

NGĀTI RANGITEAORERE

and

[Governance entity]

and

THE CROWN

DEED OF SETTLEMENT OF
HISTORICAL CLAIMS

SW. [DATE] TORU Brown
Cherrie Hancock H/D Hancock H/D Hapeta
K. Kura

LeBardis NY STS
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R. A. A. A.

DEED OF SETTLEMENT

PURPOSE OF THIS DEED

This deed –

- sets out an account of the acts and omissions of the Crown before 21 September 1992 that affected Ngāti Rangiteaorere and breached the Treaty of Waitangi and its principles; and
- provides an acknowledgment by the Crown of the Treaty breaches and an apology; and
- settles the historical claims of Ngāti Rangiteaorere that were excluded from the Ngāti Rangiteaorere 1993 deed of settlement; and
- specifies the cultural redress, and the financial and commercial redress, to be provided in settlement to the governance entity that has been approved by Ngāti Rangiteaorere to receive the redress; and
- includes definitions of –
 - the historical claims; and
 - Ngāti Rangiteaorere; and
- provides for other relevant matters; and
- is conditional upon settlement legislation coming into force.

Toko Bore
Chavez
J. Biddle
Mike Hone
H. Parn
W. G.
W. G.

2

DEED OF SETTLEMENT

SCHEDULES

GENERAL MATTERS

1. Implementation of settlement
2. Interest
3. Tax
4. Notice
5. Miscellaneous
6. Defined terms
7. Interpretation

PROPERTY REDRESS

1. Disclosure information and warranty
2. Vesting of cultural redress properties
3. Notice in relation to cultural redress properties
4. Definitions

DOCUMENTS

1. Statements of association
2. Deed of recognition
3. Protocols
4. Letters of introduction
5. Encumbrance

ATTACHMENTS

Area of Interest
Deed plans
RFR land
Draft settlement bill

DEED OF SETTLEMENT

THIS DEED is made between

NGĀTI RANGITEAORERE

and

[Governance entity]

and

THE CROWN

1 BACKGROUND



BACKGROUND

Whakapoungakau

- 1.1 Ngāti Rangiteaorere consider Whakapoungakau to be the ancestral mountain of Ngāti Rangiteaorere. It is of spiritual, cultural, and economic importance to Ngāti Rangiteaorere.
- 1.2 In 2004, the Crown recognised the mandate of Ngā Kahautu Executive Council to negotiate the historical Treaty of Waitangi Claims of the affiliate Te Arawa Iwi and Hapū, including Ngāti Rangiteaorere. In 2006, the Crown recognised the withdrawal of Ngāti Rangiteaorere from the mandate of the Ngā Kaihautu Executive Council.
- 1.3 In 2006 the Crown signed a deed of settlement with Nga Kaihautu Executive Council which provided for the vesting of 46 hectares of Whakapoungakau maunga in the Te Pūmāutanga o Te Arawa (the post-settlement governance entity for the affiliate Te Arawa Iwi and Hapū), as cultural redress. This vesting included the peak of the maunga.
- 1.4 The deed also provided for the renaming of the peak of the maunga as Rangitoto. Ngāti Rangiteaorere challenged the proposed renaming of the peak. In 2007 the Waitangi Tribunal found that the Crown breached the Treaty of Waitangi by not consulting fully and in a timely manner with Ngāti Rangiteaorere about the proposal to change the name of the peak of the maunga.
- 1.5 In 2008 the Crown signed a revised deed of settlement with Te Pūmāutanga o Te Arawa (the post-settlement governance entity for the Affiliate Te Arawa Iwi and Hapū) which, inter alia, provided for the Whakapoungakau to be applied to the previously unnamed range of which the mountain is part. The revised deed also provided for part of the peak of the maunga to be reserved in Crown ownership.
- 1.6 This deed of settlement provides for the vesting of Whakapoungakau Scenic Reserve (321 hectares), including part of the peak, in Ngāti Rangiteaorere as cultural redress (see section 5.14.3).

NEGOTIATIONS

- 1.7 Ngāti Rangiteaorere gave the mandated negotiators a mandate to negotiate a deed of settlement which the Crown recognised on 17 July 2009.

DEED OF SETTLEMENT

1: BACKGROUND

- 1.8 On 25 July 2009, the Ngāti Rangiwewehi and Tapulka Terms of Negotiation were amended to include Ngāti Rangiteaorere under the banner of the Ngā Punawai o Te Tokotoru. While all three iwi negotiated as part of the Ngā Punawai o Te Tokotoru, each iwi has entered into separate agreements in principle and deeds of settlement.
- 1.9 This deed of settlement is in relation to the historical claims of Ngāti Rangiteaorere excluding the claims settled by the 1993 partial settlement of Wai 32.
- 1.10 The 1993 Ngāti Rangiteaorere Deed of Agreement was a partial settlement of Ngāti Rangiteaorere's historical Treaty of Waitangi claims. The parties agree that the redress listed in this deed of settlement and the redress from the 1993 Deed of Agreement, including Te Ngae Farm, between the Crown and Ngāti Rangiteaorere comprise the comprehensive settlement of Ngāti Rangiteaorere's historical Treaty of Waitangi Claims.
- 1.11 The mandated negotiators and the Crown –
- 1.11.1 by joint terms of negotiation dated 25 July 2009, agreed the scope, objectives, and general procedures for the negotiations; and
 - 1.11.2 by agreement dated 6 October 2011, agreed, in principle, that Ngāti Rangiteaorere and the Crown were willing to enter into a deed of settlement on the basis set out in the agreement; and
 - 1.11.3 since the agreement in principle, have –
 - (a) had extensive negotiations conducted in good faith; and
 - (b) negotiated and initialled a deed of settlement.

