of a court, tribunal, or other judicial body to consider the historical claims; and

(ii) consequential amendments to the Treaty of Waitangi Act 1975; and 30

(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. 35

- (3) **Part 2** provides for cultural redress, including—
- (a) protocols to be issued to the trustees by the Minister of Conservation, the Minister of Energy and Resources, and the Minister for Arts, Culture and Heritage; and
 - (b) an acknowledgement by the Crown of the statements 5
made by Waitaha of their cultural, spiritual, historical, and traditional association with 15 statutory areas and the effect of that acknowledgement; and
 - (c) a deed of recognition to be made by the Minister of Conservation and the Director-General in relation to 5 10
of the statutory areas; and
 - (d) the acknowledgement of Waitaha values in relation to Ōtawa and Te Ara a Hei by means of Te Whakairinga Kōrero; and
 - (e) the vesting in the trustees of the fee simple in 6 cultural 15
redress properties, 2 of which will be reserves; and
 - (f) the vesting in the trustees of the improvements on land that are known as the kaumātua flats; and
 - (g) the delayed and contingent vesting of 2 joint cultural 20
redress properties in the trustees of Te Kapu o Waitaha and the trustees or entities representing 5 other iwi as tenants in common in equal shares.
- (4) **Part 3** provides for commercial redress, including—
- (a) the transfer to the trustees of 6 commercial redress prop- 25
erties, 5 of which are to be leased back to the Crown; and
 - (b) the transfer of 2 properties to the trustees if those prop-
erties are selected by the trustees; and
 - (c) a contingent right for the trustees to purchase land at 30
Te Houhou if the land ~~is not transferred to or vested in~~ Ngā Pōtiki in settlement of its Treaty claims becomes available for settlement; and
 - (d) a contingent right for the trustees to purchase 8 proper- 35
ties in Te Puke in the event that the properties ~~are not transferred to or vested in Tapuika in settlement of its Treaty claims~~ become available for settlement; and
 - (e) the creation of computer registers, and the effect of registration, in relation to the commercial redress prop-
erties; and

- (f) the application of other enactments in relation to the transfer of commercial redress properties.
- (5) There are ~~3~~ 4 schedules, ~~which~~—as follows:
- (a) **Schedule 1** describes the ~~describe the~~ 16 statutory areas to which the statutory acknowledgement relates and, in some cases, for which deeds of recognition may be issued: 5
- (b) **Schedule 2** identifies ~~identify~~ the 2 Te Whakairinga Kōrero sites:
- (c) **Schedule 3** describes ~~describe~~ the 6 cultural redress properties: 10
- (d) **Schedule 4** describes the 2 joint cultural redress properties.

6 Acknowledgements by the Crown

The text of the acknowledgements made by the Crown, as set out in the deed of settlement, is as follows: 15

- (1) The Crown acknowledges that Waitaha, an ancient iwi descending from Hei and Waitaha of the waka Te Arawa, has long sought acknowledgement and redress for its grievances. The Crown has failed to deal with these grievances in an appropriate way. The Crown hereby recognises the legitimacy of the historical grievances of Waitaha and makes the following acknowledgements. 20
- (2) The Crown acknowledges that the coming of war to the Bay of Plenty in the 1860s split Waitaha internally. Individuals and hapū were compelled to align themselves with different sides in the conflict and this caused discord and enmity within the iwi, and in the relationships Waitaha had with other iwi and with the Crown. 25
- (3) The Crown acknowledges that— 30
- (a) the Waitaha rangatira Hakaraia Mahika initially promoted peaceful engagement with Pākehā; and
- (b) in his support for the Kīngitanga, Hakaraia sought to halt the sale of Māori land, and that he escalated his opposition only after Crown forces invaded the Waikato. 35
- (4) The Crown acknowledges that—

-
- (a) Waitaha warriors, including Hakaraia, took part in the battles at Pukehinahina and Te Ranga in April and June 1864; and
- (b) members of Waitaha were killed by Crown troops at Te Ranga; and 5
- (c) the Crown was ultimately responsible for the outbreak of war in Tauranga and the resulting loss of life, and that its actions were a breach of Te Tiriti o Waitangi/the Treaty of Waitangi and its principles.
- (5) The Crown acknowledges that, taken together, the Tauranga confiscation/raupatu and the subsequent Tauranga District Lands Acts 1867 and 1868— 10
- (a) affected all Waitaha, including those who had not opposed the Crown; and
- (b) included Ōtawa, a maunga sacred to all the descendants of Hei and Waitaha; and 15
- (c) compulsorily extinguished customary title in the land within the extended confiscation/raupatu district.
- (6) The Crown further acknowledges that it— 20
- (a) returned land to Waitaha in the form of individualised title rather than Māori customary title; and
- (b) wrongfully retained land in order to punish Waitaha for the actions of Hakaraia, whom it deemed to be a rebel.
- (7) The Crown acknowledges that the confiscation/raupatu and the subsequent Tauranga District Lands Acts 1867 and 1868— 25
- (a) had a detrimental effect on the welfare and economy of Waitaha and deprived the iwi of wāhi tapu, access to natural resources and opportunities for development; and
- (b) prevented Waitaha from exercising mana and rangatira-tanga over land and resources within the Tauranga confiscation district. 30
- (8) The Crown acknowledges that in its effects on Waitaha, the confiscation/raupatu and the subsequent Tauranga District Lands Acts 1867 and 1868 were unjust, indiscriminate, and a breach of Te Tiriti o Waitangi/the Treaty of Waitangi and its principles. 35
- (9) The Crown acknowledges that—

-
- (a) it inflicted a scorched earth policy in its assaults on Waitaha settlements during the bush campaign; and
- (b) the resulting destruction further devastated the welfare and economy of Waitaha; and
- (c) Waitaha were forced to flee their settlements and were 5
unable to return for many years.
- (10) The treatment that Waitaha received from the Crown during the bush campaign was unreasonable, inflicted considerable unnecessary harm on Waitaha, and was a breach of Te Tiriti o Waitangi/the Treaty of Waitangi and its principles. 10
- (11) The Crown acknowledges that—
- (a) it did not consult with Waitaha on the Native Land Acts of 1862 and 1865; and
- (b) the workings of the native land laws, in particular in the 15
awarding of land to individuals rather than iwi or hapū and the enabling of individuals to deal with that land without reference to the iwi or hapū, made the lands of Waitaha more susceptible to alienation. As a result, the traditional social structures, mana and rangatiratanga of Waitaha were eroded. The Crown acknowledges it 20
failed to take adequate steps to protect these structures, and this was a breach of Te Tiriti o Waitangi/the Treaty of Waitangi and its principles.
- (12) The Crown acknowledges that it exploited inter-iwi competi- 25
tion over Te Puke block and used outstanding survey charges and the threat of mortgage to pressure Waitaha into selling the land. The Crown used the Native Lands Act 1877 to prevent Waitaha from selling the land to private parties. The combined effect of these aggressive purchase techniques meant that the Crown failed actively to protect the interests of Waitaha in the 30
land they wished to retain and this was a breach of Te Tiriti o Waitangi/the Treaty of Waitangi and its principles.
- (13) The Crown acknowledges further land was lost to Waitaha dur- 35
ing the nineteenth and twentieth centuries through purchases by private parties of land originally intended to be inalienable, additional Crown purchases and public works takings. These losses came at a time when Waitaha were already experiencing great economic hardship.

- (14) The Crown acknowledges that the cumulative effect of its actions has rendered Waitaha virtually landless. By 1900, members of the iwi held only a fraction—approximately 2.5 per cent—of their former rohe. While the land and resources alienated from Waitaha have benefited the nation as a whole, the reserves created for Waitaha from Te Puke block, including “Manoeka”, were insufficient to support or sustain the iwi’s members. This forced some Waitaha to follow their other tribal affiliations, weakening the identity of Waitaha as an iwi. The Crown’s failure to ensure that Waitaha was left with sufficient land for their present and future needs was a breach of Te Tiriti o Waitangi/the Treaty of Waitangi and its principles. 5
- (15) The Crown acknowledges that the cumulative effect of its breaches of Te Tiriti o Waitangi/the Treaty of Waitangi and its principles undermined the physical, cultural, social, economic and spiritual well-being of Waitaha to the point where the iwi itself nearly vanished. The suffering and marginalisation caused to Waitaha over the generations have continued to the present day. 10 15 20

7 **Apology by the Crown to Waitaha**

The text of the apology offered by the Crown to Waitaha, as set out in the deed of settlement, is as follows:

- (1) The Crown makes the following apology to the descendants of Hei and Waitaha known as Waitaha. 25
- (2) The Crown is deeply sorry that it has failed to fulfil its obligations to Waitaha under Te Tiriti o Waitangi/the Treaty of Waitangi.
- (3) The Crown’s acts and omissions have severed you from almost all of your traditional lands and driven your ancient iwi to the point where it nearly ceased to exist. For these acts and omissions, and for the suffering they caused and continue to cause, the Crown apologises. 30
- (4) The Tauranga confiscation/raupatu was unjust and Hakaraia Mahika opposed it. For this, the Crown labelled him a rebel. In seeking to punish him, the Crown destroyed your houses, crops and livestock, and ultimately took his life. The Crown 35

inflicted further punishment even after his death by unfairly withholding a large amount of land from you. For these misdeeds the Crown apologises to Waitaha and to Hakaraia.

- (5) The stigma of rebellion has diminished the mana of Waitaha and forced deep divisions among you, and between you and your neighbours. The Crown recognises that this burden has pressed most heavily on the descendants of Hakaraia, but has affected all of Waitaha. The Crown regrets that you have been forced to bear this stigma, and wishes the mana and reputation of Hakaraia and Waitaha to be restored. Accordingly, the Crown apologises for the part it played in placing this burden upon you. 5 10
- (6) The Crown wishes to restore its own tarnished honour too and hopes that this apology will mark the beginning of a stronger relationship with Waitaha, a relationship based on trust, co-operation, and respect for Te Tiriti o Waitangi/the Treaty of Waitangi. Accordingly, the Crown echoes the following Waitaha whakatauki: 15

Kua tau te rangimārie	The peace has been settled
Ki te whare o Hakaraia	In the house of Hakaraia
Āke, āke, āke.	Now and forever more.