RATIFICATION AND APPROVALS

- 1.12 Ngāti Rangiteaorere have, since the initialling of the deed of settlement, by a majority of-
- 1.12.1 *[percentage]*%, ratified this deed and approved its signing on their behalf by *[the governance entity]**[a minimum of [number] of]* the mandated signatories; and
 - 1.12.2 *[percentage]*%, approved the governance entity receiving the redress.
- 1.13 Each majority referred to in clause 1.12 is of valid votes cast in a ballot by eligible members of Ngāti Rangiteaorere.
- 1.14 The governance entity approved entering into, and complying with, this deed by *[process (resolution of trustees etc)]* on *[date]*.
- 1.15 The Crown is satisfied –

DEED OF SETTLEMENT

1: BACKGROUND

- 1.15.1 with the ratification and approvals of Ngāti Rangiteaorere referred to in clause 1.12; and
- 1.15.2 with the governance entity's approval referred to in clause 1.14; and
- 1.15.3 the governance entity is appropriate to receive the redress.

AGREEMENT

- 1.16 Therefore, the parties –
 - 1.16.1 in a spirit of co-operation and compromise wish to enter, in good faith, into this deed settling the historical claims; and
 - 1.16.2 agree and acknowledge as provided in this deed.

ACKNOWLEDGMENTS

- 1.17 The parties acknowledge that Ngāti Rangiteaorere has signed with the Crown a previous agreement in partial settlement of claim Wai 32.
- 1.18 Nothing in the previous agreement affects the application of clause 4.3 to the settlement contained in this deed of settlement.

2 HISTORICAL ACCOUNT

- 2.1. The Crown's acknowledgements and apology to the settling group in part 3 are based on this historical account.

NGĀTI RANGITEAORERE: ORIGINS, ROHE, WHANAUNGA

- 2.2. Ngāti Rangiteaorere is an iwi of the Te Arawa confederation of tribes. The iwi traces its descent from Tamatekapua through Kahumatamomoe, Tawakemoetahanga, Uenukumairarofonga and Rangitihī. Rangiteaorere, the eponymous ancestor of the tribe, was the son of Rangihakaekeau, who was in turn one of Rangitihī's eight sons, 'ngā pūmanawa e waru o Te Arawa' (the eight beating hearts of Te Arawa). Rangihakaekeau met Uenukuraihi – the woman who was to be Rangiteaorere's mother – whilst visiting Ngai Tuhoe. When he learnt that Uenukuraihi was with child, Rangihakaekeau said 'ka whānau to tamaiti he wāhine, tapaia ki te ao o Rangitihī. E whānau he tāne, tapaia ko te ao e rere nei' ('if you bear a daughter, call her after the current in the Rangitihī river. If you bear a son, call him after the drifting clouds'). A son was born and named as his father had requested Te Rangi o Te Ao e Rere ana - Rangiteaorere.
- 2.3. The young chief grew up with his mother's people and became a renowned warrior, or tamatoa. In time he set out for the Rotorua area in search of his father. Ngāti Rangiteaorere tradition identifies the military skill of Rangiteaorere as central to the conquest of Mokōia Island by a number of Te Arawa Tribes. Ngāti Rangiteaorere's strong association with Mokōia continues to this day.
- 2.4. Rangiteaorere eventually settled on the northern portion of lands now known as Whakapoungakau, to the east of Lake Rotorua, near the Tikitere geothermal field. These lands are the core of the rohe of Ngāti Rangiteaorere. The principal tribal base of Ngāti Rangiteaorere remains at Te Ngae on Rotorua's eastern shores. With other Arawa iwi, Ngāti Rangiteaorere also occupied Mokōia Island and shared interests in a number of heavily contested coastal blocks near Maketu. Ngāti Rangiteaorere customary interests overlapped and intersected with other iwi, reflecting the closely woven kinship ties amongst the Arawa tribes.

EARLY EXCHANGES BETWEEN NGĀTI RANGITEAORERE, PĀKEHĀ AND THE CROWN

- 2.5. Missionaries visited the Rotorua district in 1831. Ngāti Rangiteaorere were attracted to Christianity's promise of education and to the opportunity to trade with the missionaries. In 1830s the Church Missionary Society established a mission station first at Te Koutu and then on Mokōia, before shifting the mission station to Te Ngae in 1840. The new station played a significant role in introducing Christianity into the wider Te Arawa rohe. Like other Rotorua Māori, Ngāti Rangiteaorere also sought the new economic opportunities made possible by the arrival of European traders and settlers. From 1831, Ngāti Rangiteaorere were among the iwi who migrated to Maketu to trade flax with Phillip Tapsell.
- 2.6. A copy of the Treaty of Waitangi was taken to Rotorua, but Ngāti Rangiteaorere, like their Te Arawa kin, chose not to sign. However, Ngāti Rangiteaorere, as part of the Arawa confederation, was represented at the Kohimarama conference in 1860. Several

DEED OF SETTLEMENT

2: HISTORICAL ACCOUNT

of the Arawa representatives at the conference acknowledged the authority of the Queen and expressed their hope that Māori and Pākehā would work together on matters of mutual interest. In the eyes of the Crown and the Māori delegates, the conference represented a pact of allegiance between the parties.

- 2.7. In 1861 the Governor promoted a system for the administration of 'Native Districts' which came to be known as the Runanga system, or 'new Institutions'. Māori districts were to be controlled by Village and District Runanga supervised by Pakeha officials. The intention was that these bodies would also undertake the role of defining tribal, hapū, and individual land interests. This promised a level of Maori self-government and some Ngāti Rangiteaorere were supportive of the 'new institutions'. They were involved in the Rotorua Runanga. Ultimately the 'new Institutions' proved a short-lived experiment. The Crown later decided to take a different approach and shifted the authority for determining the owners of Māori land to the Native Land Court under the new native land laws.

THE DIVISIONS AND HARDSHIPS OF WAR

- 2.8. Ngāti Rangiteaorere were drawn into the New Zealand wars from the mid-1860s. On the basis of the pledge of allegiance made at Kohimarama, many Ngāti Rangiteaorere supported the Crown in the wars. This support, however, created division within the iwi and the wars pitted Ngāti Rangiteaorere against their kin as well as neighbouring hapū and iwi. Ngāti Rangiteaorere traditions record a significant loss of life for the iwi as a result of these campaigns.
- 2.9. Arawa warriors, including Ngāti Rangiteaorere, were called on to fight in 1865 at a time which prevented them from planting their crops, resulting in a severe shortage of food. The Government provided food relief during 1865 but only limited or no food relief during 1866.

THE IMPACT OF THE NATIVE LAND LAWS

- 2.10. Ngāti Rangiteaorere held all their lands under customary tenure when the native laws of the 1860s came into force. The Native Lands Act 1862 introduced the idea that the customary ownership of land should be determined by way of a formal investigation, by a court or series of courts. This legislation, which did not operate in the Ngāti Rangiteaorere rohe, or New Zealand generally, was replaced by the 1865 Native Lands Act. The 1865 legislation established a national Native Land Court and provided that this Court would first determine the ownership of Māori land 'according to native custom' and then issue the owners thus identified with a title derived from the Crown. The Native Land Acts also set aside the monopoly over the purchasing of Māori land granted to the Crown by the Treaty of Waitangi. Thereafter Māori could sell and lease their lands with few restrictions.
- 2.11. The native land laws introduced a significant change to the Māori land tenure system. Customary tenure was able to accommodate multiple and overlapping interests to the same land or resource. Moreover, the land rights under customary tenure were generally communal but the new land laws gave legal rights to deal with the land solely to individuals. The Native Land Court was not designed to accommodate the complex and fluid customary land usages of Māori as it assigned permanent ownership to a clearly defined area of land.

DEED OF SETTLEMENT

2: HISTORICAL ACCOUNT

- 2.12. The Crown saw these Acts as one of the keys to effective Māori participation in the post 1840 economy. It was also hoped that the application of the native land laws would eventually lead Māori to abandon the collective structures of their traditional landholdings. Among other objectives, the Crown hoped to detribalise Māori, and thought the new land laws would promote their eventual assimilation into European culture. The Court's investigation of title for land could be initiated with an application to the Court in writing from any individual Māori. There was no requirement to obtain wider consent before an application was lodged, but once it had been accepted by the Court all those with customary interests were obliged to participate in the investigation of title, or lose their interests. The title determination process also carried significant costs for Ngāti Rangiteaorere and other Māori.
- 2.13. In 1872 Ngāti Rangiteaorere expressed support for the unsuccessful Native Councils Bill of 1872 which, among other things, proposed the establishment of Native Councils which would investigate the ownership of Māori land and make recommendations to the Court (which would be binding if all parties agreed). However, this Bill was not passed by the Parliament.
- 2.14. Ngāti Rangiteaorere had no alternative but to use the Court if they wished to secure legal title to their lands. Without a certificate of freehold title issued by the Court, Ngāti Rangiteaorere could not complete legally recognised leases or sales of their land or use it as security to enable them to develop their lands. Even where a certificate of title had been issued, private lenders were generally reluctant to lend money on multiply owned land, as much Māori freehold land was. Ngāti Rangiteaorere also considers the Court failed to recognise certain of their interests in land, particularly in the Rotorua Patetere Paeroa and Pukeroa Oruawhata lands southwest of Lake Rotorua.

WHAKAPOUNGAKAU

- 2.15. The majority of the lands of Ngāti Rangiteaorere were located in the Whakapoungakau block on the eastern side of Lake Rotorua, a large block of 10,876 acres. The negative impact of the native land laws on Ngāti Rangiteaorere is illustrated by Native Land Court proceedings in relation to this block in the late nineteenth century.
- 2.16. In 1882 the Native Land Court investigated the ownership of the block and awarded most of it to members of Ngāti Rangiteaorere and a neighbouring iwi. In 1886 the block was divided between the two iwi. The northern subdivisions of Whakapoungakau, (Section 1 to 7 and 17), were awarded to members of Ngāti Rangiteaorere. These blocks, totalling 6838 acres, were known as Okahu, Karioi, Tikitere, Rangitoto, Takapou, Otangiharoa, Te Ngae and Huataka.
- 2.17. An offer of individual interests within the Whakapoungakau 1 (Okahu) block in 1892 caused 'strong winds of dissension' within the iwi. Between 1897 and 1900, the Crown purchased individual shares in this block. Some of these shares were acquired in payment for survey costs.
- 2.18. Some of the most productive land in Whakapoungakau was lost to Ngāti Rangiteaorere as a result of the costs and burdens imposed under the native land laws. In 1900 the Native Land Court awarded the Crown 348 acres from Whakapoungakau (Section 2 to 7 and 17) in lieu of survey costs related to the original Whakapoungakau survey. The

DEED OF SETTLEMENT

2: HISTORICAL ACCOUNT

Individualised interests thus acquired by the Crown were spread across the Whakapoungakau subdivisions, but the Crown managed to persuade Ngāti Rangiteaorere to allow the Crown's awards to form one contiguous parcel of land. The land awarded to the Crown was flat, fertile and easily accessible by road. The land that remained with Ngāti Rangiteaorere was fragmented, and much of it was steep and inaccessible.