Subpart 2—Interpretation

- 8 Interpretation generally** 20
It is the intention of Parliament that the provisions of this Act be interpreted in a manner that best furthers the agreements expressed in the deed of settlement.
- 9 Interpretation** 25
In this Act, unless the context otherwise requires,—
affected person has the meaning given by section 2AA of the Resource Management Act 1991
authorised person,—
(a) in respect of a cultural redress property, has the meaning given in **section 73(7)**; and 30
(ab) in respect of a joint cultural redress property, has the meaning given in **section 71K(5)**; and

- (b) in respect of a commercial redress property, has the meaning given in **section 84(3)**

balance of Te Houhou means the land described as a second right of purchase Te Houhou property in subpart B of part 3 of the property redress schedule 5

business day means the period from 9 am to 5 pm on any 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 10

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

- (c) the day observed as the anniversary of the province of Wellington; and 15

- (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 that province’s anniversary

coastal marine area has the meaning given in section 2(1) of the Resource Management Act 1991 20

commercial redress property means a property described in part 1 of the property redress schedule

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

conservation management strategy has the meaning given in section 2(1) of the Conservation Act 1987 25

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

Crown minerals protocol—

- (a) means a protocol issued by the Minister of Energy and Resources under **section 19(1)(a)**; and 30

- (b) includes any amendments made under **section 19(1)(b)**

Crown minerals protocol area means the area shown on the map attached to the Crown minerals protocol and includes the adjacent waters 35

cultural redress property has the meaning given in **section 61**

deed of recognition means a deed entered into by the Crown in favour of the trustees under **section 36**

deed of settlement and deed—

- (a) mean the deed of settlement dated 20 September 2011 and signed by— 5
 - (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
 - (ii) Frank Puroku Grant, Areta Donna Gray, Tony Tapua Te Amo, Bernard Te Huaki Whareaorere, and George Wehi Clarke as trustees of Te Kapu o Waitaha; and 10
- (b) include—
 - (i) the general matters schedule, the property redress schedule, the documents schedule, the legislative matters schedule, and any attachments to the deed; and 15
 - (ii) any amendments to the deed, its schedules, or attachments 20

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 or the route of an easement referred to in this Act

deferred purchase property means a property described in part 2 of the property redress schedule— 25

- (a) that the trustees of the relevant settlement trust have elected to purchase from the Crown by giving notice under paragraph 6.7 of part 6 of that schedule; and
- (b) in respect of which the agreement for sale and purchase (formed under paragraph 6.9 of that part 6) has not been cancelled 30

Director-General means the Director-General of Conservation

DOC protocol—

- (a) means a protocol issued by the Minister of Conservation under **section 19(1)(a)**; and 35
- (b) includes any amendments made under **section 19(1)(b)**

- DOC protocol area** means the area shown on the map attached to the DOC protocol
- documents schedule** means the schedule of that name that forms part of the deed of settlement
- effective date** means the date that is 6 months after the settlement date 5
- encumbrance** means a lease, tenancy, licence, licence to occupy, easement, covenant, or other right or obligation affecting a property
- general matters schedule** means the schedule of that name that forms part of the deed of settlement 10
- Historic Places Trust** means the New Zealand Historic Places Trust (Pouhere Taonga) continued by section 38 of the Historic Places Act 1993
- historical claims** has the meaning given in **section 11** 15
- joint cultural redress property** has the meaning given in **section 71A**
- land holding agency**, in relation to—
- (a) a commercial redress property, means the Office of Treaty Settlements in relation to Te Houhou, and otherwise means the Ministry of Education: 20
 - (b) a cultural redress property, means the Department of Conservation in relation to the Maungaruahine Pā Historic Reserve and the part of the Ottawa Scenic Reserve to become the Ōtara Scenic Reserve, and otherwise means the Office of Treaty Settlements: 25
 - (c) a deferred purchase property, means the Office of Treaty Settlements:
 - (d) Te Puke Police Station, means the New Zealand Police:
 - (e) the Te Puke properties and the balance of Te Houhou, means the Office of Treaty Settlements 30
- LINZ** means Land Information New Zealand
- local authority** has the meaning given in section 5(1) of the Local Government Act 2002
- member of Waitaha** means every individual referred to in **section 10(1)(a)** 35
- Nga Potiki deed** has the meaning given in **section 82(5)**

Ngā Pōtiki legislation has the meaning given in **section 82(5)**

Ngā Pōtiki settlement date has the meaning given in **section 82(5)**

property redress schedule means the schedule of that name 5
that forms part of the deed of settlement

protection principles has the meaning given in **section 41(2)**

protocol means a protocol issued under **section 19(1)(a)**, including any amendments made under **section 19(1)(b)**

regional council has the meaning given in section 2(1) of the 10
Resource Management Act 1991

Registrar-General means the Registrar-General of Land appointed under section 4 of the Land Transfer Act 1952

relevant consent authority, in relation to a statutory area, 15
means a consent authority of a region or district that contains, or is adjacent to, the statutory area

representative entity means—

- (a) the trustees; and
- (b) any person (including any trustees) acting for, or on behalf of,— 20
 - (i) the collective group referred to in **section 10(1)**; or
 - (ii) 1 or more of the whānau, hapū, or groups that together form that collective group; or
 - (iii) 1 or more members of Waitaha 25

reserve land has the meaning given in **section 67(1)**

reserve site has the meaning given in **section 6061**

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

responsible department means, as the case requires, one of 30
the following departments of State:

- (a) for a conservation protocol, the Department of Conservation;
- (b) for a taonga tūturu protocol, the Ministry for Culture and Heritage: 35
- (c) for a Crown minerals protocol, the Ministry of Economic Development:

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

responsible Minister means, as the case requires, 1 of the following Ministers: 5

- (a) for a conservation protocol, the Minister of Conservation:

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

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

- (d) 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**

settlement date means the date that is 20 business days after the date on which this Act comes into force 15

statements of association has the meaning given in **section 25**

statutory acknowledgement means the acknowledgement made by the Crown in **section 26** in respect of each statutory area, on the terms set out in **subpart 2 of Part 2** 20

statutory area means an area described in **Schedule 1** whose general location is indicated on, but whose precise boundaries are not established by, the deed plan referred to in relation to that area in that schedule 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

taonga tūturu— 35

- (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)

taonga tūturu protocol—

- (a) means a protocol issued by the Minister for Arts, Culture and Heritage under **section 19(1)(a)**; and 5
- (b) includes any amendments made under **section 19(1)(b)**

Tapuika legislation means legislation enacted to implement a deed of settlement between the Crown and Tapuika, or a claimant group that includes Tapuika, to settle the historical claims of Tapuika 10

Tapuika settlement date means the date specified in the Tapuika legislation as the settlement date

Te Kapu o Waitaha means the trust established by the Te Kapu o Waitaha Deed of Trust dated 20 September 2011 15

Te Puke property means a property described as a second right of purchase Te Puke property in subpart A of part 3 of the property redress schedule

Te Whakairinga Kōrero has the meaning given in **section 41(1)** 20

Te Whakairinga Kōrero site has the meaning given in **section 41(2)**

tikanga of Waitaha means the customary values and practices of Waitaha

trustees of Te Kapu o Waitaha and **trustees** mean the trustees, in their capacity as trustees, of Te Kapu o Waitaha 25

vesting date has the meaning given in **section 71A**

Waitaha has the meaning given in **section 10**

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

Waitaha values has the meaning given in **section 41(2)**.

10 Meaning of Waitaha

- (1) In this Act, unless the context otherwise requires, **Waitaha—**
- (a) means the collective group composed of individuals who are descended from a tupuna of Waitaha; and 35

- (b) includes those individuals; and
- (c) includes any whānau, hapū, or group to the extent that it is composed of those individuals.
- (2) In this section,—
- customary rights** means rights according to the tikanga of Waitaha, including—
- (a) rights to occupy land; and
- (b) rights in relation to the use of land or other natural or physical resources; and
- (c) rights to affiliate to a marae; and 10
- (d) rights of burial
- descended** means that a person is descended from another person by—
- (a) birth:
- (b) legal adoption: 15
- (c) Māori customary adoption in accordance with the tikanga of Waitaha
- tupuna of Waitaha** means an individual—
- (a) who exercised customary rights by virtue of being descended from— 20
- (i) Hei; and
- (ii) Waitaha (an individual); and
- (b) who exercised the customary rights predominantly within the Waitaha area of interest on or after 6 February 1840. 25
- 11 Meaning of historical claims**
- (1) In this Act (other than in **subpart 5A of Part 2**), **historical claims**—
- (a) means the claims described in **subsection (2)**; and
- (b) includes the claims described in **subsection (3)**; but 30
- (c) does not include the claims described in **subsection (4)**.
- (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 Waitaha (or a representative 35 entity) had at, or at any time before, the settlement date, or may have after the settlement date, and that—

- (a) 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 5
 - (iv) from fiduciary duty; or
 - (v) otherwise; and
- (b) arises from or relates to acts or omissions before 21 September 1992—
 - (i) by, or on behalf of, the Crown; or 10
 - (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 Waitaha or a representative entity, including— 15
 - (i) Wai 664—Waitaha tribal estate claim; and
 - (ii) Wai 702—Waitaha hapū lands and resources claim; and
 - (iii) Wai 1178—Ngāti Te Puku o Hākoma claim; and
 - (b) every other claim to the Waitangi Tribunal to which 20
 subsection (2) applies, so far as it relates to Waitaha or a representative entity.
- (4) However, **historical claims** does not include—
 - (a) a claim that a member of Waitaha, or a whānau, hapū, or group referred to in **section 10** may have that 25
 is founded on a right arising as a result of being descended from an ancestor who is not referred to in **section 10(1)**; or
 - (b) a claim that a representative entity may have to the extent that the claim is founded on a claim referred to in 30
 paragraph (a).