- 2.19. In the late nineteenth century, the Native Land Court recognised Ngāti Rangiteaorere interests in Tumu Kaituna, Pukaingataru and Paengaroa North, which were coastal blocks near Maketū. By the turn of the century, the Crown had purchased the shares of some Ngāti Rangiteaorere in these blocks.

MATUA TONGA

- 2.20. Mokoia Island is home to Matua Tonga, an ancient stone carving which is a sacred taonga for Ngāti Rangiteaorere and other Rotorua tribes. In 1883 a legal dispute arose over the ownership of the statue and it was seized by the Constabulary and held for nearly two years while the matter was resolved. Ngāti Rangiteaorere regard Matua Tonga as an ancestor of the highest status, and were incensed that their taonga was treated in this fashion. Following resolution of the court case Matua Tonga was rowed back to Mokoia Island.

GEOTHERMAL

- 2.21. Ngāti Rangiteaorere have always highly valued the Tikitere geothermal field for medicinal, spiritual and bathing purposes. Tikitere was a favoured recuperation place for Ngāti Rangiteaorere warriors. Tikitere has also long been as a popular tourist attraction, providing a commercial and economic base for Ngāti Rangiteaorere to benefit commercially from their connection with the geothermal field. Ngāti Rangiteaorere regard Tikitere as a taonga under their mana.
- 2.22. In 1953 the Crown acquired, without the consent of Ngāti Rangiteaorere, the sole right to regulate the use of geothermal energy resources when the Geothermal Energy Act 1953 was enacted. Ngāti Rangiteaorere holds a strong grievance against the Crown over this matter and considers that the Crown had no authority to overrule the mana of Ngāti Rangiteaorere in the Tikitere geothermal field.

OKATAINA

- 2.23. By the 1960s, Ngāti Rangiteaorere's landholdings in the Whakapoungakau blocks remained largely undeveloped. Whakapoungakau, a maunga sacred to Ngāti Rangiteaorere was located, in part, on the bush-clad Whakapoungakau 4K2E2 block, which was owned by members of the iwi. By this time, the Crown was seeking to secure land to extend the Lake Okataina Scenic Reserve, which lies to the east of the Whakapoungakau blocks. In 1970 the Native Land Court gave effect to a land swap proposed by the Crown. The Court created a block called Okataina 12 by amalgamating Whakapoungakau 4K2E2, which took in 901 acres, with a number of other blocks. Okataina 12 was subsequently awarded to the Crown, which added the land to the Lake Okataina Scenic Reserve. The Ngāti Rangiteaorere owners were thereby alienated from Whakapoungakau maunga.

DEED OF SETTLEMENT

2: HISTORICAL ACCOUNT

- 2.24. In compensation for their loss of Whakapoungakau 4K2E2, the Crown provided the Ngāti Rangiteaorere owners with interests in Matahina X, which was in turn amalgamated with other blocks to form Rotoiti 15, a large block with many owners. The shares given to Ngāti Rangiteaore made up a small fraction of the total shares in the block and Ngāti Rangiteaorere have no traditional connections with Rotoiti 15. Ngāti Rangiteaorere maintain that the Crown failed to adequately consult the owners of the Whakapoungakau 4K2E2 over the land swap. The loss of Whakapoungakau 4K2E2, accompanied by the transfer of their interests into Rotoiti 15, has been a lasting grievance for Ngāti Rangiteaorere.

3 ACKNOWLEDGEMENTS AND APOLOGY

ACKNOWLEDGEMENTS

- 3.1 The Crown acknowledges that it has failed to address until now the long-standing, deeply-felt grievances of Ngāti Rangiteaorere. For Ngāti Rangiteaorere the road to settlement has been a long and challenging one. The Crown hereby recognises the legitimacy of their grievances and makes the following acknowledgements.
- 3.2 The Crown acknowledges that in the 1860's, Ngāti Rangiteaorere were drawn into wars that were not of their making. Those Ngāti Rangiteaorere who supported the Crown during the war did so at considerable cost to themselves.
- 3.3 The Crown acknowledges:
- a. it introduced the native land laws without consulting with Ngāti Rangiteaorere and that the individualisation of title provided for by the native land laws was inconsistent with Ngāti Rangiteaorere tikanga;
 - b. some key Crown goals in introducing the native land laws were to make the lands of Ngāti Rangiteaorere and other iwi available for European settlement, and eventually to detribalise Māori, including Ngāti Rangiteaorere, and assimilate them to European culture;
 - c. Ngāti Rangiteaorere were required to engage with the Native Land Court if they wanted to participate in the modern economy and that the Court's processes had a disruptive effect on Ngāti Rangiteaorere and carried significant costs for them which contributed to the alienation of land; and
 - d. the individualised titles awarded by the Native Land Court made the lands of Ngāti Rangiteaorere, including Whakapoungakau, more susceptible to partition, fragmentation and alienation and this contributed to the erosion of the traditional social structures, mana and rangatiratanga of Ngāti Rangiteaorere. The Crown acknowledges it 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.
- 3.4 The Crown acknowledges that:
- a. Ngāti Rangiteaorere sought to retain tribal authority over their lands but the Crown failed to provide an effective form of corporate title until 1894;
 - b. by 1894 the great bulk of Ngāti Rangiteaorere lands, including Whakapoungakau, had passed through the Native Land Court and were held under individualised title; and
 - c. the Crown's failure to provide an effective means in the native land legislation for the collective administration of Ngāti Rangiteaorere lands before 1894 was a breach of Te Tiriti o Waitangi/the Treaty of Waitangi and its principles.

DEED OF SETTLEMENT

3: ACKNOWLEDGEMENTS AND APOLOGY

3.5 The Crown acknowledges that:

- a. it acquired from Ngāti Rangiteaorere much of the most valuable land in the Whakapoungakau block in lieu of survey costs; and
- b. the land remaining with Ngāti Rangiteaorere was fragmented, and much of it was therefore inaccessible.

3.6 The Crown acknowledges that Ngāti Rangiteaorere consider:

- a. the Tikitere geothermal resource to be a taonga; and
- b. that the Geothermal Energy Act 1953 failed to recognise their mana over this taonga.

3.7 The Crown acknowledges the distress caused to Ngāti Rangiteaorere by the extension of the Lake Okataina Scenic Reserve in the early 1970's. This involved the exchange of land in which many Ngāti Rangiteaorere had significant ancestral connections for land in which they had no such connections. The Crown acknowledges that as a result of this exchange Ngāti Rangiteaorere were alienated from Whakapoungakau maunga, one of their most sacred sites.

APOLOGY

3.8 To the iwi of Ngāti Rangiteaorere, to the tūpuna and the descendants, the Crown now makes this apology.

The Crown recognises that while Ngāti Rangiteaorere has consistently honoured their responsibilities under the Treaty of Waitangi, the Crown has not yet lived up to its Treaty obligations to Ngāti Rangiteaorere. For this, the Crown is deeply sorry.

The Crown accepts that Ngāti Rangiteaorere wished to retain long-established tribal authority over their lands and resources, but, from the 1860s, the Crown introduced native land laws which worked directly against this objective and undermined the mana and the rangatiratanga of Ngāti Rangiteaorere. For this, the Crown unreservedly apologises to Ngāti Rangiteaorere.

Through the native land laws, the actions of Crown purchase agents, and the extension of the Lake Okataina Scenic Reserve, the Crown facilitated the estrangement of Ngāti Rangiteaorere from some of the most cherished parts of their rohe, including their sacred maunga Whakapoungakau. The Crown profoundly regrets the loss and the trauma Ngāti Rangiteaorere thereby experienced.

The Crown now seeks to forge a new relationship with the people of Ngāti Rangiteaorere. This relationship, the Crown sincerely hopes, will be based on mutual trust and co-operation, and grounded in respect for the Te Tiriti o Waitangi/Treaty of Waitangi and its principles.

4 SETTLEMENT

ACKNOWLEDGEMENTS

- 4.1 Each party acknowledges that -
- 4.1.1 the previous settlement between the parties in relation to claim Wai 32 was a partial settlement of the Treaty of Waitangi claims of Ngāti Rangiteaorere; and
 - 4.1.2 this settlement comprehensively settles the remaining historical claims of Ngāti Rangiteaorere; and
 - 4.1.3 each party has acted honourably and reasonably in relation to the settlement; but
 - 4.1.4 full compensation of Ngāti Rangiteaorere is not possible; and
 - 4.1.5 Ngāti Rangiteaorere intends their foregoing of full compensation to contribute to New Zealand's development; and
 - 4.1.6 the settlement is intended to enhance the ongoing relationship between Ngāti Rangiteaorere and the Crown (in terms of the Treaty of Waitangi, its principles, and otherwise).
- 4.2 Ngāti Rangiteaorere acknowledges that, taking all matters into consideration (some of which are specified in clause 4.1), the settlement is fair in the circumstances.

SETTLEMENT

- 4.3 Therefore, on and from the settlement date, -
- 4.3.1 the historical claims are settled; and
 - 4.3.2 the Crown is released and discharged from all obligations and liabilities in respect of the historical claims; and
 - 4.3.3 the settlement is final.
- 4.4 Except as provided in this deed or the settlement legislation, the parties' rights and obligations remain unaffected.
- 4.5 The Crown acknowledges that, except as provided by this deed or the settlement legislation, the provision of redress will not -
- (i) affect any rights of Ngāti Rangiteaorere in relation to water; and
 - (ii) affect, in particular, any rights Ngāti Rangiteaorere may have in relation to aboriginal title or customary rights or any other legal or common law rights including the ability to bring a contemporary claim to water rights and interests.

DEED OF SETTLEMENT

4: SETTLEMENT

- 4.6 Clause 4.5 does not limit clause 4.3.

REDRESS

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

- 4.7.1 is intended to benefit Ngāti Rangiteaorere collectively; but
- 4.7.2 may benefit particular members, or particular groups of members, of Ngāti Rangiteaorere if the governance entity so determines in accordance with the governance entity's procedures.

IMPLEMENTATION

- 4.8 The settlement legislation will, on the terms provided by sections 15-20 of the draft settlement bill, –

- 4.8.1 settle the historical claims; and
- 4.8.2 exclude the jurisdiction of any court, tribunal, or other judicial body in relation to the historical claims and the settlement; and
- 4.8.3 provide that the legislation referred to in section 17(2) of the draft settlement bill does not apply -
 - (a) to a redress property, or any RFR land; or
 - (b) for the benefit of Ngāti Rangiteaorere or a representative entity; and
- 4.8.4 require any resumptive memorial to be removed from a computer register for, a redress property, or any RFR land; and
- 4.8.5 provide that the rule against perpetuities and the Perpetuities Act 1964 does not -
 - (a) apply to a settlement document; [or]
 - (b) [prescribe or restrict the period during which -
 - (i) the trustees of the [] Trust, being the governance entity, may hold or deal with property; and
 - (ii) the [] Trust may exist; and]
- 4.8.6 require the Secretary for Justice to make copies of this deed publicly available.