Subpart 3—Settlement of historical claims

Historical claims settled and jurisdiction of courts, etc, removed

- 12 Settlement of historical claims final** 35
- (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.
- (3) **Subsections (1) and (2)** do not limit 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—
- (a) the historical claims; or
 - (b) the deed of settlement; or
 - (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.

*Consequential amendment to Treaty of Waitangi
Act 1975*

- 13 Amendment to Treaty of Waitangi Act 1975**
- (1) This section amends the Treaty of Waitangi Act 1975.
- (2) In Schedule 3, insert in its appropriate alphabetical order “Waitaha Claims Settlement Act **2012, section 12(4) and (5)**”.

Protections no longer apply

- 14 Certain enactments do not apply**
- (1) The enactments listed in **subsection (2)** do not apply—
- (a) to a commercial redress property; or
 - (b) to a cultural redress property; or
 - (ba) to a joint cultural redress property, but only on and from the vesting date; or
 - (c) to a deferred purchase property, but only on and from the date on which the transfer of the property is settled; or
 - (d) to all or part of the balance of Te Houhou or a Te Puke property, but only on and from the date on which the

transfer of the property is settled (if it is transferred under this Act); or

- (e) for the benefit of Waitaha or a representative entity.
- (2) The enactments are—
- (a) sections 8A to 8HJ of the Treaty of Waitangi Act 1975: 5
 - (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:
 - (e) Part 3 of the New Zealand Railways Corporation Re-structuring Act 1990. 10

15 Removal of memorials

- (1) The chief executive of LINZ must issue to the Registrar-General a certificate that identifies (by reference to the relevant legal description, certificate of title, or computer register) each allotment that is— 15
- (a) all or part of land described in **section 14(1)**; and
 - (b) contained in a certificate of title or computer register that has a memorial entered under any enactment referred to in **section 14(2)**. 20
- (2) The chief executive of LINZ must issue a certificate under **subsection (1)** as soon as is reasonably practicable after—
- (aa) the vesting date, in the case of land described in **section 14(1)(ba)**; and
 - (a) the date on which the transfer of land described in **section 14(1)(c) or (d)** is settled; and 25
 - (b) the settlement date, in the case of any other property.
- (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)**,— 30
- (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 35 with any enactment referred to in **section 14(2)**) on a certificate of title or computer register identified in the certificate.

Subpart 4—Miscellaneous matters

*Perpetuities***16 Rule against perpetuities does not apply**

- (1) The rule against perpetuities and the provisions of the Perpetuities Act 1964 do not— 5
- (a) prescribe or restrict the period during which—
 - (i) Te Kapu o Waitaha may exist in law; or
 - (ii) the trustees may hold or deal with property (including income derived from property); or
 - (b) apply to a protocol, deed of recognition, or other document entered into 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. 10
- (2) However, if Te Kapu o Waitaha 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. 15

*Timing of actions or matters***17 Timing of actions or matters** 20

- (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. 25

*Access to deed of settlement***18 Access to deed of settlement**

- The chief executive of the Ministry of Justice must make copies of the deed of settlement available— 30
- (a) for inspection free of charge, and for purchase at a reasonable price, at the head office of the Ministry of Justice in Wellington on any business day; and
 - (b) free of charge on an Internet site maintained by or on behalf of the Ministry of Justice. 35

Part 2 Cultural redress

Subpart 1—Protocols

General provisions

- 19 Authority to issue, amend, or cancel protocol** 5
- (1) A responsible Minister may—
- (a) issue a protocol to the trustees in the form set out in part 4, 5, or 6 (as applicable) of the documents schedule; and
- (b) amend or cancel the protocol.
- (2) A protocol may be amended or cancelled under **subsection (1)** at the initiative of either—
- (a) the trustees; or
- (b) the responsible Minister.
- (3) The responsible Minister may amend or cancel a protocol only after consulting, and having particular regard to the views of, the trustees. 15
- 20 Protocols subject to rights, functions, and obligations**
- 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 the ability to— 20
- (i) introduce legislation and change government policy; and
- (ii) interact with or consult a person the Crown considers appropriate, including any iwi, hapū, marae, whānau, or other representative of tangata whenua; or 25
- (b) the responsibilities of the responsible Minister or responsible department; or
- (c) the legal rights of Waitaha or a representative entity. 30
- 21 Enforceability of protocols**
- (1) The Crown must comply with a protocol while it is in force.
- (2) If the Crown fails, without good cause, to comply with a protocol, the trustees may, subject to the Crown Proceedings Act 1950, enforce the protocol. 35

- (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 a protocol.
- (4) To avoid doubt,—
- (a) **subsections (1) and (2)** do not apply to guidelines developed for the implementation of a protocol; and 5
- (b) **subsection (3)** does not affect the ability of a court to award costs incurred by the trustees in enforcing a protocol under **subsection (2)**.

Conservation protocol 10

22 Noting and effect of conservation protocol

- (1) A summary of the terms of the conservation protocol must be noted in any of the following documents that affect the conservation protocol area:
- (a) a conservation management strategy: 15
- (b) a conservation management plan:
- (c) a national park management plan.
- (2) The noting of the summary is—
- (a) for the purpose of public notice only; and
- (b) not an amendment to the document for the purposes of section 17I of the Conservation Act 1987 or section 46 of the National Parks Act 1980. 20
- (3) The conservation protocol does not have the effect of granting, creating, or providing evidence of—
- (a) rights relating to the marine and coastal area (as defined in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011); or 25
- (b) an estate or interest in land held, managed, or administered or flora or fauna managed or administered under the Conservation Act 1987 or an enactment listed in Schedule 1 of that Act. 30

Crown minerals protocol

23 Noting and effect of Crown minerals protocol

- (1) A summary of the terms of the Crown minerals protocol must be noted in— 35

- (a) a register of protocols maintained by the chief executive of the Ministry of Economic Development; and
 - (b) the minerals programmes affecting the Crown minerals protocol area when those programmes are replaced.
- (2) The noting of the summary is— 5
- (a) for the purpose of public notice only; and
 - (b) not an amendment to the minerals programme 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 in, or rights relating to, any Crown owned mineral. 10
- (4) In this section, **Crown owned mineral** and **minerals programme** have the meanings given to them in section 2(1) of the Crown Minerals Act 1991.

Taonga tūturu protocol

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24 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.

Subpart 2—Statutory acknowledgement and deed of recognition

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Statutory acknowledgement

25 Interpretation

In this subpart,—

specified freehold land has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011 25

statements of association means the statements—

- (a) made by Waitaha of their particular cultural, spiritual, historical, and traditional association with each statutory area; and 30
- (b) that are in the form set out in part 2 of the documents schedule at the settlement date.

26 Statutory acknowledgement by the Crown

The Crown acknowledges the statements of association.

27 Purposes of statutory acknowledgement

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, in accordance with **sections 28 to 30**; and 5
- (b) require relevant consent authorities to give summaries and notices of resource consent applications to the trustees, in accordance with **section 32**; and
- (c) enable the trustees and any member of Waitaha to cite the statutory acknowledgement as evidence of the association of Waitaha with the relevant statutory areas, in accordance with **section 33**. 10

28 Relevant consent authorities to have regard to statutory acknowledgement

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- (1) This section applies in relation to 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, a 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, whether 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

29 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 an activity within, adjacent to, or directly affecting the 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, whether the trustees are persons with an interest in proceedings greater than that of the general public. 35

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

30 Historic Places Trust and Environment Court to have regard to statutory acknowledgement

- (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. 5
- (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 under section 14(6)(a) of that Act whether the trustees may be directly affected by an extension of time. 10
- (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 from a decision of the Historic Places Trust in relation to the application, including determining whether the trustees are directly affected by the decision. 15 20
- (4) In this section, **archaeological site** has the meaning given in section 2 of the Historic Places Act 1993.

31 Recording statutory acknowledgement on statutory plans

- (1) On and from the effective date, each relevant consent authority must attach information recording the statutory acknowledgement to all statutory plans that wholly or partly cover a statutory area. 25
- (2) The information attached to a statutory plan must include—
- (a) the relevant provisions of **sections 26 to 30** in full; and 30
 - (b) the description of the statutory area wholly or partly covered by the plan; and
 - (c) the statement of association for the statutory area.
- (3) The attachment of information to a statutory plan under this section is for the purpose of public information only, and the 35

information is not, unless adopted by the relevant consent authority,—

- (a) part of the statutory plan; or
- (b) subject to the provisions of Schedule 1 of the Resource Management Act 1991.

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32 Provision of summaries or notices 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; and
 - (b) if notice of an application for resource consent 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 as may be agreed between the trustees and the relevant consent authority.
- (3) A summary of an application must be given under **subsection (1)(a)**—
 - (a) as soon as is reasonably practicable after the relevant 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 under **subsection (1)(b)** must be given no later than 10 business days after the day on which the relevant 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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33 Use of statutory acknowledgement

- (1) The trustees and any member of Waitaha may, as evidence of the association of Waitaha with a statutory area, cite the statutory acknowledgement that relates to that area in submissions to, and in 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 the bodies specified in **paragraphs (a) to (d)**: 20
 - (f) any other person who is entitled to participate in the proceedings.
- (3) Despite **subsection (2)**, the statutory acknowledgement may be taken into account by the bodies and persons specified in that subsection. 25
- (4) To avoid doubt,—
- (a) neither the trustees nor members of Waitaha are precluded from stating that Waitaha have an association with a statutory area that is not described in the statutory acknowledgement; and 30
 - (b) the content and existence of the statutory acknowledgement do not limit any statement made.