DEED OF SETTLEMENT

4: SETTLEMENT

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

5 CULTURAL REDRESS

STATUTORY ACKNOWLEDGEMENT

5.1 The settlement legislation will, on the terms provided by sections 30 to 37 and 39 to 43 of the draft settlement bill, -

5.1.1 provide the Crown's acknowledgement of the statements by Ngāti Rangiteaorere of their particular cultural, spiritual, historical, and traditional association with the following areas:

- (a) Waiohewa Stream (as shown on deed plan OTS-209-54);
- (b) Lake Rotorua Marginal Strip (as shown on deed plan OTS-209-55);
- (c) Waiohewa Stream Marginal Strip (as shown on deed plan OTS-209-56); and
- (d) Tikiātere Geothermal Field within the Rotorua Geothermal System (the location of which is indicated on deed plan OTS-209-57); and

5.1.2 require -

- (a) relevant consent authorities, the Environment Court, and the New Zealand Historic Places Trust to have regard to the statutory acknowledgement in relation to the sites listed in clause 5.1.1(a) to 5.1.1(c);
- (b) relevant consent authorities and the Environment Court to have regard to the statutory acknowledgement in relation to the site listed in clause 5.1.1(d); and
- (c) relevant consent authorities to forward to the governance entity
 - (i) summaries of resource consent applications within, adjacent to or directly affecting a statutory area; and
 - (ii) a copy of a notice of a resource consent application served on the consent authority under section 145(10) of the Resource Management Act 1991; and

5.1.3 enable the governance entity, and any member of Ngāti Rangiteaorere, to cite the statutory acknowledgement as evidence of the association of Ngāti Rangiteaorere with an area.

5.2 The statements of association are in the documents schedule.

DEED OF SETTLEMENT

5: CULTURAL REDRESS

DEED OF RECOGNITION

- 5.3 The Crown must, by or on the settlement date, provide the governance entity with a deed of recognition, signed by the Minister of Conservation and the Director-General of Conservation, in relation to the following areas:
- (a) Lake Rotorua Marginal Strip (as shown on deed plan OTS-209-55); and
 - (b) Waiohewa Stream Marginal Strip (as shown on deed plan OTS-209-56).
- 5.4 Each area that a deed of recognition relates to includes only those parts of the area owned and managed by the Crown.
- 5.5 A deed of recognition will provide that the Minister of Conservation and the Director-General of Conservation, must, if undertaking certain activities within an area that the deed relates to –
- 5.5.1 consult the governance entity; and
 - 5.5.2 have regard to its views concerning the association of Ngāti Rangiteaorere with the area as described in a statement of association.

PROTOCOLS

- 5.6 Each of the following protocols must, by or on the settlement date, be signed and issued to the governance entity by the responsible Minister:
- 5.6.1 the conservation protocol;
 - 5.6.2 the Crown minerals protocol; and
 - 5.6.3 the taonga tūturu protocol;
- 5.7 A protocol sets out how the Crown will interact with the governance entity with regard to the matters specified in it.

FORM AND EFFECT OF DEED OF RECOGNITION AND PROTOCOLS

- 5.8 The deed of recognition and each protocol will be-
- 5.8.1 in the form set out in the documents schedule; and
 - 5.8.2 issued under, and subject to, the terms provided by sections 22 to 29 and sections 38 to 42 of the draft settlement bill.
- 5.9 A failure by the Crown to comply with the deed of recognition or a protocol is not a breach of this deed.

DEED OF SETTLEMENT

5: CULTURAL REDRESS

LETTER OF RECOGNITION

- 5.10 The Ministry for Primary Industries (the **Ministry**) recognises that:
- 5.10.1 Ngāti Rangiteaorere as tangata whenua are entitled to have input and participation in fisheries management processes that relate to fish stocks in their area of interest and that are subject to the Fisheries Act 1996;
 - 5.10.2 Ngāti Rangiteaorere as tangata whenua have a special relationship with all species of fish, aquatic life and seaweed within their area of interest and an interest in the sustainable utilisation of all species of fish, aquatic life and seaweed.
- 5.11 The Director-General of the Ministry will write a letter of recognition to the governance entity outlining:
- 5.11.1 that the Ministry recognises Ngāti Rangiteaorere as tangata whenua within their area of interest and has a special relationship with all species of fish, aquatic life and seaweed within their area of interest;
 - 5.11.2 how Ngāti Rangiteaorere can have input and participation into the Ministry's fisheries planning processes; and
 - 5.11.3 how Ngāti Rangiteaorere can implement the Fisheries (Kaimoana Customary Fishing) Regulations 1998 within their area of interest.
- 5.12 The Crown must, by or on the settlement date, procure that the Director-General of the Ministry will write such letter of recognition to the governance entity.

LETTERS OF INTRODUCTION

- 5.13 By or on the settlement date, the Minister for Treaty of Waitangi Negotiations must write letters of introduction in the form set out in the documents schedule to the following organisations:
- (a) Transpower New Zealand Limited;
 - (b) New Zealand Transport Authority;
 - (c) the New Zealand Railways Corporation;
 - (d) Civil Aviation Authority of New Zealand; and
 - (e) Fish and Game New Zealand.

CULTURAL REDRESS PROPERTIES

- 5.14 The settlement legislation will vest in the governance entity on the settlement date -

DEED OF SETTLEMENT

5: CULTURAL REDRESS

In fee simple

- 5.14.1 the fee simple estate in Waiohewa site (as shown on deed plan OTS-209-53); and

As a recreation reserve

- 5.14.2 the fee simple estate in Rangiteaorere site (as shown on deed plan OTS-209-52) as a recreation reserve, with the governance entity as the administering body; and

As a scenic reserve subject to an easement

- 5.14.3 the fee simple estate in Whakapoungukau (as shown on deed plan OTS-209-51) as a scenic reserve, with the governance entity as the administering body, subject to the governance entity granting a registrable easement in relation to that site.

- 5.15 Each cultural redress property is to be –

- 5.15.1 as described in schedule 2 of the draft settlement bill; and

- 5.15.2 vested on the terms provided by –

(a) subpart 3 of part 2 of the draft settlement bill; and

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

- 5.15.3 subject to any encumbrances, or other documentation, in relation to that property:

(a) required by clause 5.14 to be provided by the governance entity; or

(b) required by the settlement legislation; and

(c) in particular, referred to in schedule 2 of the draft settlement bill.

MEMORANDUM OF UNDERSTANDING

- 5.16 The parties acknowledge that the governance entity and the Rotorua District Council have agreed to enter into a Memorandum of Understanding to enable the parties to collaboratively work in partnership in the spirit of commitment, trust and honour.

CULTURAL REDRESS GENERALLY NON-EXCLUSIVE

- 5.17 The Crown may do anything that is consistent with the cultural redress, including entering into, and giving effect to, another settlement that provides for the same or

similar cultural redress.

- 5.18 However, the Crown must not enter into another settlement that provides for the same redress where that redress is offered exclusively to the governance entity.

6 FINANCIAL AND COMMERCIAL REDRESS

FINANCIAL REDRESS

- 6.1 The Crown must pay the governance entity on the settlement date \$250,000, being the financial and commercial redress amount of \$750,000 less –

6.1.1 \$500,000 being the on-account payment that was paid in December 2008 to the Ngāti Rangiteaorere Claims Committee on account of the settlement.

RFR FROM THE CROWN

- 6.2 The governance entity is to have a right of first refusal in relation to a disposal by the Crown or a Crown body of RFR land, being land listed in the attachments as RFR land that, on the settlement date, -

6.2.1 is vested in the Crown; or

6.2.2 the fee simple for which is held by the Crown or New Zealand Transport Authority.

- 6.3 The right of first refusal is –

6.3.1 to be on the terms provided by part 3 of the draft settlement bill; and

6.3.2 In particular, to apply-

(a) for a term of 171 years from the settlement date; but

(b) only if the RFR land is not being disposed of in the circumstances provided by sections 68 to 77 of the draft settlement bill.

7 SETTLEMENT LEGISLATION, CONDITIONS, AND TERMINATION

SETTLEMENT LEGISLATION

- 7.1 Within 12 months after the date of this deed, the Crown must propose the draft settlement bill for introduction to the House of Representatives.
- 7.2 The draft settlement bill proposed for introduction may include changes:
- 7.2.1 of a minor or technical nature; or
 - 7.2.2 where clause 7.2.1 does not apply where those changes have been agreed in writing by the governance entity and the Crown.
- 7.3 Ngāti Rangiteaorere and the governance entity must support the passage through Parliament of the settlement legislation.

SETTLEMENT CONDITIONAL

- 7.4 This deed, and the settlement, are conditional on the settlement legislation coming into force.
- 7.5 However, the following provisions of this deed are binding on its signing:
- 7.5.1 clauses 7.4 to 7.9; and
 - 7.5.2 paragraph 1.3, and parts 4 to 7, of the general matters schedule.

EFFECT OF THIS DEED

- 7.6 This deed –
- 7.6.1 is “without prejudice” until it becomes unconditional; and
 - 7.6.2 in particular, may not be used as evidence in proceedings before, or presented to, the Waitangi Tribunal, any court, or any other judicial body or tribunal.
- 7.7 Clause 7.6 does not exclude the jurisdiction of a court, tribunal, or other judicial body in respect of the interpretation or enforcement of this deed.

TERMINATION

- 7.8 The Crown or the governance entity may terminate this deed, by notice to the other, if –
- 7.8.1 the settlement legislation has not come into force within 24 months after the date of this deed; and

DEED OF SETTLEMENT

7: SETTLEMENT LEGISLATION, CONDITIONS, AND TERMINATION

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

7.9 If this deed is terminated in accordance with its provisions, it –

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

7.9.2 does not give rise to any rights or obligations; and

7.9.3 remains “without prejudice”.

8 GENERAL, DEFINITIONS, AND INTERPRETATION

GENERAL

- 8.1 The general matters schedule includes provisions in relation to –
- 8.1.1 the implementation of the settlement; and
 - 8.1.2 the Crown's –
 - (a) payment of interest in relation to the settlement; and
 - (b) tax indemnities in relation to redress; and
 - 8.1.3 giving notice under this deed or a settlement document; and
 - 8.1.4 amending this deed.