34 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 32** 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 28 to 30** 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
- 35 Application of statutory acknowledgement to river, stream, or coastal marine area**
- (1) If a statutory acknowledgement applies to a river or stream, that part of the acknowledgement—
- (a) applies only to— 15
- (i) the continuously or intermittently flowing body of fresh water, including a modified watercourse, that comprises the river or stream; and
- (ii) the bed of the river or stream; but
- (b) does not apply to— 20
- (i) a part of the bed of the river or stream that is not owned by the Crown; or
- (ii) land that the waters of the river or stream do not cover at their fullest flow without flowing over its banks; or 25
- (iii) an artificial watercourse.
- (2) If a statutory acknowledgement applies to the coastal marine area, the acknowledgement does not apply to any specified freehold land in the area.
- Deed of recognition* 30
- 36 The Crown may make deed of recognition**
- (1) The Minister of Conservation and the Director-General may—
- (a) enter into a deed of recognition in favour of the trustees in relation to the statutory areas referred to as—
- (i) Hakoko Creek: 35
- (ii) Kaokaonui Kāinga:

- (iii) Paraiti Creek:
- (iv) Popaki Creek:
- (v) Te Raparapa-ā-Hoe; and
- (b) amend the deed of recognition, but only with the consent of the trustees. 5
- (2) A deed of recognition must be substantially in the form set out in part 3 of the documents schedule.
- (3) If a deed of recognition applies to a river or stream, the deed—
 - (a) applies only to the bed of the river or stream; but
 - (b) does not apply to— 10
 - (i) a part of the bed of the river or stream that is not owned by the Crown; or
 - (ii) land that the waters of the river or stream do not cover at their fullest flow without flowing over its banks; or 15
 - (iii) an artificial watercourse.
- (4) If a deed of recognition applies to the coastal marine area, the deed does not apply to any specified freehold land in the area.

General provisions

- 37 Exercise or performance of powers, duties, and functions** 20
- (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 Waitaha with a statutory area than that person would give under the relevant legislation or bylaw if there were no statutory acknowledgement or deed of recognition for the statutory area. 30
 - (2) **Subsection (1)(b)** does not limit **subsection (1)(a)**.
- 38 Rights not affected** 35
- Except as expressly provided in this subpart, the statutory acknowledgement and the deed of recognition do not affect the

lawful rights or interests of any person who is not a party to the deed of settlement.

39 Limitation of rights

Except as expressly provided in this subpart, the statutory acknowledgement and the deed of recognition do not have the effect of granting, creating, or providing evidence of an estate or interest in, or rights relating to, a statutory area. 5

Consequential amendment to Resource Management Act 1991

40 Amendment to Resource Management Act 1991

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- (1) This section amends the Resource Management Act 1991.
- (2) In Schedule 11, insert in its appropriate alphabetical order “Waitaha Claims Settlement Act **2012**”.

Subpart 3—Te Whakairinga Kōrero

41 Interpretation

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- (1) In this Act, **Te Whakairinga Kōrero** means the application of this subpart to Ōtawa and Te Ara a Hei.
- (2) In this subpart,—

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

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national park management plan means a management plan for a national park prepared under section 45 of the National Parks Act 1980

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

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ngā tikanga o Waitaha means the statement of ngā tikanga o Waitaha set out on pages 1 and 2 of part 1 of the documents schedule

protection principles,—

- (a) for Ōtawa, means the protection principles set out in relation to Ōtawa on pages 4 and 5 of part 1 of the documents schedule at the settlement date, including any amendments made to the principles under **section 45(4) or (5)**: 30

- (b) for Te Ara a Hei, means the protection principles set out in relation to Te Ara a Hei on pages 7 and 8 of part 1 of the documents schedule at the settlement date, including any amendments made to the principles under **section 45(4) or (5)** 5

statement of Waitaha values,—

- (a) for Ōtawa, means the statement of values made by Waitaha in relation to Ōtawa and set out in part 1 of the documents schedule:
- (b) for Te Ara a Hei, means the statement of values made by Waitaha in relation to Te Ara a Hei and set out in part 1 of the documents schedule 10

Te Whakairinga Kōrero site—

- (a) means a site that is declared under **section 42** to be subject to Te Whakairinga Kōrero; but 15
- (b) does not include an area that is declared under **section 56(1)** to be no longer subject to Te Whakairinga Kōrero

Waitaha values,—

- (a) for Ōtawa, means the values set out in the statement of Waitaha values for Ōtawa: 20
- (b) for Te Ara a Hei, means the values set out in the statement of Waitaha values for Te Ara a Hei.

42 Declaration of Te Whakairinga Kōrero

- (1) The following sites are subject to an overlay classification called Te Whakairinga Kōrero: 25
- (a) Ōtawa:
- (b) Te Ara a Hei.
- (2) The sites are described in **Schedule 2**.

43 The Crown's acknowledgement of Waitaha values 30

The Crown acknowledges the statements of Waitaha values relating to Ōtawa and Te Ara a Hei respectively.

44 Purposes of Te Whakairinga Kōrero

The only purposes of the declaration of Te Whakairinga Kōrero and of the Crown's acknowledgement of Waitaha values in relation to Ōtawa and Te Ara a Hei are—

- (a) to require the New Zealand Conservation Authority and relevant conservation boards to have particular regard to—
 - (i) Waitaha values and the protection principles in accordance with **section 46**; and
 - (ii) the views of the trustees under **section 47**: 10
- (b) to require the New Zealand Conservation Authority to give the trustees an opportunity to make submissions, as provided for in **section 48**;
- (c) to enable the taking of action under **sections 51 to 54**.

45 Agreement on protection principles 15

- (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) harming Waitaha values or ngā tikanga o Waitaha in relation to Ōtawa and Te Ara a Hei; and 20
 - (b) diminishing Waitaha values or ngā tikanga o Waitaha in relation to Ōtawa and Te Ara a Hei.
- (3) The protection principles set out in part 1 of the documents schedule in relation to Ōtawa and Te Ara a Hei at the settlement date are to be treated as having been agreed by the trustees and the Crown under **subsection (1)**. 25
- (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 Ōtawa or Te Ara a Hei. 30
- (6) However, before amending the protection principles under **subsection (5)**, the Crown must consult the trustees. 35

46 Duties of New Zealand Conservation Authority and conservation boards in relation to Waitaha values and protection principles

- (1) This section applies ~~before~~ when the New Zealand Conservation Authority or a conservation board considers or approves a conservation management strategy, a conservation management plan, or a national park management plan in relation to a Te Whakairinga Kōrero site. 5
- (2) The New Zealand Conservation Authority or the conservation board must have particular regard to— 10
- (a) the applicable statement of Waitaha values; and
 - (b) the applicable protection principles.

47 Duty of 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 conservation management strategy, a conservation management plan, or a national park management plan in relation to a Te Whakairinga Kōrero site. 15
- (2) The New Zealand Conservation Authority or the conservation board must— 20
- (a) consult the trustees; and
 - (b) have particular regard to the views of the trustees as to the effect of the strategy or plan on—
- (i) Waitaha values for the Te Whakairinga Kōrero site; and 25
 - (ii) the protection principles for the site.

48 Opportunity to make submissions on draft conservation management strategy

- (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 a Te Whakairinga Kōrero site. 30
- (2) The New Zealand Conservation Authority must, before approving the strategy, give the trustees an opportunity to make submissions in relation to their concerns. 35

49 Noting of Te Whakairinga Kōrero

(1) The declaration of Te Whakairinga Kōrero must be noted in the following documents if the documents affect a Te Whakairinga Kōrero site:

- (a) a conservation management strategy: 5
- (b) a conservation management plan:
- (c) a national park management plan.

(2) The noting of Te Whakairinga Kōrero under **subsection (1)**—

- (a) is for the purpose of public notice only; and 10
- (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.

50 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 Ōtawa and Te Ara a Hei are subject to Te Whakairinga Kōrero; and
- (b) the protection principles and amendments to the principles. 20

(2) The Minister of Conservation must notify any amendments to the protection principles made under **section 45** in the *Gazette* as soon as practicable after the amendment has been made.

(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 51 to 54**. 25

51 Actions by Director-General

(1) Following notification in the *Gazette* of the protection principles, the Director-General— 30

- (a) must take action (as described in part 1 of the documents schedule) in relation to those principles; and
- (b) may take any other action in relation to those principles.

(2) The Director-General retains a complete discretion to determine the method and extent of the action to be taken. 35

- (3) The Director-General must notify the trustees of any action the Director-General intends to take.
- (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. 5
- (5) **Subsection (1)** applies subject to **subsections (2) to (4)**.
- 52 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 promulgate regulations or make bylaws). 10
- (2) The Director-General must consult affected conservation boards before initiating an amendment under **subsection (1)**.
- (3) An amendment initiated under **subsection (1)** is an amendment for the purposes of section 17I(1) to (3) of the Conservation Act 1987 or section 46(1) to (4) of the National Parks Act 1980, as the case requires. 15
- (4) This section does not limit **section 51(2)**.
- 53 Regulations** 20
- The Governor-General may, by Order in Council made on the recommendation of the Minister of Conservation, make regulations for the following purposes:
- (a) to provide for the implementation of objectives incorporated in a strategy or plan under **section 52(1)**: 25
- (b) to regulate or prohibit activities by or conduct of members of the public on a Te Whakairinga Kōrero site:
- (c) to create offences for breaches of regulations made under **paragraph (b)**:
- (d) to provide for the following fines to be imposed: 30
- (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. 35

54 Bylaws

- (1) The Minister of Conservation may make bylaws for the following purposes:
- (a) to provide for the implementation of objectives incorporated in a strategy or plan under **section 52(1)**: 5
 - (b) to regulate or prohibit activities by or conduct of members of the public on a Te Whakairinga Kōrero site:
 - (c) to create offences for breaches of bylaws made under **paragraph (b)**:
 - (d) to provide for the following fines to be imposed: 10
 - (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. 15
- (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.

54A Amendment relating to Legislation Act 2012

- (1) This section amends this Act and takes effect on the repeal of the Acts and Regulations Publication Act 1989 and the Regulations (Disallowance) Act 1989. 20
- (2) Replace **section 54(2)** with:
- “(2) Bylaws made under this section—
- “(a) are a legislative instrument and a disallowable instrument for the purposes of the Legislation Act 2012; and 25
 - “(b) must be presented to the House of Representatives under section 41 of that Act.”

55 Existing classification of Te Whakairinga Kōrero

- (1) This section applies if Te Whakairinga Kōrero applies to any land in— 30
- (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. 35
- (2) Te Whakairinga Kōrero 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, conservation area, or reserve.

- 56 Termination of Te Whakairinga Kōrero status** 5
- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister of Conservation, declare that all or part of Ōtawa or Te Ara a Hei is no longer subject to Te Whakairinga Kōrero.
- (2) The Minister of Conservation must not make a recommendation for the purposes of **subsection (1)** unless the trustees and the Minister of Conservation have agreed in writing that Te Whakairinga Kōrero status is no longer appropriate for the area concerned and—
- (a) ~~the trustees and the Minister of Conservation have agreed in writing that Te Whakairinga Kōrero status is no longer appropriate for the area concerned; or~~ 15
 - (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 or has been transferred to a different Minister of the Crown or department of State. 20
- (3) **Subsection (4)** applies if—
- (a) **subsection (2)(b) or (c)** applies; or
 - (b) there is a change in the statutory management regime that applies to all or part of Ōtawa or Te Ara a Hei. 25
- (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.
- 57 Exercise or performance of powers, functions, and duties** 30
- Except as expressly provided in this subpart,—
- (a) the declaration of Te Whakairinga Kōrero and the Crown's acknowledgement of Waitaha values do not affect, and may not be taken into account by, a person exercising a power or performing a function or duty under a statute, regulation, or bylaw; and 35

- (b) no person, in considering a matter or making a decision or recommendation under a statute, regulation, or by-law, may give greater or lesser weight to Waitaha values than that person would give under the relevant statute, regulation, or bylaw if the site had not been declared subject to Te Whakairinga Kōrero and Waitaha values had not been acknowledged. 5

58 Rights not affected

Except as expressly provided in this subpart, the declaration of Te Whakairinga Kōrero and the Crown's acknowledgement of Waitaha values do not affect the lawful rights or interests of a person who is not a party to the deed of settlement. 10

59 Rights not created

Except as expressly provided in this subpart, the declaration of Te Whakairinga Kōrero and the Crown's acknowledgement of Waitaha values do not have the effect of granting, creating, or providing evidence of an estate or interest in, or rights relating to, Ōtawa and Te Ara a Hei. 15

Subpart 4—The Crown not prevented from providing other similar redress 20

60 The Crown may provide other redress

- (1) The provision of the specified cultural redress does not prevent the Crown from doing anything that is consistent with that cultural redress, including— 25
- (a) providing the same or similar redress to a person other than Waitaha or the trustees:
- (b) disposing of land.
- (2) However, **subsection (1)** is not an acknowledgement by the Crown or Waitaha that any other iwi or group has interests in relation to land or an area to which any of the specified cultural redress relates. 30
- (3) In this section, **specified cultural redress** means each of the following, as provided for in this subpart:
- (a) protocols:
- (b) statutory acknowledgements: 35

- (c) deed of recognition:
- (d) Te Whakairinga Kōrero.

Subpart 5—Cultural redress properties and interests

61	Interpretation	5
	In this subpart and subpart 6 ,—	
	cultural redress property means each of the following sites, and each site means the land described by that name in Schedule 3 :	
	<i>Sites that vest in fee simple</i>	10
	(a) the Hine Poto site:	
	(b) the Ohineangaanga site:	
	(c) Te Haehae:	
	<i>Site that vests in fee simple subject to easement</i>	
	(d) Whitikiore:	15
	<i>Sites vesting in fee simple to be administered as reserves</i>	
	(e) the Maungaruahine Pā Historic Reserve:	
	(f) the Ōtara Scenic Reserve	
	(b) the Maungaruahine Pā Historic Reserve:	20
	(c) the Ohineangaanga site:	
	(d) the Ōtara Scenic Reserve (being part of the Ōtara Scenic Reserve):	
	(e) Te Haehae:	
	(f) Whitikiore	25
	kaumātua flats means the buildings, but not the land, that are flats 1, 2, 3, and 4 at 155 Manoeka Road, Te Puke, and the fixtures and fittings of the flats	
	reserve site means—	
	(a) the Maungaruahine Pā Historic Reserve reserved by section 67(3) :	30
	(b) the Ōtara Scenic Reserve reserved by section 69(3) .	

Kaumātua flats

62	Kaumātua flats	35
	The Crown's interest in the kaumātua flats vests in the trustees.	

Sites that vest in fee simple

63 Hine Poto site
The fee simple estate in the Hine Poto site vests in the trustees.

64 Ohineangaanga site
The fee simple estate in the Ohineangaanga site vests in the trustees. 5

65 Te Haehae
The fee simple estate in Te Haehae vests in the trustees.

Site that vests in fee simple subject to easement

66 Whitikiore 10
(1) The fee simple estate in Whitikiore vests in the trustees.
(2) The Crown must, by or on the settlement date, provide the trustees with a registrable right of way easement that provides the trustees with access to Whitikiore from Simpson Road over ~~the route shown marked proposed ROW on deed plan OTS-075-18~~ the areas shown marked A, C, and D on SO 450797. 15
(3) The right of way easement must be substantially in the form set out in part 10 of the documents schedule.

Sites vesting in fee simple to be administered as reserves

67 Maungaruahine Pā Historic Reserve 20
(1) The reservation of the Maungaruahine Pā Historic Reserve (being Maungaruahine Pa Historic Reserve) as a historic reserve subject to section 18 of the Reserves Act 1977 is revoked. 25
(2) The fee simple estate in the Maungaruahine Pā Historic Reserve vests in the trustees.
(3) The Maungaruahine Pā Historic Reserve is declared a reserve and classified as a historic reserve subject to section 18 of the Reserves Act 1977. 30
(4) The name of the reserve created by **subsection (3)** is the Maungaruahine Pā Historic Reserve.

- (5) The trustees are the administering body of the Maungaruahine Pā Historic Reserve for the purposes of the Reserves Act 1977.

68 Subsequent transfer of Maungaruahine Pā Historic Reserve

- (1) This section applies to all, or a part, of the Maungaruahine Pā Historic Reserve that, at any time after vesting in the trustees under **section 67**, remains a reserve under the Reserves Act 1977 (the **reserve land**). 5
- (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. 10
- (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— 15
- (a) comply with the requirements of the Reserves Act 1977; and
- (b) perform the duties of an administering body under that Act. 20
- (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.
- (5) The documents are— 25
- (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 30
- (b) the written consent of the Minister of Conservation to the transfer of the reserve land; and
- (c) any other document required for registration of the transfer instrument.
- (6) The new owners, from the time of registration under **subsection (4)**,— 35

- (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. 5
- (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 10
- (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
- (c) the transfer instrument for the reserve land is accompanied by a certificate given by the transferees, or the transferees' solicitor, verifying that **paragraphs (a) and (b)** apply. 15
- 69** **~~Ōtara Scenic Reserve (being part of Ōtara Scenic Reserve)~~**
- (1) The reservation₂ subject to section 19 of the Reserves Act 1977₂ of the Ōtara Scenic Reserve (being part of the Ōtara Scenic Reserve) is revoked. 20
- (2) The fee simple estate in the Ōtara Scenic Reserve vests in the trustees.
- (3) The Ōtara Scenic Reserve is declared a reserve and classified as a scenic reserve for the purposes specified in section 19(1)(a) of the Reserves Act 1977. 25
- (4) The name of the reserve created under **subsection (3)** is the Ōtara Scenic Reserve.
- (5) The trustees are the administering body of the Ōtara Scenic Reserve for the purposes of the Reserves Act 1977. 30
- 70** **~~Access for Tapuika over Ōtara Scenic Reserve~~**
- (1) ~~On and from the Tapuika settlement date, the members of Tapuika have a right of access, exercisable at any time, over the Ōtara Scenic Reserve.~~ 35

- (2) In exercising the right of access, the members of Tapuika may use the same methods of access as do the members of Waitaha.
- (3) If the Tapuika legislation is enacted, the Registrar-General must, on receipt of an application made by the Director-General, note on the computer freehold register for the Ōtara Scenic Reserve that it is subject to this section. 5
- (4) The right of access applies despite the Reserves Act 1977.
- (5) In this section, **member of Tapuika** means a person specified as a member of Tapuika in the Tapuika legislation.

71 Prohibition of Restriction on transfer of Ōtara Scenic Reserve 10

- (1) The trustees must not transfer the fee simple estate in the Ōtara Scenic Reserve to a person other than the Crown.
- (2) However, the trustees may transfer the fee simple estate in the Ōtara Scenic Reserve to transferees who are the trustees of Te Kapu o Waitaha, after any new trustee has been appointed to the trust or any transferor has ceased to be a trustee of the trust, only if the transfer instrument is accompanied by a certificate given by the transferees, or the transferees' solicitor, verifying that this subsection applies. 15 20

Subpart 5A—Ngā Pae Maunga: property jointly vested in fee simple to be administered as reserve

71A Interpretation

- In this subpart, unless the context otherwise requires,— 25
- encumbrance**, in relation to a joint cultural redress property, means a lease, tenancy, licence, licence to occupy, easement, covenant, or other right or obligation affecting the property that is—
- (a) listed in relation to the property in **Schedule 4**; or 30
- (b) registered in relation to the property before the vesting date

joint cultural redress property means each of the following sites, and each site means the land described by that name in

Schedule 4:

(a) Ōtānewainuku:

(b) Pūwhenua

5

Ngā Hapū o Ngāti Ranginui Settlement Trust means the trust of that name established by a trust deed dated 21 June 2012

Tapuika Iwi Authority Trust means the trust of that name established by a trust deed dated 16 December 2012

10

Te Tahuhu o Tawakeheimoa Trust means the trust of that name established by a trust deed dated 14 December 2012

vesting date means the date specified under **section 71B(1)**.

71B Application of this subpart

(1) This subpart takes effect on and from a date specified by Order in Council made on the recommendation of the Minister of Conservation.

15

(2) The Minister must not make a recommendation unless and until—

(a) legislation is enacted to settle the historical claims of all the iwi described in **subsection (3)**; and

20

(b) that legislation, in each case, provides for the vesting, on a date specified by Order in Council, of the fee simple estate in Ōtānewainuku and Pūwhenua as undivided equal shares in the persons described in **sections 71C(2) and 71D(2)** as tenants in common.

25

(3) The iwi are:

(a) Ngāi Te Rangi:

(b) Ngāti Ranginui:

(c) Ngāti Rangiwewehi:

30

(d) Ngāti Pūkenga:

(e) Tapuika.

71C Ōtānewainuku

(1) Ōtānewainuku ceases to be a conservation area under the Conservation Act 1987.

35

- (2) The fee simple estate in Ōtanewainuku vests as undivided equal shares in the following as tenants in common:
- (a) the trustees of Te Kapu o Waitaha; and
 - (b) the trustees of Ngā Hapū o Ngāti Ranginui Settlement Trust; and 5
 - (c) the entity to be established to represent the members of Ngāi Te Rangi for the purpose of this vesting; and
 - (d) the entity to be established to represent the members of Ngāti Pūkenga for the purpose of this vesting; and
 - (e) the trustees of Te Tahuhu o Tawakeheimoa Trust; and 10
 - (f) the trustees of the Tapuika Iwi Authority Trust.
- (3) Ōtanewainuku is declared a reserve and classified as a scenic reserve subject to section 19(1)(a) of the Reserves Act 1977.
- (4) The reserve is named Ōtanewainuku Scenic Reserve.
- (5) The joint management body established by **section 71E** is the administering body of the reserve, and the Reserves Act 1977 applies to the reserve as if the reserve were vested in the body (as if the body were trustees) under section 26 of that Act. 15
- (6) **Subsections (1) to (5)** do not take effect until the persons described in **subsection (2)** have provided the Crown with a registrable easement in gross for a right of way over Ōtanewainuku on the terms and conditions set out in part 11 of the documents schedule. 20
- (7) Despite the provisions of the Reserves Act 1977, the easement— 25
- (a) is enforceable in accordance with its terms; and
 - (b) is to be treated as having been granted in accordance with that Act.

71D Pūwhenua

- (1) Pūwhenua ceases to be a conservation area under the Conservation Act 1987. 30
- (2) The fee simple estate in Pūwhenua vests as undivided equal shares in the following as tenants in common:
- (a) the trustees of Te Kapu o Waitaha; and
 - (b) the trustees of Ngā Hapū o Ngāti Ranginui Settlement Trust; and 35

- (c) the entity to be established to represent the members of Ngāi Te Rangi for the purpose of this vesting; and
- (d) the entity to be established to represent the members of Ngāti Pūkenga for the purpose of this vesting; and
- (f) the trustees of the Tapuika Iwi Authority Trust; and 5
- (e) the trustees of Te Tahuhu o Tawakeheimoa Trust.
- (3) Pūwhenua is declared a reserve and classified as a scenic reserve subject to section 19(1)(a) of the Reserves Act 1977.
- (4) The reserve is named Pūwhenua Scenic Reserve.
- (5) The joint management body established by **section 71E** is the administering body of the reserve, and the Reserves Act 1977 applies to the reserve as if the reserve were vested in the body (as if the body were trustees) under section 26 of that Act. 10

71E Joint management body for Ōtanewainuku and Pūwhenua Scenic Reserves 15

- (1) A joint management body is established for Ōtanewainuku Scenic Reserve and Pūwhenua Scenic Reserve.
- (2) The following are appointers for the purposes of this section:
 - (a) the trustees of Te Kapu o Waitaha; and
 - (b) the trustees of Ngā Hapū o Ngāti Ranginui Settlement Trust; and 20
 - (c) the entity to be established to represent the members of Ngāi Te Rangi for the purpose of the vesting of Ōtanewainuku and Pūwhenua; and
 - (d) the entity to be established to represent the members of Ngāti Pūkenga for the purpose of the vesting of Ōtanewainuku and Pūwhenua; and 25
 - (e) the trustees of the Tapuika Iwi Authority Trust; and
 - (f) the trustees of Te Tahuhu o Tawakeheimoa Trust.
- (3) Each appointer may appoint 1 member to the joint management body. 30
- (4) A member is appointed only if the appointer gives written notice with the following details to the other appointers:
 - (a) the full name, address, and other contact details of the member; and 35
 - (b) the date on which the appointment takes effect, which must be no earlier than the date of the notice.

- (5) An appointment ends after 5 years or when the appointer replaces the member by making another appointment.
- (6) A member may be appointed, reappointed, or discharged at the discretion of the appointer.
- (7) Sections 32 to 34 of the Reserves Act 1977 apply to the joint management body as if it were a board. 5
- (8) However, the first meeting of the body must be held no later than 2 months after the vesting date.

71F Restriction on transfer of Ōtanewainuku and Pūwhenua

- (1) The registered proprietors of an undivided share in the fee simple estate in Ōtanewainuku and Pūwhenua Scenic Reserve must not transfer the undivided share. 10
- (2) However, the registered proprietors may transfer the undivided share if—
- (a) the transferors of the share are or were the trustees of a trust; and 15
- (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
- (c) the instrument to transfer the share is accompanied by a certificate given by the transferees, or the transferees' solicitor, verifying that **paragraphs (a) and (b)** apply. 20

71G Provisions of other Acts with same effect for joint cultural redress property

- (1) This section applies if a provision in this Act has the same effect as a provision in another Act for 1 of the following properties: 25
- (a) Ōtanewainuku:
- (b) Pūwhenua.
- (2) The provisions must be given effect to only once, as if they were 1 provision. 30

*General provisions relating to vesting of joint
cultural redress properties under this subpart*

71H Properties vest subject to, or together with, encumbrances

Each joint cultural redress property vests under this subpart subject to, or together with, any encumbrances.

5

71I Encumbrances for joint cultural redress property that is reserve

(1) This section applies to a joint cultural redress property that is a reserve while—

- (a) the property has an administering body that is treated as if the property were vested in it; and 10
(b) all or part of the property remains a reserve under the Reserves Act 1977 (the reserve land).

(2) If the property is affected by an encumbrance, the encumbrance applies as if the administering body were the grantor, or the grantee, as the case may be, of the encumbrance in respect of the reserve land. 15

(3) Any encumbrance that affects the reserve land must be dealt with for the purposes of registration as if the administering body were the registered proprietor of the land. 20

(4) However, **subsections (2) and (3)** do not affect the registration of the easement referred to in **section 71C**.

71J Encumbrances that are not interests in land

(1) This section applies if a joint cultural redress property is subject to an encumbrance (other than an interest in land) for which there is a grantor, whether or not the encumbrance also applies to land outside the joint cultural redress property. 25

(2) The encumbrance applies as if the owners of the joint cultural redress property were the grantor of the encumbrance in respect of the property, except to the extent that **subsection (3)** applies. 30

(3) If all or part of the joint cultural redress property is reserve land to which **section 71** applies, the encumbrance applies as if the administering body of the reserve land were the grantor of the encumbrance in respect of the reserve land. 35

(4) The encumbrance applies—

- (a) until the encumbrance expires or is terminated; and
- (b) with any other necessary modifications; and
- (c) despite any change in status of the land in the property.

71K Registration of ownership

- (1) This section applies in relation to the fee simple estate in a joint cultural redress property vested under this subpart. 5
- (2) The Registrar-General must, in accordance with an application received from an authorised person,—
- (a) create a computer freehold register for an undivided one-sixth share of the fee simple estate in the property in the name of each of— 10
 - (i) the trustees of Te Kapu o Waitaha;
 - (ii) the trustees of Ngā Hapū o Ngāti Ranginui Settlement Trust;
 - (iii) the entity to be established to represent the members of Ngāi Te Rangi for the purpose of the vesting of Ōtanewainuku and Pūwhenua; 15
 - (iv) the entity to be established to represent the members of Ngāti Pūkenga for the purpose of the vesting of Ōtanewainuku and Pūwhenua; 20
 - (v) the trustees of the Tapuika Iwi Authority Trust;
 - (vi) the trustees of Te Tahuhu o Tawakeheimoa Trust; and
 - (b) enter on the register any encumbrances that are registered, notified, or notifiable and that are described in the application. 25
- (3) **Subsection (2)** applies subject to the completion of any survey necessary to create the computer freehold register.
- (4) A computer freehold register must be created under this section as soon as is reasonably practicable after the vesting date, but no later than— 30
- (a) 24 months after the vesting date; or
 - (b) any later date that may be agreed in writing by the trustees and the Crown.
- (5) In this section, **authorised person** means a person authorised by the Director-General. 35

71L Application of Part 4A of Conservation Act 1987

- (1) The vesting of the fee simple estate in a joint cultural redress property under this subpart 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. 5
- (2) Despite **subsection (1)**, the rest of section 24 of the Conservation Act 1987 does not apply to the vesting of a joint reserve site under **section 71C or 71D**.
- (3) If the reservation of a joint cultural redress property under **section 71C(3) or 71D(3)** is revoked in relation to all or part of the property, then the vesting is no longer exempt from the rest of section 24 of the Conservation Act 1987 in relation to all or that part of the property. 10

71M Recording application of Part 4A of Conservation Act 1987 and sections of this subpart 15

- (1) The Registrar-General must record on the computer freehold register for a joint cultural redress property that is a reserve that—
- (a) the land is subject to Part 4A of the Conservation Act 1987, but that section 24 of that Act does not apply; and 20
- (b) the land is subject to **sections 71F, 71I(3), and 71L(3)**.
- (2) A record 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. 25
- (3) If the reservation under **section 71C(3) or 71D(3)** is revoked for—
- (a) all of the property, then the Director-General must apply in writing to the Registrar-General to remove from the computer freehold register for the site the matters recorded under **subsection (1)**; or 30
- (b) part of the property, then the Registrar-General must ensure that the records referred to in **paragraph (a)** remain on the computer register only for the part of the property that remains a reserve. 35
- (4) The Registrar-General must comply with an application received in accordance with **subsection (3)(a)**.

71N Application of other enactments to joint cultural redress properties

- (1) 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 joint cultural redress property under this subpart; or 5
- (b) any matter incidental to, or required for the purpose of, the vesting.
- (2) The vesting of the fee simple estate in a joint cultural redress property under this subpart does not— 10
- (a) limit section 10 or 11 of the Crown Minerals Act 1991; or
- (b) affect other rights to subsurface minerals.
- (3) 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 joint cultural redress property. 15

Provisions relating to joint cultural redress properties that are reserves 20**71O Application of Reserves Act 1977 to joint cultural redress properties that are reserve**

- (1) 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 joint cultural redress property that is a reserve. 25
- (2) Sections 78(1)(a), 79 to 81, and 88 of the Reserves Act 1977 do not apply in relation to a joint cultural redress property that is a reserve.
- (3) If the reservation under **section 71C(3) or 71D(3)** of a joint cultural redress property as a reserve is revoked under section 24 of the Reserves Act 1977 in relation to all or part of the property, section 25 of that Act, except subsection (2) of that provision, does not apply to the revocation. 30

71P Joint cultural redress property that is reserve must not be mortgaged

The registered proprietors of a joint cultural redress property that is a reserve must not mortgage, or give a security interest in, all or any part of the property that, at any time after vesting under **section 71C or 71D**, remains a reserve under the Reserves Act 1977.

5

71Q Saving of bylaws, etc, in relation to joint cultural redress property that is reserve

(1) This section applies to any bylaw, prohibition, or restriction on use or access that an administering body or the Minister made or granted under the Reserves Act 1977 or the Conservation Act 1987 in relation to a joint cultural redress property that is a reserve before the site vested under **section 71C or 71D**.

10

(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.

15

71R Scenic reserve not to become Crown protected area

(1) If a site is vested under **section 71C or 71D** and reserved and classified as a scenic reserve under that section, the scenic reserve does not become a Crown protected area.

20

(2) In this section, **Crown protected area** has the meanings given by section 4 of the New Zealand Geographic Board (Ngā Pou Taunaha o Aotearoa) Act 2008.

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

25

72 Properties vest subject to, or together with, encumbrances

Each cultural redress property vests under **subpart 5** subject to, or together with, any encumbrances listed in relation to the property in **Schedule 3**.

30

73 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**.

- (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— 5
- (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. 10
- (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,— 15
- (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. 20
- (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— 25
- (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 **subsections (2) and (4)**, **authorised person** means a 30 person authorised by the chief executive of the land holding agency.
- 74 Application of Part 4A of Conservation Act 1987**
- (1) The vesting of the fee simple estate in a cultural redress property in the trustees under **subpart 5** is a disposition for the 35 purposes of Part 4A of the Conservation Act 1987, but sec-

- tions 24(2A), 24A, and 24AA of that Act do not apply to the disposition.
- (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 **section 67 or 69**. 5
- (3) If the reservation of a reserve site under **section 67(3) or 69(3)** is revoked in relation to all or part of the site, then the vesting 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.
- 75 Recording application of Part 4A of Conservation Act 1987 and sections of this Part** 10
- (1) The Registrar-General must record on the computer freehold register for—
- (a) the Maungaruahine Pā Historic Reserve 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 15
- (ii) the land is subject to **sections 68 and 74(3)**; and
- (b) the Ōtara Scenic Reserve that— 20
- (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 71 and 74(3)**; and 25
- (c) any other cultural redress property, that the land is subject to Part 4A of the Conservation Act 1987.
- (2) A record 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. 30
- (3) If the reservation under **section 67(3)** of the Maungaruahine Pā Historic Reserve is revoked in relation to—
- (a) all of the site, then the Director-General must apply in writing to the Registrar-General to remove from the computer freehold register for the site the records that— 35
- (i) section 24 of the Conservation Act 1987 does not apply to the site; and

- (ii) the site is subject to **sections 68 and 74(3)** of this Act; or
- (b) part of the site, then the Registrar-General must ensure that the records referred to in **paragraph (a)** remain ~~only on the computer freehold register for on the com-~~ puter register only for the part of the site that remains a reserve. 5
- (4) If the reservation under **section 69(3)** of the Ōtara Scenic Reserve is revoked in relation to—
- (a) all of the reserve, then the Director-General must apply 10
in writing to the Registrar-General to remove from the computer freehold register for the reserve the records that—
- (i) section 24 of the Conservation Act 1987 does not 15
apply to the site; and
- (ii) the site is subject to **sections 7071 and 74(3)** of this Act; or
- (b) part of the site, then the Registrar-General must ensure that the records referred to in **paragraph (a)** remain only on the computer freehold register for the part of the site that remains a reserve. 20
- (5) The Registrar-General must comply with an application received in accordance with **subsection (3)(a) or (4)(a)**.

76 Application of other enactments to cultural redress properties 25

- (1) Sections 24 and 25 of the Reserves Act 1977 do not apply to the revocation, under **sections 67(1) and 69(1)**, of the reserve status of a reserve site.
- (2) Section 11 and Part 10 of the Resource Management Act 1991 do not apply to— 30
- (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— 35
- (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. 5

Provisions relating to reserve sites

77 Application of Reserves Act 1977 to reserve sites

- (1) 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. 10
- (2) Sections 78(1)(a), 79 to 81, and 88 of the Reserves Act 1977 do not apply in relation to a reserve site.
- (3) If the reservation under **section 67(3) or 69(3)** 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. 15

78 Reserve site must not be mortgaged

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 **section 67 or 69**, remains a reserve under the Reserves Act 1977. 20

79 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 or granted under the Reserves Act 1977 or the Conservation Act 1987 in relation to a reserve site before the site vested in the trustees under **section 67 or 69**. 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

*Names of reserves***80 New reserve names**

- (1) If a site vested under **section 67 or 69** comprised, immediately before the vesting, the whole of a reserve, and an official geographic name was assigned under the New Zealand Geographic Board (Ngā Pou Taunaha o Aotearoa) Act 2008 to the site,— 5
- (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. 10
- (2) However, if a site vested under **section 67 or 69** comprises only part of a reserve,—
- (a) **subsection (1)(a)** applies only to the part of the site that is vested under the applicable section; and 15
- (b) the Board must amend the Gazetteer so that the official geographic name applies only to the part of the reserve that is not vested under the applicable section.
- (3) If a site is vested under **section 67 or 69** and reserved and classified as a historic reserve or a scenic reserve under that section, the historic reserve or scenic reserve does not become a Crown protected area. 20
- (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 25
- 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. 30

Part 3**Commercial redress provided to Waitaha****81 Authority to transfer commercial redress and deferred purchase properties to Waitaha** 35

- (1) To give effect to part 6 of the deed of settlement and part 9 of the property redress schedule, the Crown (acting by and

through the chief executive of the land holding agency) is authorised to do one or both of the following:

- (a) transfer the fee simple estate in a commercial redress property or a deferred purchase property to the trustees:
 - (b) sign a transfer instrument or other document, or do anything else necessary, to effect the transfer. 5
- (2) As soon as is reasonably practicable after the date on which the transfer of a deferred purchase property is settled, the chief executive of the land holding agency must provide written notification of that date to the chief executive of LINZ for the purposes of **section 15**. 10

82 Contingent authority to transfer balance of Te Houhou

- (1) **Subsection (3)** applies to the whole or any part of the balance of Te Houhou (the **land**) that is available to be transferred to Waitaha. 15
- (2) ~~The land is available to be transferred to Waitaha—~~
- (a) ~~on and from the Ngā Pōtiki settlement date, if neither the Ngā Pōtiki deed nor the Ngā Pōtiki legislation provides for the fee simple estate in the land to be transferred to or vested in Ngā Pōtiki; or~~ 20
 - (b) ~~on and from the date on which the Crown's obligations under the Ngā Pōtiki deed or the Ngā Pōtiki legislation are fulfilled without the fee simple estate in the land being transferred to or vested in Ngā Pōtiki.~~
- (2) The land is available to be transferred to Waitaha on and from the date on which the Crown notifies the trustees in accordance with paragraph 7.5 of the property redress schedule that the land is available. 25
- (3) The Crown (acting by and through the chief executive of the land holding agency) is authorised to do one or both of the following: 30
- (a) transfer the fee simple estate in the land to the trustees:
 - (b) sign a transfer instrument or other document, or do any other thing, to effect the transfer.
- (4) As soon as is reasonably practicable after the date on which the transfer of the land to the trustees is settled, the chief executive of the land holding agency must provide written notification 35

of that date to the chief executive of LINZ for the purposes of **section 15**.

(5) In this section,—

Ngā Pōtiki deed means the deed of settlement made between the Crown and Ngā Pōtiki, or a claimant group that includes Ngā Pōtiki, to settle the historical claims of Ngā Pōtiki 5

Ngā Pōtiki legislation means legislation enacted to implement the Ngā Pōtiki deed

Ngā Pōtiki settlement date means the date specified as the settlement date in the Ngā Pōtiki legislation. 10

83 Contingent authority to transfer Te Puke properties

(1) **Subsection (3)** applies to a Te Puke property that is available to be transferred to Waitaha.

(2) A Te Puke property is available to be transferred to Waitaha—

(a) on and from the Tapuika settlement date, if neither the Tapuika deed nor the Tapuika legislation provides for the fee simple estate in the Te Puke property to be transferred to or vested in Tapuika; or 15

(b) on and from the date on which the Crown's obligations under the Tapuika deed or the Tapuika legislation are fulfilled without the fee simple estate in the Te Puke property being transferred to or vested in Tapuika. 20

(2) The land is available to be transferred to Waitaha on and from the date on which the Crown notifies the trustees in accordance with paragraph 7.3 of the property redress schedule that the land is available. 25

(3) The Crown (acting by and through the chief executive of the land holding agency) is authorised to do one or both of the following:

(a) transfer the fee simple estate in the Te Puke property to the trustees: 30

(b) sign a transfer instrument or other document, or do any other thing, to effect the transfer.

(4) As soon as is reasonably practicable after the date on which the transfer of the Te Puke property to the trustees is settled, the chief executive of the land holding agency must provide 35

written notification of that date to the chief executive of LINZ for the purposes of **section 15**.

84 Registrar-General to create computer freehold register

- (1) This section applies to each of the following properties that is transferred to the trustees 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: 5
- (a) a commercial redress property:
 - (b) a deferred purchase property:
 - (c) the whole or part of the balance of Te Houhou: 10
 - (d) a Te Puke property.
- (2) The Registrar-General must, in accordance with a written application by an authorised person, and after completion of any necessary survey, create 1 computer freehold register in the name of the Crown— 15
- (a) subject to, and together with, any encumbrances that are registered, notified, or notifiable and that are described in the written application; but
 - (b) without any statement of purpose.
- (3) In this section and **section 85**, **authorised person** means a person authorised by the chief executive of the land holding agency for the property. 20

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

- (1) For the purposes of **section 84**, the authorised person may grant a covenant to arrange for the later creation of a computer freehold register for any land that is to be transferred to the trustees under part 6 of the deed of settlement. 25
- (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 30
 - (b) the Registrar-General must register the covenant in accordance with **paragraph (a)**. 35

86 Application of other enactments

- (1) Section 11 and Part 10 of the Resource Management Act 1991 do not apply to—
- (a) the transfer of a property to the trustees under this Part; or 5
 - (b) a matter incidental to, or required for the purpose of, the transfer.
- (2) The transfer of a property under this Part does not—
- (a) limit section 10 or 11 of the Crown Minerals Act 1991; or 10
 - (b) affect other rights to subsurface minerals.
- (3) The transfer of a property 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.
- (4) In exercising its powers under **sections 81 and 82**, the Crown is not required to comply with any other enactment that would regulate or apply to the transfer of a property. 15
- (5) **Subsection (4)** is subject to **subsections (2) and (3)**.
- (6) The permission of a council under section 348 of the Local Government Act 1974 is not required for laying out, forming, 20
granting, or reserving a private road, private way, or right of way that may be required to fulfil the terms of part 6 of the deed of settlement in relation to the transfer of a property.
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Schedule 1

Statutory areas of Waitaha

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Statutory area	Location
The peak of Ōtanewainuku	as shown marked in yellow on deed plan OTS-075-03
Statutory areas that are wāhi tapu	
Hakoko Creek	as shown marked in yellow on deed plan OTS-075-04
<u>Kaokaonui Kāinga</u>	<u>shown as Kaokaonui Kiangā and marked in yellow on deed plan OTS-075-04</u>
Paraiti Creek	as shown marked in yellow on deed plan OTS-075-04
Popaki Creek	as shown marked in yellow on deed plan OTS-075-04
Kaokaonui Kāinga	shown as Kaokaonui Kiangā and marked in yellow on deed plan OTS-075-04
Statutory areas that are watercourses	
Waimapu River	as shown marked in blue on deed plan OTS-075-06
<u>Kaiate Stream</u>	<u>as shown marked in blue on deed plan OTS-075-13</u>
Part of Kaituna River	as shown marked in blue on deed plan OTS-075-07
<u>Ohineangaanga Stream</u>	<u>as shown marked in blue on deed plan OTS-075-10</u>
Waiari Stream	as shown marked in blue on deed plan OTS-075-08
<u>Te Raparapa-ā-Hoe</u>	<u>shown as Raparapahoe stream bed and marginal strips marked 1, 2, 3, and 4 on deed plan OTS-075-05</u>
Te Raparapa-ā-Hoe Stream	as shown marked in blue on deed plan OTS-075-09
Te Raparapa-ā-Hoe	shown as Raparapahoe stream bed and marginal strips marked 1, 2, 3, and 4 on deed plan OTS-075-05
<u>Ohineangaanga Stream</u>	<u>as shown marked in blue on deed plan OTS-075-10</u>
<u>Te Kopuaroa River</u>	<u>as shown marked in blue on deed plan OTS-075-12</u>

Statutory areas that are watercourses	Location
Te Rerenga Stream	as shown marked in blue on deed plan OTS-075-11
Te Kopuaroa River	as shown marked in blue on deed plan OTS-075-12
Kaiate Stream	as shown marked in blue on deed plan OTS-075-13
<u>Waiari Stream</u>	<u>as shown marked in blue on deed plan</u> <u>OTS-075-08</u>
<u>Waimapu River</u>	<u>as shown marked in blue on deed plan</u> <u>OTS-075-06</u>
Wairakei Stream	as shown marked in blue on deed plan OTS-075-14
Statutory area (coastal)	Location
Coastal marine area from Maketu to Mauao	as shown marked in blue on deed plan OTS-075-15

Schedule 2**s 42****Te Whakairinga Kōrero sites**

Name of site	Location
Ōtawa	as shown marked in yellow on deed plan OTS-075-01
Te Ara a Hei	as shown marked in yellow on deed plan OTS-075-02

Schedule 3

Cultural redress properties

ss 61, 72

Sites that vest in fee simple

Name of site	Description	Encumbrances
Hine Poto site	South Auckland Land District–Western Bay of Plenty District. 2.8044 hectares more or less, being Lots 1 and 2 DP 27157. All transfer B525705.2.	Subject to unregistered lease over part Lot 2 to Hare Wiremu and Christina Manu Fitzpatrick. Subject to unregistered lease over part Lot 2 to Waitaha Trust.
Ohineangaanga site	South Auckland Land District–Western Bay of Plenty District. 0.4214 hectares, more or less, being Lot 1 DPS 7913. All computer freehold register SA1C/1437. 0.0926 hectares, more or less, being Lot 2 DPS 7913. All computer freehold register SA1C/1438.	Subject to unregistered lease to Nga Kakano Foundation Incorporated.
<u>Te Haehae</u>	<u>South Auckland Land District–Tauranga City.</u> <u>2.2585 hectares, more or less, being Section 2 SO 450797. Part computer freehold register SA23A/1366.</u>	

Name of site	Description	Encumbrances
Whitikiore	<p>South Auckland Land District–Tauranga City. 10.5 hectares, approximately, being part Lot 2 DPS 24826-10.5024 hectares, more or less, being Section 1 SO 450797. Part computer freehold register SA23A/1366. Subject to survey.</p> <p>As shown on deed plan OTS-075-18.</p>	<p>Together with a right of way easement referred to in section 66.</p>
Te Hachae	<p>South Auckland Land District–Tauranga City. 2.25 hectares, approximately, being part Lot 2 DPS 24826. Part computer freehold register SA23A/1366. Subject to survey.</p> <p>As shown on deed plan OTS-075-18.</p>	

Site that vests in fee simple to be administered as historic reserve

Name of site	Description	Encumbrances
Maungaruahine Pā Historic Reserve	<p>South Auckland Land District–Western Bay of Plenty District. 17.3200 hectares, more or less, being Section 51 Block V Maketu Survey District. All GN H076552.</p>	<p>Historic reserve subject to section 18 of the Reserves Act 1977.</p>

Site that vests in fee simple to be administered as scenic reserve

Name of site	Description	Encumbrances
Part of the Ōtara Scenic Reserve to be known as the Ōtara Scenic Reserve	<p data-bbox="667 551 930 636">South Auckland Land District—Western Bay of Plenty District.</p> <p data-bbox="667 636 930 887">5.0 hectares, approximately, being part Section 14 Block 1 Maketu Survey District. 5.0050 hectares, more or less, being Sections 1 and 2 SO 450796. Part proclamation 10017. Subject to survey.</p> <p data-bbox="667 898 930 954">Shown as Ōtara Scenic Reserve on OTS-075-20.</p>	Scenic reserve subject to section 19(1)(a) of the Reserves Act 1977.

Schedule 4**s 71A****Ngā pae maunga — joint cultural redress properties**

<u>Name of property</u>	<u>Description</u>	<u>Encumbrances</u>
<u>Ōtanewainuku</u>	35.5 hectares, approximately, being Part Section 3 Block XVI Ōtanewainuku Survey District. Part <i>Gazette</i> 1947 page 481. Subject to survey.	Scenic reserve subject to section 19(1)(a) of the Reserves Act 1977.
	52.5 hectares, approximately, being Part Section 4 Block XVI Ōtanewainuku Survey District. Part <i>Gazette</i> 1920 page 2119. Subject to survey.	Subject to an unregistered guiding permit with concession number PAC 04-06-40 to Golden Fern Trust (dated 22/9/10).
	27.0 hectares, approximately, being Part Te Puke Block. Part <i>Gazette</i> 1879 page 781. Subject to survey.	Subject to an unregistered guiding permit with concession number PAC 10-06-229 to Black Sheep Touring Company Ltd (dated 19/10/07).
	5.0 hectares, approximately, being Part Waitaha 1. Part <i>Gazette</i> 1884 page 238.	Subject to an easement in gross in favour of the Minister of Conservation referred to in section 71C .
	As shown on deed plan OTS-075-21.	Subject to a memorandum of understanding with the Kokako Trust with number DOCDM 382280 (dated 21/5/09).
<u>Pūwhenua</u>	52.0 hectares, approximately, being Part Lot 4 DPS 85782. Part Computer Freehold Register SA68A/371. Subject to survey.	Scenic reserve subject to section 19(1)(a) of the Reserves Act 1977.
	15.5 hectares, approximately, being Part Section 5 Block XIV Ōtanewainuku Survey District. Part <i>Gazette</i> 1940 page 1059. Subject to survey.	
	As shown on deed plan OTS-075-22.	

Waitaha Claims Settlement Bill

Legislative history

10 September 2012
19 September 2012

Introduction (Bill 65–1)
First reading and referral to Māori Affairs
Committee