HISTORICAL CLAIMS

- 8.2 In this deed, **historical claims** –
- 8.2.1 means every claim (whether or not the claim has arisen or been considered, researched, registered, notified, or made by or on the settlement date) that Ngāti Rangiteaorere, or a representative entity, had at, or at any time before, the settlement date, or may have at any time after the settlement date, and that –
 - (a) is, or is founded on, a right arising –
 - (i) from the Treaty of Waitangi or its principles; or
 - (ii) under legislation; or
 - (iii) at common law, including aboriginal title or customary law; or
 - (iv) from fiduciary duty; or
 - (v) otherwise; and
 - (b) arises from, or relates to, acts or omissions before 21 September 1992 –
 - (i) by, or on behalf of, the Crown; or
 - (ii) by or under legislation; and

8: GENERAL, DEFINITIONS, AND INTERPRETATION

8.2.2 includes every claim to the Waitangi Tribunal to which clause 8.2.1 applies that relates exclusively to Ngāti Rangiteaorere or a representative entity, including the following claims:

- (a) Wai 32;
- (b) Wai 564;
- (c) Wai 936;
- (d) Wai 1374; and

8.2.3 includes every other claim to the Waitangi Tribunal to which clause 8.2.1 applies, so far as it relates to Ngāti Rangiteaorere or a representative entity, including the following claims:

- (a) Wai 1200;
- (b) Wai 1452;
- (c) Wai 153 (consolidated geothermal claims); and
- (d) Wai 319.

8.3 However, **historical claims** does not include the following claims-

- 8.3.1 a claim that a member of Ngāti Rangiteaorere, or a whānau, hapū, or group referred to in clause 8.5.2 may have that is, or is founded on, a right arising as a result of being descended from an ancestor who is not referred to in clause 8.5.1;
- 8.3.2 a claim that a representative entity may have to the extent the claim is, or is founded, on a claim referred to in clause 8.3.1; or
- 8.3.3 a claim that any whānau, hapū or group defined as Affiliate Te Arawa Iwi/Hapū in section 1.5.1 of the Affiliate Te Arawa Iwi/Hapu deed of settlement may have to the extent of the Crown settlement within that deed.

8.4 To avoid doubt, clause 8.2.1 is not limited by clauses 8.2.2 or 8.2.3.

NGĀTI RANGITEAORERE

8.5 In the deed of settlement **Ngāti Rangiteaorere** means

- 8.5.1 the collective group composed of individuals who descend from an ancestor of **Ngāti Rangiteaorere**;

DEED OF SETTLEMENT

8: GENERAL, DEFINITIONS, AND INTERPRETATION

- 8.5.2 Every whānau, hapu or group to the extent that it is composed of individuals referred to clause 8.5.1;
- 8.6 To avoid doubt, **Ngāti Rangiteaorere**:
- 8.6.1 Excludes any whānau, hapu or group defined as "Affiliate Te Arawa Iwi/Hapu" in section 1.5.1 of the Affiliate Te Arawa Iwi/Hapu Deed of Settlement, to the extent of the Crown settlement within that deed.
- 8.7 **Ancestor of Ngāti Rangiteaorere** means an individual who:
- 8.7.1 exercised **Customary Rights** predominately in relation to the **area of interest** at any time after 6 February 1840 by virtue of being descended from Rangiteaorere;
- 8.8 For the purpose of paragraph 8.6.1, **Customary Rights** means rights according to Tikanga Māori (Māori customary values and practices) including:
- 8.8.1 rights to occupy land; and
- 8.8.2 rights in relation to the use of land or other natural or physical resources.
- 8.9 **member of Ngāti Rangiteaorere** means every individual referred to in paragraph 8.5.
- 8.10 A person **descends** from another person if the first person descends from the other by
- 8.10.1 birth; or
- 8.10.2 legal adoption; or
- 8.10.3 Māori customary adoption in accordance with Ngāti Rangiteaorere tikanga (customary values and practices).

MANDATED NEGOTIATORS AND SIGNATORIES

- 8.11 In this deed –
- 8.11.1 **mandated negotiators** means the following individuals
- (a) Kereama Pene, Auckland;
 - (b) Tai Eru, Rotorua, Councillor;
 - (c) Donna Hall, Lawyer, Wellington (resident at Ohinemutu Village, Rotorua);
 - (d) Bill Kingi, Accountant, Rotorua;
 - (e) Herbie Hapeta Junior, Consultant, Tikitere, Rotorua;

DEED OF SETTLEMENT

8: GENERAL, DEFINITIONS, AND INTERPRETATION

(f) Rangimahuta Easthope, Maori Land Trustee, Hinemoa Point, Rotorua;
and

(g) Waireti Tait, Health Consultant, Hoiohoro, Rotorua

8.11.2 **mandated signatories** means the following individuals:

(a) [*name, town or city of residence, occupation*]:

(b) [*name, town or city of residence, occupation*].

ADDITIONAL DEFINITIONS

8.12 The definitions in part 6 of the general matters schedule apply to this deed.

INTERPRETATION

8.13 Part 7 of the general matters schedule applies to the interpretation of this deed.

DEED OF SETTLEMENT

SIGNED as a deed on **[date]**

SIGNED for and on behalf
of **NGĀTI RANGITEAORERE** by
the mandated signatories in the
presence of -

[name]

[name]

WITNESS

Name:

Occupation:

Address:

SIGNED by **[appropriate signing
provisions for the governance
entity]** in the presence of -

[name]

[name]

WITNESS

Name:

Occupation:

Address:

DEED OF SETTLEMENT

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

The Minister for Treaty of Waitangi
Negotiations in the presence of -

Hon Christopher Finlayson

The Minister of Finance
(only in relation to the tax indemnities)
in the presence of -

Hon Simon William English

WITNESS

Name:

Occupation:

Address: