

NGĀTI APA KI TE RĀ TŌ
and
NGĀTI APA KI TE RĀ TŌ TRUST
and
THE CROWN

DEED TO AMEND
NGĀTI APA
DEED OF SETTLEMENT

DEED TO AMEND NGĀTI APA DEED OF SETTLEMENT

THIS DEED is made on the 12th day of February 2013

BETWEEN

NGĀTI APA KI TE RĀ TŌ ("Ngāti Apa")

AND

NGĀTI APA KI TE RĀ TŌ TRUST ("the governance entity")

AND

THE CROWN

1. BACKGROUND

- A. Ngāti Apa and the Crown are parties to a Deed of Settlement dated 29 October 2010 ("Deed of Settlement").
- B. Ngāti Apa and the Crown wish to enter this deed to formally record certain amendments to the Deed of Settlement, in accordance with clause 4.1 of the General Matters Schedule to the Deed of Settlement.

IT IS AGREED as follows:

EFFECTIVE DATE OF THIS DEED

- 1.1 This deed takes effect when it is signed by the governance entity and the Crown.

AMENDMENTS TO THE DEED OF SETTLEMENT

- 1.2 The Deed of Settlement:
 - 1.2.1 is amended by making the amendments set out in Schedules 1 and 2 to this Deed; but
 - 1.2.2 remains unchanged except to the extent provided by this Deed.

DEFINITIONS AND INTERPRETATION

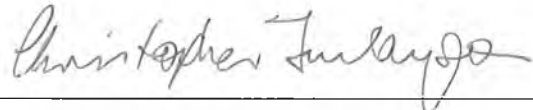
- 1.3 Unless the context otherwise requires:
 - 1.3.1 terms or expressions defined in the Deed of Settlement have the same meanings in this Deed; and
 - 1.3.2 the rules of interpretation in the Deed of Settlement apply (with all appropriate changes) to this Deed.

COUNTERPARTS

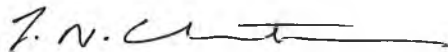
- 1.4 This deed to amend may be signed in counterparts which together shall constitute one agreement binding on the parties, notwithstanding that both parties are not signatories to the original or same counterpart.

SIGNED as a Deed on 2013

SIGNED for and on behalf of
THE CROWN by the Minister for Treaty of
Waitangi Negotiations in the presence of:

)
) 
)

Honourable Christopher Finlayson



Signature of Witness

JAMES CHRISTMAN

Witness Name

Lawyer

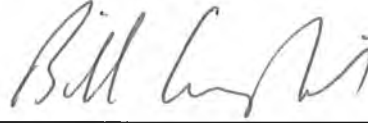
Occupation

Wellington

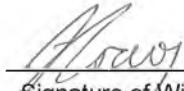
Address

DEED TO AMEND NGĀTI APA DEED OF SETTLEMENT

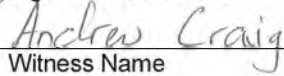
SIGNED for and on behalf of)
THE CROWN by the Minister of Finance only)
in relation to the amendments to the)
indemnities given in Part 2 (Tax) of the)
General Matters Schedule of the Deed of)
Settlement in the presence of:)



Honourable Simon William English



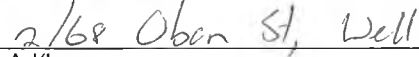
Signature of Witness



Witness Name



Occupation



Address

DEED TO AMEND NGĀTI APA DEED OF SETTLEMENT

SIGNED by the trustees of
NGĀTI APA KI TE RĀ TŌ TRUST
in the presence of:

)
)
)
)



Brendon Wilson

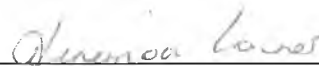


Rex Gapper

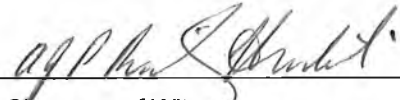
Stephen Huntley



Margaret Bond

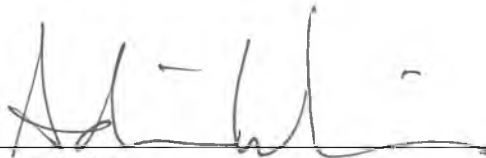


Hinemoa Conner



Signature of Witness

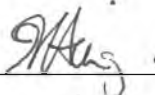
Witness Name: Agnes June Paia Riwaka-Herbert
Occupation: CEO - Ngati Apa ki te Ra to Trust
Address: Blenheim



Adrian Wilson



Denis Gapper



Signature of Witness

Witness Name: Monique King
Occupation: Policy Analyst
Address: Wellington

Schedule 1

AMENDMENTS TO THE DEED OF SETTLEMENT (Deed and General Matters Schedule)

Deed of settlement

Current clause reference	Amendment
6.1	Replace clause 6.1 with: "6.1 The Crown will pay the governance entity on the payment date \$27,087,021.37, being the financial redress amount of \$27,830,388.04, less: 6.1.1 the on-account payment totalling \$676,666.67 referred to in clause 6.2; and 6.1.2 \$66,700.00, being the agreed transfer value of the early transfer commercial redress property being transferred on the transfer date."
6.4.1	Replace "settlement date" with "payment date".
6.6 and 6.7	Replace clauses 6.6 and 6.7 with: "EARLY TRANSFER COMMERCIAL REDRESS PROPERTY 6.6 On the transfer date, the Crown will transfer to the governance entity the fee simple estate in the early transfer commercial redress property, in accordance with the early transfer terms."
6.8	Re-number "6.7".
6.9	Re-number "6.8".
6.10	Re-number "6.9".
6.11	Re-number "6.10".
6.12	Re-number "6.11".
6.13	Re-number "6.12".
6.14	Re-number "6.13". Replace with: "In accordance with paragraph 2 of part 4.1 of the property redress schedule the transfer of cleared current surplus land to the governance entity and/or Te Runanga o Ngāti Kuia Trust and/or the Rangitāne o Wairau Settlement Trust will be on the terms and conditions set out in part 4.3 of the property redress schedule."
6.15	Re-number "6.14" and renumber subclauses accordingly.
6.16	Re-number "6.15" and renumber subclauses accordingly.
6.17	Re-number "6.16". Replace with: "In accordance with paragraph 2 of part 6.1 of the property redress schedule the transfer of the leaseback land or any single lease area to the governance entity and/or Te Runanga o Ngāti Kuia Trust and/or the Rangitāne o Wairau Settlement Trust will be on the terms and conditions set out in part 6.3 of the property redress schedule."
6.18	Re-number "6.17".

DEED TO AMEND NGĀTI APA DEED OF SETTLEMENT

Current clause reference	Amendment
6.19	Re-number "6.18". Delete "of" after "In the event".
6.20	Re-number "6.19".
6.21	Re-number "6.20".
6.22	Re-number "6.21".
6.23	Re-number "6.22". Replace with: "In accordance with paragraph 2 of part 5.1 of the property redress schedule the transfer of the cleared non-operational land to the governance entity and/or Te Runanga o Ngāti Kuia Trust and/or the Rangitāne o Wairau Settlement Trust will be on the terms and conditions set out in part 5.3 of the property redress schedule."
6.24	Re-number "6.23". Replace reference to "clauses 6.11 to 6.23" with "clauses 6.10 to 6.22".
6.25	Re-number "6.24".
6.26	Re-number "6.25". Delete "the commercial redress properties,".
6.27	Re-number "6.26".
6.28	Re-number "6.27" and renumber subclauses accordingly. Replace reference to "clause 6.27" with "clause 6.26".
6.29	Re-number "6.28".
6.30	Re-number "6.29" and renumber subclauses accordingly. Replace reference to "clause 6.29" with "clause 6.28".
6.31	Re-number "6.30".
6.32	Re-number "6.31" and renumber subclauses accordingly. Replace reference to "clause 6.31" with "clause 6.30".
6.33	Re-number "6.32". Replace reference to "clauses 6.27, 6.29 and 6.31" with "clauses 6.26, 6.28 and 6.30".
7.13.2	Insert new subclause (a) "clauses 6.1 and 6.6;" and renumber subclauses accordingly.

DEED TO AMEND NGĀTI APA DEED OF SETTLEMENT

Current clause reference	Amendment
7.16	<p>After clause 7.16, insert:</p> <p>"IF NOT UNCONDITIONAL</p> <p>7.17 The parties intend that if this deed does not become unconditional under clause 7.12:</p> <p>7.17.1 any payments made by the Crown to the governance entity on the payment date will be taken into account in relation to any future settlement of the historical claims;</p> <p>7.17.2 any properties transferred by the Crown to the governance entity under clause 6.6 will be taken into account in relation to any future settlement of the historical claims; and</p> <p>7.17.3 despite clause 7.13.1, the Crown may produce this deed to any Court or tribunal considering the quantum of any redress to be provided by the Crown in relation to any future settlement of the historical claims."</p>

General Matters Schedule

Part 2, paragraph 2.1.1	Delete "or" in subparagraph (b). Delete subparagraph (c).
Part 2, paragraphs 2.4.2(b) and 2.4.3	Delete "; or" in paragraph 2.4.2(b). Delete paragraph 2.4.3.
Part 2, paragraph 2.8	Delete heading before paragraph 2.8. Delete entire paragraph 2.8.
Part 2, paragraph 2.9	Replace "2.9" with "2.8" and renumber subparagraphs accordingly.
Part 2, paragraph 2.10	Replace "2.10" with "2.9". Replace reference to "paragraph 2.11" with "paragraph 2.10". Replace "after the settlement date." with: "after the: 2.9.1 payment date, in relation to the cash settlement amount; or 2.9.2 transfer date, in relation to the early transfer commercial redress property; or 2.9.3 settlement date, in relation to any other redress."
Part 2, paragraph 2.11	Replace "2.11" with "2.10" and renumber subparagraphs accordingly.
Part 2, paragraph 2.12	Replace "2.12" with "2.11" and renumber subparagraphs accordingly. Replace reference to "paragraph 2.9" with " paragraph 2.8".
Part 2, paragraph 2.13	Replace "2.13" with "2.12" and renumber subparagraphs accordingly.
Part 2, paragraph 2.14	Replace "2.14" with "2.13" and renumber subparagraphs accordingly.
Part 2, paragraph 2.15	Replace "2.15" with "2.14" and renumber subparagraphs accordingly. Replace reference to "paragraph 2.17" with "paragraph 2.16".
Part 2, paragraph 2.16	Replace "2.16" with "2.15" and renumber subparagraphs accordingly. Replace reference to "paragraph 2.16.2" with "paragraph 2.15.2".
Part 2, paragraph 2.17	Replace "2.17" with "2.16".
Part 2, paragraph 2.18	Replace "2.18" with "2.17". Delete " gift duty means gift duty imposed under the Estate and Gift Duties Act 1968 and includes any interest or penalty payable in respect of, or on account of, the late or non-payment of, gift duty;".
Part 2, paragraph 2.19	Replace "2.19" with "2.18".

DEED TO AMEND NGĀTI APA DEED OF SETTLEMENT

Part 2, paragraph 2.20	Replace "2.20" with "2.19" and renumber subparagraphs accordingly. Replace reference to "clause 6.14.2" with "clause 6.13". Replace reference to "clause 6.17.2" with "clause 6.16". Replace reference to "clause 6.23.2" with "clause 6.22".
Part 3, paragraph 3.5.1	Replace the address of Ngāti Apa and the governance entity with: "78 Seymour Street Blenheim PO Box 708 Blenheim 7201 Facsimile: 03 577 6321".
Part 5, paragraph 5.1	After the definition of " administering body ", insert a new definition of " agreed transfer value " as follows: " agreed transfer value , in relation to the early transfer commercial redress property means \$66,700.00;".
Part 5, paragraph 5.1	Delete definitions of " authorised person " and " available quantum amount ".
Part 5, paragraph 5.1, definition of " cash settlement amount "	Replace "settlement date" with "payment date".
Part 5, paragraph 5.1, definition of " commercial redress property "	Amend the definition of " commercial redress property " to read: " early transfer commercial redress property ". Replace "each property" with "the property". Move definition to after the definition of "draft settlement bill".
Part 5, paragraph 5.1, definition of " current surplus land "	Replace reference to "clause 6.11" with "clause 6.10".
Part 5, paragraph 5.1	After the definition of " deed of recognition ", insert a new definition of "deed to amend" as follows: " deed to amend means the deed to amend the deed of settlement signed by the governance entity and the Crown in or around December 2012;".
Part 5, paragraph 5.1, definition of " disclosure information ", sub-paragraph (b)	Replace "each commercial redress property," with "the early transfer commercial redress property" and replace "land holding agencies" with "land holding agency".
Part 5, paragraph 5.1	After the definition of " early transfer commercial redress property ", insert a new definition of "early transfer terms" as follows: " early transfer terms means the agreement for sale and purchase in relation to the early transfer commercial redress property entered into by the governance entity and the Chief Executive of LINZ;".

DEED TO AMEND NGĀTI APA DEED OF SETTLEMENT

<p>Part 5, paragraph 5.1, definition of "financial and commercial redress"</p>	<p>Amend subparagraph (b) by inserting the words "early transfer" before the words "commercial redress property".</p> <p>Delete subparagraphs (c), (d) and (e) and renumber the remainder of the subparagraphs accordingly.</p> <p>Replace reference to "clause 6.14.2" with "clause 6.13".</p> <p>Replace reference to "clause 6.17.2" with "clause 6.16".</p> <p>Replace reference to "clause 6.23.2" with "clause 6.22".</p>
<p>Part 5, paragraph 5.1, definition of "financial and commercial redress amount"</p>	<p>Delete both references to "and commercial".</p> <p>Replace reference to "clause 6.1.1" with "clause 6.1".</p>
<p>Part 5, paragraph 5.1, definition of "land holding agency", subparagraph (a)</p>	<p>Replace "a commercial redress property" with "the early transfer commercial redress property".</p>
<p>Part 5, paragraph 5.1, definition of "leaseback land"</p>	<p>Replace reference to "clause 6.15.1" with "clause 6.14.1".</p>
<p>Part 5, paragraph 5.1, definition of "leaseback property"</p>	<p>Delete "commercial redress property or".</p> <p>Replace reference to "parts 2.2 and 3.6" with "part 3.6".</p>
<p>Part 5, paragraph 5.1, definition of "non-operational land"</p>	<p>Replace reference to "clause 6.15.2" with "clause 6.14.2".</p>
<p>Part 5, paragraph 5.1</p>	<p>After the definition of "party" insert a new definition of "payment date" as follows:</p> <p>"payment date means a date within five (5) business days from and after the date the deed to amend was properly executed by the governance entity and the Crown;"</p>
<p>Part 5, paragraph 5.1, definition of "tax"</p>	<p>Replace definition of "tax" with "tax includes income tax and GST;"</p>
<p>Part 5, paragraph 5.1</p>	<p>After the definition of "terms of negotiation" insert a new definition of "transfer date" as follows:</p> <p>"transfer date, subject to the early transfer terms being signed by the parties, means as soon as reasonably practicable after the date the deed to amend was properly executed by the governance entity and the Crown;"</p>

SCHEDULE 2

AMENDMENTS TO THE DEED OF SETTLEMENT (Property Redress Schedule)

Amend the Property Redress Schedule in accordance with the marked changes in the Property Redress Schedule attached in this Schedule 2.

STATEMENT OF INDEMNITY GIVEN UNDER THE PUBLIC FINANCE ACT 1989

Pursuant to section 65ZD(3) of the Public Finance Act 1989, the Minister of Finance makes the following statement:

"On the 12th day of February 2013, I, The Honourable Simon William English, Minister of Finance, on behalf of the Crown, gave a tax indemnity to the trustees of the Ngāti Apa ki te Rā Tō Trust as described under Part 2 of the General Matters Schedule of the Deed of Settlement for Ngāti Apa ki te Rā Tō signed on February 2013 and which is to apply from the date of such signing (namely February 2013).

Dated at *Parliament Buildings* this *12th* day of *February* 2013



Hon Simon William English
Minister of Finance

NGĀTI APA KI TE RĀ TŌ

and

NGĀTI APA KI TE RĀ TŌ TRUST

and

THE CROWN

**DEED OF SETTLEMENT SCHEDULE:
PROPERTY REDRESS**

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1. CULTURAL

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**NGĀTI APA DEED OF SETTLEMENT
PROPERTY REDRESS SCHEDULE**

1. CULTURAL

1. INSPECTION

1.1 The settling group and the governance entity acknowledge that they have had the opportunity to inspect, and form their own opinion of:

1.1.1 the cultural redress properties; and

1.1.2 the disclosure information.

2. SAME MANAGEMENT REGIME AND CONDITION

2.1 Until the settlement date, the Crown must:

2.1.1 continue to manage and administer each cultural redress property in accordance with its existing practices for the property; and

2.1.2 maintain each cultural redress property in substantially the same condition that it is in at the date of this deed.

2.2 Paragraph 2.1 above does not:

2.2.1 apply to a cultural redress property that is not managed and administered by the Crown; or

2.2.2 require the Crown to restore or repair a cultural redress property damaged by events beyond the Crown's control.

3. WARRANTY

3.1 The Crown warrants that the disclosure information contains all the material information about the cultural redress properties that the Crown had, at the date of disclosure, in its records as owner.

4. LIMITS

4.1 Other than under paragraph 3.1 above, no representation or warranty (whether express or implied) is given in relation to:

4.1.1 the cultural redress properties, including in relation to:

(a) their state, condition, fitness for use, occupation, or management; or

(b) their compliance with:

(i) legislation, including bylaws; or

(ii) any enforcement or other notice, requisition, or proceedings; or

4.1.2 the disclosure information about the cultural redress properties, including in relation to its completeness or accuracy.

4.2 The Crown has no liability in relation to the state or condition of a cultural redress property, except for any liability arising as a result of a breach of paragraph 2.1 above.

**NGĀTI APA DEED OF SETTLEMENT
PROPERTY REDRESS SCHEDULE**

1. CULTURAL

5. ACCESS

- 5.1 The Crown is not required to enable access to a cultural redress property for the governance entity or members of the settling group.

6. REQUIRED DOCUMENTATION

- 6.1 On or before the settlement date, the governance entity must sign and return to the Crown any documentation, including any encumbrances, required in relation to the vesting of a cultural redress property.

7. SURVEY

- 7.1 The Crown must arrange, and pay for, the preparation, approval, and where applicable the deposit, of a cadastral survey dataset of a cultural redress property to the extent it is required to enable the issue, under the settlement legislation, of a computer freehold register for the property.

8. REGISTRATION

- 8.1 The Crown will pay any registration costs of any documents required to support the vesting of the cultural redress properties in the governance entity.

2. COMMERCIAL

2.1 ~~[DELETED]COMMERCIAL - TERMS OF TRANSFER~~

NGĀTI APA DEED OF SETTLEMENT
PROPERTY REDRESS SCHEDULE

2.1: ~~IDELETED~~ COMMERCIAL TERMS OF TRANSFER

~~TERMS OF TRANSFER~~

~~(Clause 6.7)~~

~~COMMERCIAL REDRESS PROPERTIES TO BE SUBJECT TO THESE TERMS OF TRANSFER~~

~~If the transfer value of the cleared current surplus land:~~

~~is agreed at least 20 business days prior to settlement date; and~~

~~does not exceed the available quantum amount,~~

~~then the terms of transfer contained in this part 2.1 shall apply to the cleared current surplus land and references to:~~

~~a commercial redress property shall be read to include the cleared current surplus land; and~~

~~the governance entity shall be a reference to the purchasing governance entity or entities.~~

~~If the transfer value of the cleared non-operational land:~~

~~is agreed at least 20 business days prior to settlement date; and~~

~~does not exceed the available quantum amount,~~

~~then the terms of transfer contained in this part 2.1 shall apply to the cleared non-operational land and references to:~~

~~a commercial redress property shall be read to include the cleared non-operational land; and~~

~~the governance entity shall be a reference to the purchasing governance entity or entities.~~

~~If the transfer value of the leaseback land or a single lease area:~~

~~is agreed at least 20 business days prior to settlement date; and~~

~~does not exceed the available quantum amount,~~

~~then the terms of transfer contained in this part 2.1 shall apply to the leaseback land or single lease area and references to:~~

~~a commercial redress property shall be read to include the leaseback land or a single lease area; and~~

~~the governance entity shall be a reference to the purchasing governance entity or entities.~~

~~TRANSFER SUBJECT TO RELEVANT ENCUMBRANCES AND AS REDRESS~~

~~The Crown must transfer the fee simple estate in a commercial redress property to the governance entity on the terms set out in clause 6 of the deed, and in this part 2.1, subject to and, where applicable, with the benefit of:~~

NGĀTI APA DEED OF SETTLEMENT
PROPERTY REDRESS SCHEDULE

2.1: ~~IDELETED~~COMMERCIAL TERMS OF TRANSFER

~~the disclosed encumbrances affecting or benefiting that property (as those disclosed encumbrances may be varied under paragraph 2.2 below); and~~

~~if the property is the leaseback land or single lease area, the lease referred to in paragraph 5 of part 6.1 of the schedule.~~

~~The Crown and the governance entity may agree in writing to vary or add to the disclosed encumbrances affecting a commercial redress property.~~

~~The governance entity must not unreasonably withhold or delay its consent to varying a disclosed encumbrance or granting a new encumbrance affecting a commercial redress property. In particular, in relation to the leaseback land or a single lease area, the governance entity acknowledges and agrees that it may be necessary for any lessee to have registered on the computer freehold or interest register for the leaseback land or single lease area, encumbrances to protect any new or existing infrastructure.~~

~~A commercial redress property will be transferred as redress and, except as provided for in paragraph 4.6 of this part, without charge to, or consideration to be provided or paid by, the governance entity or any other person.~~

~~The Crown will pay any survey and registration costs required to transfer the fee simple estate in a commercial redress property to the governance entity.~~

OBLIGATIONS PRIOR TO SETTLEMENT DATE

~~The Crown must maintain a commercial redress property, or ensure its maintenance, until the settlement date in substantially the same condition as it is in at the date of this deed, fair wear and tear excepted.~~

~~Between the date of this deed and the settlement date the Crown must consult with, and obtain the prior written consent of, the governance entity (which will not be unreasonably withheld or delayed) before:~~

~~agreeing to any material variation in the terms of a disclosed encumbrance affecting or benefiting a commercial redress property; or~~

~~procuring any consent, or providing any waiver, under the Resource Management Act 1991, or other legislation, that materially affects a commercial redress property.~~

~~The Crown must, if it carries out works, or gives specific authority in writing for works to be carried out, on a commercial redress property, between the date of this deed and the settlement date, for which the Crown must by law obtain a building consent or permit, comply with any obligations imposed on the Crown under the Building Act 2004 in respect of such works.~~

~~The Crown must pay all charges for electric power, gas, water, and other utilities that the Crown owes as owner of a commercial redress property until the settlement date except where those charges are payable by any tenant or occupant directly to the relevant supplier.~~

~~Subject to the terms of any disclosed encumbrance affecting a commercial redress property, the Crown must use reasonable endeavours to obtain permission for the governance entity (or a person authorised by the governance entity), upon reasonable notice, to enter a commercial redress property on one occasion before the settlement date to examine it.~~

NGĀTI APA DEED OF SETTLEMENT
PROPERTY REDRESS SCHEDULE

2.1: ~~IDELETED~~ COMMERCIAL TERMS OF TRANSFER

POSSESSION AND SETTLEMENT

On the settlement date:

~~possession must be given and taken of a commercial redress property subject to the disclosed encumbrances (as they may be varied under paragraph 2.2 of this part); and~~

~~vacant possession must be given and taken of a commercial redress property if it is not:~~

~~a leaseback property, the leaseback land or single lease area; or~~

~~subject to any disclosed encumbrance (as they may be varied under paragraph 2.2 of this part) that prevent vacant possession being given and taken.~~

~~Subject to paragraphs 4.3 and 10.1.2, the Crown must provide the governance entity with the following in relation to a commercial redress property on the settlement date:~~

~~evidence of:~~

~~a registrable transfer instrument; and~~

~~any other registrable instrument required by this deed in relation to the property; and~~

~~all contracts and other documents (but not public notices such as proclamations and Gazette notices) that create unregistered rights or obligations affecting the registered proprietor's interest in the property after the settlement date.~~

~~If the fee simple estate in the commercial redress property may be transferred to the governance entity electronically under the relevant legislation:~~

~~paragraph 4.2.1 does not apply;~~

~~the Crown must ensure its solicitor:~~

~~a reasonable time before the settlement date for the property:~~

~~creates a Landonline workspace for the transfer to the governance entity of the fee simple estate in the property; and~~

~~prepares, certifies, signs, and pre-validates in the Landonline workspace the transfer instrument, and all other instruments, necessary, to effect the transfer electronically (the "electronic transfer instruments"); and~~

~~on the settlement date, releases the electronic transfer instruments so that the governance entity's solicitor may submit them for registration under the relevant legislation;~~

~~the governance entity must ensure its solicitor, a reasonable time before the settlement date, certifies and signs the transfer instrument for the property prepared in the Landonline workspace under paragraph 4.3.2(a)(ii); and~~

~~paragraphs 4.3.2 and 4.3.3 are subject to paragraph 10.1.2.~~

~~The relevant legislation for the purposes of paragraph 4.3 is:~~

~~the Land Transfer Act 1952; and~~

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2.1: ~~[DELETED]~~COMMERCIAL TERMS OF TRANSFER

~~the Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002.~~

~~All outgoing and incoming (including rates, excluding insurance premiums) must be apportioned at the settlement date.~~

~~The Crown must supply a statement of apportionments to the governance entity before the settlement date. On the settlement date:~~

~~the governance entity must pay to the Crown the amount by which the outgoing (except for insurance premiums) for a commercial redress property pre-paid by the Crown in respect of a period after the settlement date exceed the incoming received by the Crown for that period; or~~

~~the Crown must pay to the governance entity the amount by which the incoming received by the Crown in respect of a period after the settlement date exceed the outgoing (except for insurance premiums) for a commercial redress property pre-paid by the Crown for that period.~~

~~With the exception of the leaseback land or single lease area, the Crown must make available to the governance entity on the settlement date any keys to gates, exterior doors, and electronic door openers (if any) and/or security codes to alarms (if any) for a commercial redress property that are in the possession of the Crown at the settlement date provided that the Crown shall not have any obligation under this paragraph where in the Crown's reasonable opinion, due to the nature of the commercial redress property, it would be inappropriate to make such items available.~~

~~A commercial redress property must be transferred inclusive of all fixtures and fittings that are owned by the land holding agency and are situated on the commercial redress property at the date of this deed, except in the case of leaseback land or single lease areas, in which case ownership of all lessee's improvements that are required for operational purposes as specified by the land holding agency remain with the lessee. For the avoidance of doubt, the fittings and fixtures transferred in the case of a leaseback land will not include any fixtures or fittings on the land owned by a party that is not the land holding agency. In the case of a leaseback property, the ownership of all lessee's improvements remain with that land holding agency.~~

~~Fixtures and fittings transferred under paragraph 4.8 above are to be free of any mortgage or charge.~~

~~No chattels situated on a commercial redress property will be included in its transfer.~~

~~In respect of a leaseback property, the leaseback land or the single lease areas, paragraphs 4.5-4.10 of this part apply only to the extent they are consistent with the lease.~~

RISK AND INSURANCE

~~A commercial redress property will remain at the sole risk of the Crown until the settlement date and, from the settlement date, it will remain at the sole risk of the governance entity.~~

~~In the event that, prior to the settlement date, a commercial redress property is destroyed or damaged and such destruction or damage has not been made good by the settlement date, then the following provisions apply:~~

~~the governance entity must complete the transfer of the commercial redress property at its transfer value on the condition that the Crown pay to the governance entity an amount equal to the amount (if any) by which the transfer value for the commercial redress property is more~~

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~~than the value of the commercial redress property as at the settlement date as a result of the destruction or damage; and~~

~~either party may give the other party notice in writing requiring that any dispute as to the application of this paragraph 5.2 be determined by an arbitrator to be appointed by the president of the New Zealand Law Society and the party serving the notice may at any time after that refer the dispute to the arbitrator for determination under the Arbitration Act 1996.~~

~~If a dispute relating to a claim by the governance entity for a diminution in value of a commercial redress property under paragraph 5.2.2 is not determined by the settlement date, then:~~

~~settlement shall take place on the settlement date in accordance with this part 2.1 as if there had been no destruction or damage; and~~

~~upon the determination of the dispute the Crown shall pay to the governance entity within 7 business days from such determination a sum equal to the diminution in value of the commercial redress property and interest from settlement date to the date of that payment at the rate set out in clause 6.4.2 of the deed.~~

~~The governance entity will not be required to take over from the Crown any insurance policies in relation to a commercial redress property.~~

TRANSFER VALUE

~~To avoid doubt, the parties acknowledge that the transfer value of a commercial redress property will not be affected by:~~

~~any addition or variation to the disclosed encumbrances agreed in writing by the Crown and the governance entity under paragraph 2.2 of this part; or~~

~~any variation to a disclosed encumbrance agreed by the Crown and the governance entity under paragraph 3.2.1 of this part.~~

BOUNDARIES, TITLE, ETC

~~The Crown will not be bound to point out the boundaries of a commercial redress property.~~

~~If a commercial redress property is subject only to disclosed encumbrances (as they may be varied under paragraph 2.2 of this part), the governance entity:~~

~~will be treated as having accepted the Crown's title to the commercial redress property as at the date of this deed; and~~

~~may not make any objections to, or requisitions on, it.~~

~~Except as otherwise expressly set out in this part 2.1 no error, omission or misdescription of a commercial redress property or its title shall annul the transfer of the commercial redress property.~~

~~Unless otherwise agreed in writing, the Crown will not be liable to pay for, or contribute towards, the expense of erection or maintenance of any fence between a commercial redress~~

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~~property and any contiguous land of the Crown (unless it is the Crown that requires the fence in which case the Crown shall meet all the costs of erecting the fence), and:~~

~~this paragraph will not continue for the benefit of any subsequent purchaser of the contiguous land; and~~

~~the Crown may require the inclusion of a fencing covenant to this effect in any transfer of the commercial redress property.~~

OBLIGATIONS AFTER SETTLEMENT

~~If the Crown receives any notice or demand in relation to a commercial redress property from the Crown, any territorial authority or any tenant after the settlement date, the Crown will, if not paying or complying with such notice or demand, promptly deliver it to the governance entity or the governance entity's solicitor and, if the Crown fails to do so, the Crown will be liable for any penalty incurred.~~

~~Immediately after the settlement date, the Crown will give notice of the transfer of a commercial redress property to the territorial authority having jurisdiction in respect of that property.~~

DISCLOSURE INFORMATION

~~The Crown warrants to the governance entity that the disclosure information in relation to a commercial redress property is all the material information about the property that the land holding agency is aware of at the date of providing that information having inspected its records but not having undertaken a physical inspection of the commercial redress property or made enquiries beyond its records.~~

~~Except as provided in paragraph 9.1 above, the Crown gives no representation or warranty (whether express or implied) nor accepts any responsibility with respect to:~~

~~a commercial redress property including as to its ownership, management, occupation, physical condition, use or compliance with:~~

~~any legislation including by-laws; or~~

~~any enforcement or other notice, requisition or proceedings issued by any authority; or~~

~~the completeness or accuracy of the disclosure information in relation to a commercial redress property.~~

~~The governance entity acknowledges that although the Crown is not giving any representation or warranty in relation to any commercial redress property except as provided in paragraph 9.1 above the governance entity had the opportunity prior to the date of this deed (in addition to being able to examine the disclosure information) to:~~

~~inspect the commercial redress property; and~~

~~determine its state and condition.~~

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2.1: ~~DELETED~~ COMMERCIAL TERMS OF TRANSFER

DELETED TRANSFER OF LEGAL TITLE

~~The Crown covenants for the benefit of the governance entity that it will:~~

~~arrange for the creation of a computer freehold register for the land of a commercial redress property that:~~

~~is not contained in a computer freehold register; or~~

~~is contained in a computer freehold register or registers but together with other land; and~~

~~transfer the fee simple estate in a commercial redress property to which paragraph 10.1.1 applies as soon as reasonably practicable after complying with that paragraph in relation to the property but not later than five years after the settlement date (or in the case of cleared current surplus land, leaseback land and cleared non-operational land where this part 2.1 applies, no later than 12 months after the settlement date (unless otherwise agreed in writing between the parties)).~~

~~The covenant given by the Crown under paragraph 10.1 above shall have effect and be enforceable, despite being positive in effect and there being no dominant tenement.~~

~~If paragraph 10.1 above applies then, for the period from the settlement date until the date that the Crown transfers the title to that commercial redress property to the governance entity:~~

~~the governance entity will be the beneficial owner of that property; and~~

~~all obligations and rights will be performed and arise as if full legal title had passed to the governance entity on the settlement date.~~

MISCELLANEOUS

Further assurances

~~The Crown and the governance entity must, at the request of the other, sign and deliver any further documents or assurances and do all acts and things that the other may reasonably require to give full force and effect to clause 6 of the deed and this part 2.1.~~

Non-merger

~~On transfer of a commercial redress property to the governance entity, the provisions of this part 2.1 will not merge and, to the extent any provision has not been fulfilled, will remain in force.~~

**2.2 SCHEDULE OF EARLY TRANSFER COMMERCIAL REDRESS
PROPERTYIES**

NGĀTI APA DEED OF SETTLEMENT
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2.2: SCHEDULE OF EARLY TRANSFER COMMERCIAL REDRESS PROPERTIES

NGĀTI APA EARLY TRANSFER COMMERCIAL REDRESS PROPERTIES

Land Holding Agency	Office of Treaty Settlements			
Property	Legal Description	Encumbrances	Leaseback	Agreed <u>Transfer Value</u>
St Arnaud Roadmans Cottage	0.7993 hectares, more or less, being Part Section 10 Block XIV Motupiko Survey District. All Computer Freehold Register 13511. Nelson Land District	Adjoining road declared to be a limited access road by 182726.1	No	\$66,700.00

**3. ALL DEFERRED SELECTION PROPERTIES AND
VALUATION PROCESSES**

3.1 ALL DEFERRED SELECTION PROPERTIES - RIGHT TO ACQUIRE

3.1: ALL DEFERRED SELECTION PROPERTIES - RIGHT TO ACQUIRE

RIGHT OF DEFERRED SELECTION

1. NOTICE OF INTEREST

- 1.1 At any time during the 3 year period that commences on the settlement date:
- 1.1.1 the governance entity may give notice to the relevant land holding agency that it is interested in purchasing a deferred selection property; and/or
 - 1.1.2 with the written approval of Te Runanga o Ngāti Kuia Trust and the Rangitāne o Wairau Settlement Trust and provided Te Runanga o Ngāti Kuia Trust or the Rangitāne o Wairau Settlement Trust have not already given notice under the equivalent paragraph 1.1 of its schedule, the governance entity may give notice to the relevant land holding agency that it is interested in purchasing a LINZ/NZTA deferred selection property.
- 1.2 If the governance entity gives notice in accordance with paragraph 1.1 above that it is interested in purchasing a deferred selection property and/or a LINZ/NZTA deferred selection property then that governance entity must:
- 1.2.1 within ~~540~~ 510 business days of giving such notice, agree with the Crown whether the valuation process to be used to determine the transfer value of the property, and if it is a leaseback property to a department other than the Ministry of Education, its commencement rent, is the process set out in:
 - (a) part 3.3 of the schedule - Valuation Process for Independently Valued Assets; or
 - (b) part 3.4 of the schedule - Valuation Process for Jointly Valued Assets; and
 - 1.2.2 within 12 months of the notice given under paragraph 1.1 the transfer value of the property, and if it is a leaseback property to a department other than the Ministry of Education, its commencement rent, must be determined or agreed in accordance with the valuation process.
- 1.3 In the event the parties fail to agree the valuation process in accordance with paragraph 1.2.1 then the parties shall use the process set out in part 3.3 of the schedule - Valuation Process for Independently Valued Assets.
- 1.4 If the governance entity gives the notice to the Crown under paragraph 1.1, it must within 15 business days of all the transfer values (and where relevant, the commencement rents if it is a leaseback property to a department other than the Ministry of Education) for the properties included in the relevant notice given under paragraph 1.1 above being determined or agreed in accordance with the valuation process:
- 1.4.1 in relation to a deferred selection property, notify the land holding agency whether or not it elects to purchase the deferred selection property; or
 - 1.4.2 in relation to a LINZ/NZTA deferred selection property:
 - (a) notify the land holding agency whether or not it or either Te Runanga o Ngāti Kuia Trust or the Rangitāne o Wairau Settlement Trust elect to purchase the LINZ/NZTA deferred selection property; and

**NGĀTI APA DEED OF SETTLEMENT
PROPERTY REDRESS SCHEDULE**

3.1: ALL DEFERRED SELECTION PROPERTIES - RIGHT TO ACQUIRE

- (b) provide to the Crown written certification from Te Runanga o Ngāti Kuia Trust and the Rangitāne o Wairau Settlement Trust that each are in agreement with the details confirmed in paragraph 1.4.2(a).

1.5 The governance entity and the Crown must use reasonable endeavours:

1.5.1 to ensure the valuation process operates in the manner, and within the timeframes, specified in parts 3.3 and 3.4 of the schedule; and

1.5.2 if the valuation process is delayed, to minimise the delay.

2. AGREEMENT FOR SALE AND PURCHASE

2.1 If the governance entity gives notice in accordance with paragraph 1.4 above that it or, in relation to a LINZ/NZTA deferred selection property, the governance entity or Te Runanga o Ngāti Kuia Trust or the Rangitāne o Wairau Settlement Trust, elects to purchase:

2.1.1 a selected non-leaseback property (which includes the LINZ/NZTA deferred selection properties), the purchasing governance entity confirmed in accordance with paragraph 1.4 and the Crown shall be deemed to have entered into an agreement for the sale and purchase of the property:

- (a) at the transfer value determined or agreed in accordance with the valuation process; and

- (b) on the terms set out in part 3.5 of the schedule; or

2.1.2 a selected leaseback property, the governance entity and the Crown shall be deemed to have entered into an agreement for the sale and purchase of the property (being the land but not the lessee's improvements, which do not transfer to the governance entity but remain owned by the land holding agency):

- (a) at the transfer value determined or agreed in accordance with the valuation process;

- (b) at the commencement rent determined or agreed in accordance with the valuation process for a leaseback property to a department other than the Ministry of Education, or in the case of a leaseback to the Ministry of Education, at an initial annual rent determined by multiplying the market value of the property determined under this part by the percentage specified in clause 3.1 of the leaseback to the Ministry of Education (plus GST, if any, on the amount so determined); and

- (c) on the terms set out in part 3.5 of the schedule.

3.1: ALL DEFERRED SELECTION PROPERTIES - RIGHT TO ACQUIRE

3. TERMINATION OF OBLIGATIONS

- 3.1 All obligations of the Crown to the governance entity under this deed in relation to a deferred selection property immediately cease if:
- 3.1.1 the governance entity does not give notice in accordance with paragraph 1.1 above that it is interested in purchasing that deferred selection property;
 - 3.1.2 after giving notice in accordance with paragraph 1.1 above that it is interested in purchasing the deferred selection property, the governance entity:
 - (a) does not notify the land holding agency in accordance with paragraph 1.4 above whether or not it elects to purchase the deferred selection property; or
 - (b) notifies the land holding agency under paragraph 1.4 above that it does not elect to purchase the deferred selection property; or
 - 3.1.3 at any time before an agreement for sale and purchase of that deferred selection property is constituted under paragraph 2.1 above, the governance entity notifies the land holding agency that it is not interested in purchasing the deferred selection property.
- 3.2 All obligations of the Crown to the governance entity, Te Runanga o Ngāti Kuia Trust and the Rangitāne o Wairau Settlement Trust under the deeds of settlement in relation to a LINZ/NZTA deferred selection property immediately cease if:
- 3.2.1 neither the governance entity, Te Runanga o Ngāti Kuia Trust or the Rangitāne o Wairau Settlement Trust give notice in accordance with paragraph 1.1 above that any one of them are interested in purchasing the LINZ/NZTA deferred selection property;
 - 3.2.2 after giving notice in accordance with paragraph 1.1 that one of them is interested in purchasing the LINZ/NZTA deferred selection property, the governance entity, Te Runanga o Ngāti Kuia Trust or the Rangitāne o Wairau Settlement Trust (as the case may be):
 - (a) does not notify the Crown whether or not it or any one of them elect to purchase the LINZ/NZTA deferred selection property in accordance with the provisions of paragraph 1.4 of the relevant governance entity's property redress schedule; or
 - (b) notifies the Crown under paragraph 1.4 of the relevant governance entity's schedule that none of them elect to purchase the LINZ/NZTA deferred selection property; or
 - 3.2.3 at any time before an agreement for sale and purchase of a LINZ/NZTA deferred selection property is constituted under paragraph 2.1 above, the governance entity, Te Runanga o Ngāti Kuia Trust or the Rangitāne o Wairau Settlement Trust notifies the Crown that none of them are interested in purchasing the LINZ/NZTA deferred selection property; or
 - 3.2.4 the beneficial ownership of that land has transferred to either Te Runanga o Ngāti Kuia Trust or the Rangitāne o Wairau Settlement Trust in accordance with the equivalent provision of its deed of settlement.

NGĀTI APA DEED OF SETTLEMENT
PROPERTY REDRESS SCHEDULE

3.1: ALL DEFERRED SELECTION PROPERTIES - RIGHT TO ACQUIRE

4. TIME LIMITS

- 4.1 Time is of the essence for the time limits imposed on the Crown and the governance entity under clause 6 of the deed and parts 3-3.5 of the schedule.

5. LEASING BACK THE LEASEBACK PROPERTIES

- 5.1 If the governance entity elects to purchase a leaseback property, the governance entity must lease to the land holding agency the leaseback property after its transfer to the governance entity.
- 5.2 In respect of a deferred selection property that is to be leased back, the governance entity and the land holding agency must, by or on the actual deferred selection settlement date, sign a lease instrument substantially in the form set out in part 5.1 of the documents schedule (as it applies to the relevant land holding agency) for that leaseback property and providing that the commencement date for that lease is the actual deferred selection settlement date.

6. DEFINITIONS

- 6.1 Unless the context otherwise requires, the definitions in part 3.2 apply in:
- 6.1.1 clause 6 of the deed; and
- 6.1.2 part 3 of the schedule.

**3.2 ~~ALL DEFERRED SELECTION PROPERTIES – INTERPRETATION~~
PROVISIONS FOR VALUATION PROCESS AND FOR THE TERMS OF
TRANSFER FOR ALL DEFERRED SELECTION PROPERTIES**

3.2: INTERPRETATION PROVISIONS FOR VALUATION PROCESS AND FOR THE TERMS OF TRANSFER FOR ALL DEFERRED SELECTION PROPERTIES~~ALL DEFERRED SELECTION PROPERTIES – INTERPRETATION PROVISIONS FOR VALUATION PROCESS AND TERMS OF TRANSFER~~

INTERPRETATION PROVISIONS

(Clauses 6.7 and 6.9)

INTERPRETATION AND NOTICE

1. DEFINITIONS

- 1.1 In clause 6 of the deed and in parts 3.3 - 3.7 of this schedule, unless the context otherwise requires:

actual deferred selection settlement date means the date on which settlement of the property takes place;

arbitration commencement date means the date the Crown makes the referral to arbitration referred to in paragraph 8.1 of part 3.3;

arbitrator means a person appointed under paragraphs 4.2 or 4.3 of part 3.3;

commencement rent, in relation to a deferred selection property, means the commencement rent for that property determined or agreed under the valuation process, or in the case of a leaseback to the Ministry of Education determined in accordance with the leaseback document;

Crown's valuation report means the valuation report prepared by the Crown's valuer in accordance with part 3.3;

Crown's valuer means a registered valuer appointed by the Crown to take part in the valuation process;

deferred selection property means a property listed in part 3.6;

deferred selection settlement date means the date that is 20 business days after the Crown receives a notice from the governance entity under paragraph 1.4 of part 3.1 electing to purchase the property;

disclosed encumbrance is an encumbrance disclosed under paragraph 2.2 of part 3.3 or paragraph 2.2 of part 3.4;

disclosure information, in relation to a deferred selection property or a LINZ/NZTA deferred selection property, means the information given by the Crown about the property referred to in paragraph 2.1 of part 3.3 or paragraph 2.1 of part 3.4;

governance entity's valuation report means the valuation report prepared by the governance entity's valuer in accordance with part 3.3;

governance entity's valuer means a registered valuer appointed by the governance entity to take part in the valuation process;

lease means, in respect of a leaseback property, the lease to be entered into under paragraph 5 of part 3.1;

NGĀTI APA DEED OF SETTLEMENT
PROPERTY REDRESS SCHEDULE

3.2: INTERPRETATION PROVISIONS FOR VALUATION PROCESS AND FOR THE TERMS OF TRANSFER FOR ALL DEFERRED SELECTION PROPERTIES~~ALL DEFERRED SELECTION PROPERTIES – INTERPRETATION PROVISIONS FOR VALUATION PROCESS AND TERMS OF TRANSFER~~

LINZ/NZTA deferred selection property means a property listed in part 3.7;

market rental is the amount, plus GST (if any) and expressed as annual payment, at which a leaseback property would lease subject to specific lease terms and conditions, between a willing lessor and a willing lessee, in an arm's length transaction, after proper marketing, if the parties to the transaction had each acted knowledgeably, prudently, and without compulsion. In applying this definition to the deferred selection property, the following matters (in addition to all other relevant factors) must be taken into account:

- (a) the terms of transfer; and
- (b) the disclosed encumbrances affecting or benefiting that property;

market value is the amount, plus GST (if any), for which the deferred selection property or the LINZ/NZTA deferred selection property might be expected to exchange on the valuation date, between a willing buyer and a willing seller, in an arm's length transaction, after proper marketing, if the parties to the transaction had each acted knowledgeably, prudently and without compulsion. In applying this definition to the deferred selection property or the LINZ/NZTA deferred selection property, the following matters (in addition to all other relevant factors) must be taken into account:

- (a) the terms of transfer; and
- (b) the disclosed encumbrances affecting or benefiting that property;

notification date, in relation to a deferred selection property or a LINZ/NZTA deferred selection property, is the date the governance entity gives the Crown notice under paragraph 1.12 of part 3.1 that it is interested in purchasing that property;

registered valuer means a valuer registered with the Valuers' Registration Board of New Zealand and with experience in the valuation of properties similar to the deferred selection property;

terms of transfer means the terms of transfer set out in part 3.5;

transfer value has the meaning given to it in part 3.3 and part 3.4 as the case may be;

valuation date, in relation to:

- (a) an independently valued asset means the valuation date as provided under paragraph 3.1 of part 3.3; and
- (b) a jointly valued asset means the valuation date as provided under paragraph 3.1 of part 3.4;

valuation exchange date has the meaning set out in paragraph 5.3 of part 3.3; and

valuation process, in relation to a deferred selection property or a LINZ/NZTA deferred selection property, means the process to determine or agree the transfer value of that property in accordance with paragraph 1.2.1 of part 3.1 and parts 3.3 and 3.4, and references to parts are to parts of this schedule.

NGĀTI APA DEED OF SETTLEMENT
PROPERTY REDRESS SCHEDULE

3.2: INTERPRETATION PROVISIONS FOR VALUATION PROCESS AND FOR THE TERMS OF TRANSFER FOR ALL DEFERRED SELECTION PROPERTIES ~~ALL DEFERRED SELECTION PROPERTIES - INTERPRETATION PROVISIONS FOR VALUATION PROCESS AND TERMS OF TRANSFER~~

2. NOTICE

2.1 Until any other address or facsimile number of a land holding agency is given by notice to the governance entities, the addresses of the land holding agencies are as follows:

Department of Conservation:

Conservation House - Whare Kaupapa Atawhai
18-32 Manners St
P O Box 10420
Wellington 6143

Ministry of Education:

45-47 Pipitea Street
PO Box 1666
Thorndon
Wellington

Office of Treaty Settlements:

Level 3, Vogel Centre
19 Aitken Street
DX SX10111
Wellington

Land Information New Zealand:

Level 7, Radio New Zealand House ~~Lambton House~~
155 The Terrace ~~160 Lambton Quay~~
PO Box 5501
Wellington 6145

New Zealand Transport Agency:

Victoria Arcade
44 Victoria Street
Private Bag 1995
Wellington

**3.3 ~~ALL DEFERRED SELECTION PROPERTIES~~ VALUATION PROCESS FOR
INDEPENDENTLY VALUED ASSETS**

NGĀTI APA DEED OF SETTLEMENT
PROPERTY REDRESS SCHEDULE

3.3: ALL DEFERRED SELECTION PROPERTIES
VALUATION PROCESS FOR INDEPENDENTLY VALUED ASSETS

VALUATION PROCESS FOR INDEPENDENTLY VALUED ASSETS

(Paragraph 1.2.1(a) of part 3.1 and paragraph 1.13.1(a) of parts 4.1, 5.1 and 6.1)

1. APPLICATION OF THIS PART

- 1.1 This part 3.3 applies to an independently valued asset if the transfer value of that property is to be determined or agreed under this part pursuant to paragraph 1.2.1(a) of part 3.1 or paragraph 1.13.1(a) of part 4.1, 5.1 or 6.1.

2. DISCLOSURE

- 2.1 ~~The land holding agency will, within 10 business days of the notification date, being given notice by the governance entity under paragraph 1.1 of part 3.1 (or paragraph 1.2 of parts 4.1, 5.1 or 6.1 as the case may be) that the governance entity is interested in purchasing an independently valued asset, give the governance entity all material information that relates to the independently valued asset of which the land holding agency is aware. The date the governance entity gives the land holding agency such notice is the "notification date".~~
- 2.2 The information that the land holding agency gives under paragraph 2.1 above will include all encumbrances of which the land holding agency is aware that affect or benefit the independently valued asset.

3. VALUATION DATE

- 3.1 The "valuation date", in relation to an independently valued asset, will be as at the notification date.

4. APPOINTMENT OF VALUERS AND ARBITRATOR

- 4.1 No later than 105 business days after the notification date, the governance entity and the land holding agency must each:
- 4.1.1 appoint a registered valuer;
 - 4.1.2 instruct the registered valuer to assess the market value of the independently valued asset and its market rental if an independently valued asset is a leaseback property to a department other than the Ministry of Education, on the terms of the agreed instructions to valuer attached as the appendix to this part 3.3 and in accordance with this part 3.3; and
 - 4.1.3 notify each other of the identity of the registered valuer.
- 4.2 The Crown and the governance entity must ensure that the terms of appointment of their respective registered valuers require the valuers to participate in the valuation process.
- 4.3 The Crown and the governance entity must endeavour to agree on and appoint a person who is suitably qualified and experienced in determining disputes about the value and rental of assets similar to the independently valued asset no later than 10 business days after the notification date.

**NGĀTI APA DEED OF SETTLEMENT
PROPERTY REDRESS SCHEDULE**

**3.3: ALL-DEFERRED-SELECTION PROPERTIES
VALUATION PROCESS FOR INDEPENDENTLY VALUED ASSETS**

- 4.4 If no appointment has been made under paragraph 4.3 above by that date, the Crown must request that the President of the New Zealand Institute of Valuers make the appointment.
- 4.5 An appointment of an arbitrator is made once the appointee has confirmed that he or she will conduct an arbitration, if requested by the Crown, in accordance with this part.

5. VALUATION REPORTS

- 5.1 Either the Crown or the governance entity may carry out an inspection of the independently valued asset. The registered valuer of the Crown or the governance entity intending to carry out an inspection must give at least 5 business days' notice of the date and time of the inspection to the other registered valuer appointed under this part and give that valuer an opportunity to attend the inspection.
- 5.2 The Crown's valuer and the governance entity's valuer must each prepare a valuation report that includes their respective assessments of the market value of the independently valued asset and the market rental if the independently valued asset is a leaseback property to a department other than the Ministry of Education, on the valuation date.
- 5.3 The land holding agency and the governance entity must each deliver a copy of its valuation report to the other by no later than 50 business days after the notification date (the "valuation exchange date").
- 5.4 Both valuation reports must:
- 5.4.1 meet the requirements of the New Zealand Institute of Valuers' Standards and other relevant standards insofar as those requirements are consistent with this part 3.3;
 - 5.4.2 include an executive summary containing:
 - (a) a summary of the valuation along with key valuation parameters; and
 - (b) a summary of any key issues affecting the value; and
 - 5.4.3 attach appendices setting out:
 - (a) a statement of valuation policies; and
 - (b) relevant market and sales and leasing information.

6. SINGLE VALUATION REPORT MAY DETERMINE TRANSFER VALUE

- 6.1 If only one valuation report is delivered by a party by the valuation exchange date, then the assessment of:
- 6.1.1 market value in that report will be the transfer value; and
 - 6.1.2 market rental in that report will be the commencement rent for a leaseback property to a department other than the Ministry of Education.

NGĀTI APA DEED OF SETTLEMENT
PROPERTY REDRESS SCHEDULE

**3.3: ALL DEFERRED SELECTION PROPERTIES
VALUATION PROCESS FOR INDEPENDENTLY VALUED ASSETS**

7. NEGOTIATIONS TO AGREE MARKET VALUE

- 7.1 If each party has provided a valuation report, the Crown and the governance entity must endeavour to agree on, and record in writing, the market value and market rental if the independently valued asset is a leaseback property to a department other than the Ministry of Education. The amount agreed as the market value is the transfer value, and the amount agreed as the market rental is the commencement rent.
- 7.2 Where transfer value or commencement rent is not determined or agreed within 20 business days after the valuation exchange date, the determination of the transfer value and the commencement rent must be referred to an arbitrator in accordance with paragraph 8 below.

8. DETERMINATION OF MARKET VALUE

- 8.1 Within 5 business days of paragraph 7.2 above applying, the Crown must refer the dispute to the arbitrator (the "**arbitration commencement date**").
- 8.2 The arbitrator must promptly give notice of a meeting to be attended by the Crown and the governance entity and their registered valuers, at a venue and time to be decided by the arbitrator after consultation with the parties but not later than 30 business days after the arbitration commencement date.
- 8.3 The Crown and the governance entity must by no later than 5.00pm on the day which is 5 business days prior to the date of the meeting give to the arbitrator and to each other their valuation reports, sales and rental evidence and any submission or expert evidence based on that information that the Crown or the governance entity intend to present at the meeting.
- 8.4 At the meeting, the arbitrator must:
- 8.4.1 establish a procedure and give each party the right to examine, cross-examine and re-examine the registered valuers and other experts appointed by the other parties in relation to the information provided to the arbitrator; and
 - 8.4.2 have regard to the requirements of natural justice in the conduct of the meeting.
- 8.5 The arbitrator shall hold the meeting and give his or her determination of the market value and market rental no later than 50 business days after the arbitration commencement date.
- 8.6 The transfer value will be the arbitrator's determination of the market value and the commencement rent will be the arbitrator's determination of the market rent for a leaseback property to a department other than the Ministry of Education. That determination must be no higher than the higher, and no lower than the lower, of the assessment of market value and market rent contained in the Crown's valuation report and in the governance entity's valuation report.
- 8.7 The determination of the arbitrator is final and binding on the Crown and the governance entity.

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PROPERTY REDRESS SCHEDULE**

**3.3: ~~ALL DEFERRED SELECTION PROPERTIES~~
VALUATION PROCESS FOR INDEPENDENTLY VALUED ASSETS**

9. GENERAL PROVISIONS

- 9.1 The Crown and the governance entity must each bear their own costs in connection with the valuation process.
- 9.2 The costs of the arbitrator and the costs of the hire of a venue for the meeting referred to in paragraph 8.2 must be borne by the Crown and the governance entity equally.
- 9.3 Despite paragraphs 9.1 and 9.2 above, the arbitrator may award costs against the Crown or the governance entity where the arbitrator considers that it would be just to do so on account of unreasonable conduct.

NGĀTI APA DEED OF SETTLEMENT
PROPERTY REDRESS SCHEDULE

3.3: ALL-DEFERRED SELECTION PROPERTIES
VALUATION PROCESS FOR INDEPENDENTLY VALUED ASSETS

APPENDIX - VALUATION INSTRUCTIONS TO THE GOVERNANCE ENTITY'S OR THE
CROWN'S VALUER FOR AN INDEPENDENTLY VALUED ASSET

[Note: These instructions may be modified to apply to more than one independently valued asset. The references to the determination of market rental must be deleted if the property is not a leaseback property or it is a leaseback property to the Ministry of Education.]

Introduction

The (insert name of Collective / Iwi) deed of settlement dated [] (the deed) gives the governance entity the right to purchase properties from the Crown.

This right is given by part [] of the [] schedule to the deed (part []).

The governance entity has given the Crown (the land holding agency) a notice of interest in the following property:

[describe the property including its legal description]

Deed enclosed

A copy of the deed is enclosed.

Your attention is drawn to part []. All references to parts or paragraphs in this letter are to parts or paragraphs of part [].

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

The property is an independently valued asset for the purposes of part []. [Part] applies to the valuation of jointly valued assets.

Valuation required

You are required to undertake a valuation to assess the market value of the property as at the date the land holding agency received the notice of interest from the governance entity.

The market value of the property is to be the market value of its land only. In relation to improvements:

- a those to be retained by the Crown and defined as "Lessee's Improvements" in the lease (including those specified improvements made directly to or beneath the surface of the land), shall be excluded from such market value assessment; and
- b those not retained by the Crown shall be included in such market value assessment.

[As the property is a leaseback property and the Crown leaseback is to a department other than the Ministry of Education, you must also assess the market rental of the property as at the valuation date.]

That date was [date] (valuation date). [You are also required to assess the market rental of the property as at the valuation date.]

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PROPERTY REDRESS SCHEDULE

3.3: ALL DEFERRED SELECTION PROPERTIES
VALUATION PROCESS FOR INDEPENDENTLY VALUED ASSETS

Another registered valuer will be required by [the land holding agency][the governance entity][*delete one*] to assess the market value of the property [,and its market rental,] at the valuation date.

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

- (a) by agreement between the land holding agency and the governance entity; or
- (b) by arbitration.

You are to:

- (a) before inspecting the property, agree with the other valuer:
 - (i) the valuation method or methods applicable to the property; and
 - (ii) the comparable sales [,and market rentals,] to be used in determining the value of the property; and
- (b) inspect the property together with the other valuer; and
- (c) attempt to resolve any matters arising from your inspections by the following day; and
- (d) within 50 business days of the notification date, deliver a copy of your valuation report to us, the other valuer, and the [land holding agency][the governance entity][*delete one*]; and
- (e) within 55 business days of the notification date:
 - (i) prepare an independent analysis of both valuation reports to assist the governance entity and the land holding agency to agree a market value for the property; and
 - (ii) give your analysis to us and the other valuer; and
- (f) participate in any arbitration process required under [part] to determine the market value [, and the market rental,] of the property.

Requirements for your Valuation

Our requirements for your valuation are as follows:

- 1 You are to assume that:
 - (a) the property is a current asset and was available for immediate sale as at the valuation date; and
 - (b) all statutory and regulatory processes imposed on the Crown to dispose of the property have been met.
- 2 The effective date of your valuation is the valuation date.

NGĀTI APA DEED OF SETTLEMENT
PROPERTY REDRESS SCHEDULE

~~3.3: ALL DEFERRED SELECTION PROPERTIES~~
VALUATION PROCESS FOR INDEPENDENTLY VALUED ASSETS

- 3 The valuation is to:
- (a) assess market value on the basis of market value as defined in the current edition of Property Institute of New Zealand Professional Practice; and
 - (b) assess market rental as the amount, (exclusive of GST), and expressed as an annual payment, at which the land only of the property would lease (as the lessee's improvements are not transferring to the governance entity) subject to specific lease terms and conditions, between a willing lessor and a willing lessee, in an arm's length transaction, if the parties to the transaction had each acted knowledgeably, prudently, and without compulsion; and
 - (c) take into account:
 - (i) any encumbrances, interest, or other matter affecting or benefiting the property as are noted on its title on the valuation date; and
 - (ii) the attached disclosure information (which is the information given to the governance entity by the land holding agency about the property under paragraph 2.1 of part 3.3, including the disclosed encumbrance information) but not a claim by, or on behalf of, (insert name of Collective / Iwi) in relation to the property; and
 - (iii) the terms of transfer set out in part 3.5 (which will apply to a purchase of the property by the governance entity); and
 - (iv) if the property is a leaseback property, the lease terms for the ground lease of the property (as the lessee's improvements are not transferring to the governance entity)].

Requirements for the Valuation Report

A full valuation report in accordance with the current edition of Property Institute of New Zealand Professional Practice is required, including:

- an executive summary containing:
 - o a summary of the valuation along with key valuation parameters;
 - o a summary of key issues affecting value;
- an assessment of the current market value (plus GST, if any) of the property [, and its market rental (exclusive of GST),] as at the valuation date;
- compliance with the minimum requirements as set out in section 5 of the International Valuation Standard 1 Market Value Basis of Valuation and other relevant standards, insofar as they are consistent with [part];
- a clear definition of the distinction between the land value and the value of improvements (unless the property is a leaseback property, in which case the value of the Crown's improvements is not required);
- a clear statement as to the impact (if any) of the disclosed encumbrance information;

3.3: ALL DEFERRED SELECTION PROPERTIES
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- details of your assessment of the highest and best use of the property;
- comment on the rationale of likely purchasers [,and tenants,] of the property;
- full details of the approaches to value and a clear identification of the key variables which in your opinion have a material impact on the valuation;
- a detailed description of improvements;
- attaching appendices setting out:
 - o a statement of valuation methodology and policies; and
 - o relevant market and sales information.

Acceptance of these Instructions

By accepting these instructions, you acknowledge that you will prepare and deliver the valuation report by no later than 50 business days after the valuation date.

Open and transparent Valuation

The governance entity and the land holding agency intend this valuation to be undertaken in an open and transparent manner, and for all dealings and discussions to be undertaken in good faith.

In particular, you must copy any questions you have or receive with regard to the property, together with the responses, to the governance entity and the land holding agency.

**3.4 ~~ALL DEFERRED SELECTION PROPERTIES~~ VALUATION PROCESS FOR
JOINTLY VALUED ASSETS**

NGĀTI APA DEED OF SETTLEMENT
PROPERTY REDRESS SCHEDULE

~~3.4: ALL DEFERRED SELECTION PROPERTIES~~
VALUATION PROCESS FOR JOINTLY VALUED ASSETS

VALUATION PROCESS FOR JOINTLY VALUED ASSETS

(Paragraph 1.2.1(b) of part 3.1 and paragraph 1.13.1(b) of parts 4.1, 5.1 and 6.1)

1. APPLICATION OF THIS PART

- 1.1 This part 3.4 applies to a jointly valued asset if the transfer value of that property is to be determined or agreed under this part pursuant to paragraph 1.2.1(b) of part 3.1 or paragraph 1.13.1(b) of parts 4.1, 5.1 or 6.1.

2. DISCLOSURE

- 2.1 ~~The land holding agency will, within 10 business days of the notification date, ~~being given notice by the governance entity under paragraph 1.1 of part 3.1 or paragraph 1.2 of parts 4.1, 5.1 or 6.1 as the case may be~~) that the governance entity is interested in purchasing a jointly valued asset, give the governance entity all material information that relates to the jointly valued asset of which the land holding agency is aware. ~~The date the governance entity gives the land holding agency such notice is the "notification date".~~~~
- 2.2 The information that the land holding agency gives under paragraph 2.1 will include all encumbrances of which the land holding agency is aware that affect or benefit the jointly valued asset.

3. VALUATION DATE

- 3.1 The **valuation date**, in relation to a jointly valued asset, will be as at the notification date.

4. APPOINTMENT OF VALUER

- 4.1 The Crown and the governance entity must endeavour to agree on and appoint a registered valuer no later than 105 business days after the notification date ~~to determine the market value of a jointly valued asset, and its market rental if a jointly valued asset is a leaseback property, in accordance with this part 3.4.~~
- 4.2 If no appointment has been made under paragraph 4.1 by that date, the Crown must request that the President of the New Zealand Institute of Valuers make the appointment.
- 4.3 An appointment of a registered valuer is made once the appointee has confirmed that he or she will produce a valuation report in accordance with this part on receipt of the joint instructions to be given under paragraph 4.4.
- 4.4 No later than 5 business days after the appointment under paragraphs 4.1-4.3, the governance entity and the land holding agency must jointly instruct the registered valuer to assess the market value of the jointly valued asset, and its market rental if a jointly valued asset is a leaseback property, on the terms of the agreed instructions to valuer attached as the appendix to this part 3.4 and in accordance with this part 3.4.

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PROPERTY REDRESS SCHEDULE**

**3.4: ALL-DEFERRED-SELECTION PROPERTIES
VALUATION PROCESS FOR JOINTLY VALUED ASSETS**

5. VALUATION REPORT

- 5.1 The registered valuer must prepare a valuation report that includes his or her assessment of the market value of the jointly valued asset, and its market rental if the jointly valued asset is a leaseback property to a department other than the Ministry of Education, as at the valuation date.
- 5.2 The registered valuer must deliver a copy of valuation report to the parties by no later than 50 business days after the notification date.
- 5.3 The valuation report must:
 - 5.3.1 meet the requirements of the New Zealand Institute of Valuers' Standards and other relevant standards insofar as those requirements are consistent with this part 3.4;
 - 5.3.2 include an executive summary containing:
 - (a) a summary of the valuation along with key valuation parameters; and
 - (b) a summary of any key issues affecting the value; and
 - 5.3.3 attach appendices setting out:
 - (a) a statement of valuation policies; and
 - (b) relevant market and sales and leasing information.

6. VALUATION REPORT DETERMINES TRANSFER VALUE AND COMMENCEMENT RENT

- 6.1 The assessment in the valuation report of:
 - 6.1.1 market value in the valuation report will be the transfer value; and
 - 6.1.2 market rental of a leaseback property to a department other than the Ministry of Education in the valuation report will be the commencement rent.
- 6.2 The effect of paragraph 6.1 is final and binding on the Crown and the governance entity.

7. GENERAL PROVISIONS

- 7.1 The costs of the registered valuer must be borne by the Crown and the governance entity equally.

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3.4: ALL DEFERRED SELECTION PROPERTIES
VALUATION PROCESS FOR JOINTLY VALUED ASSETS

APPENDIX - VALUATION INSTRUCTIONS FOR A JOINTLY VALUED ASSET

[Note: These instructions may be modified to apply to more than one jointly valued asset. The references to the determination of market rental must be deleted if the property is not a leaseback property or is being leased back to the Ministry of Education]

Introduction

The (insert name of Collective / Iwi) deed of settlement dated [] (the deed) gives the governance entity the right to purchase properties from the Crown.

This right is given by part [] of the [] schedule to the deed (part []).

The governance entity has given the Crown (the land holding agency) a notice of interest in the following property:

[describe the property including its legal description]

Deed enclosed

A copy of the deed is enclosed.

Your attention is drawn to part []. All references to parts or paragraphs in this letter are to parts or paragraphs of part [].

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

The property is a jointly valued asset for the purposes of part []. [[Sub]-part] [] applies to the valuation of independently valued assets.

Valuation required

The governance entity and the land holding agency require you to undertake a valuation to assess the market value of the property as at the date the land holding agency received the notice of interest from the governance entity. That date was [date] (the valuation date). You are also required to assess the market rental of the property as at the valuation date.]

The market value of the property is to be the market value of its land only. In relation to improvements:

- a those to be retained by the Crown and defined as "Lessee's Improvements" in the lease (including those specified improvements made directly to or beneath the surface of the land), shall be excluded from such market value assessment; and
- b those not retained by the Crown shall be included in such market value assessment.

[As the property is a leaseback property and the Crown leaseback is to a department other than the Ministry of Education, you must also assess the market rental of the property as at the valuation date.]

The market value of the property assessed by you (plus GST if any) will be the market value at which the governance entity may elect to purchase the property under part []. [The market

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**3.4: ALL DEFERRED SELECTION PROPERTIES
VALUATION PROCESS FOR JOINTLY VALUED ASSETS**

rental assessed by you (exclusive of GST) will be the commencement rent under a lease of the property by the governance entity to the land holding agency.]

You may obtain relevant specialist advice such as engineering or planning advice.

Requirements for the Valuation

Our requirements for your valuation are as follows:

- (1) You are to assume that:
 - (a) the property is a current asset and was available for immediate sale as at the valuation date; and
 - (b) all statutory and regulatory processes imposed on the Crown to dispose of the property have been met.
- (2) The effective date of your valuation is the valuation date.
- (3) Your valuation is to:
 - (a) be on the basis of market value as defined in the Valuation Standards contained in the current edition of Property Institute of New Zealand Professional Practice; and
 - (b) take into account:
 - (i) any encumbrances, interest, or other matters affecting or benefiting the property as are noted on its title on the valuation date; and
 - (ii) the attached disclosure information (which is the information given to the governance entity by the land holding agency about the property under paragraph 2.1 of part 3.4, including the disclosed encumbrance information) but not a claim by, or on behalf of, (insert name of Collective / Iwi) in relation to the property; and
 - (iii) the terms of transfer set out in part 3.5 (which will apply to a purchase of the property by the governance entity); and
 - (iii) the lease terms for the ground lease of the property (as the lessee's improvements are not transferring to the governance entity)].

Requirements for your Valuation Report

We require a full valuation report in accordance with the current edition of Property Institute of New Zealand Professional Practice, including:

- an executive summary containing:
 - o a summary of the valuation along with key valuation parameters;
 - o a summary of key issues affecting value;
- an assessment of the market value (plus GST if any) of the property[, and its market rental (exclusive of GST),] as at the valuation date;

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**3.4: ALL DEFERRED SELECTION PROPERTIES
VALUATION PROCESS FOR JOINTLY VALUED ASSETS**

- compliance with the minimum requirements as set out in section 5 of the International Valuation Standard 1 Market Value Basis of Valuation, and other relevant standards, insofar as they are consistent with [part];
- a clear definition of the distinction between the land value and the value of improvements (unless the property is a leaseback property, in which case the value of the Crown's improvements is not required);
- a clear statement as to the impact (if any) of the disclosed encumbrance information;
- details of your assessment of the highest and best use of the property;
- comment on the rationale of likely purchasers[, and tenants,] of the property;
- full details of the approaches to value and a clear identification of the key variables which in your opinion have a material impact on the valuation;
- a detailed description of improvements;
- attaching appendices setting out:
 - o a statement of valuation methodology and policies; and
 - o relevant market and sales information.

Acceptance of these Instructions

By accepting these instructions, you acknowledge that you will prepare and provide a valuation report to the governance entity and the land holding agency no later than 50 business days after the valuation date.

Open and transparent Valuation

The governance entity and the land holding agency intend this valuation to be undertaken in an open and transparent manner, and for all dealings and discussions to be undertaken in good faith.

In particular, you must copy any questions you have or receive with regard to the property, together with the responses, to the governance entity and the land holding agency.

**NGĀTI APA DEED OF SETTLEMENT
PROPERTY REDRESS SCHEDULE**

**3.5 ALL DEFERRED SELECTION PROPERTIES -
TERMS OF TRANSFER**

3.5: ALL DEFERRED SELECTION PROPERTIES - TERMS OF TRANSFER

TERMS OF TRANSFER

(Clause 6.7~~8~~)

1. LINZ/NZTA DEFERRED SELECTION PROPERTIES TO BE SUBJECT TO THESE TERMS OF TRANSFER

1.1 The terms of transfer contained in this part 3.5 shall also apply to the LINZ/NZTA deferred selection properties and references to:

1.1.1 a deferred selection property shall be a reference to a LINZ/NZTA deferred selection property; and

1.1.2 the governance entity shall be a reference to the purchasing governance entity.

2. APPLICATION OF THIS PART

2.1 This part 3.5 applies if the Crown and the governance entity are deemed under paragraph 2.1 of part 3.1 to have entered into an agreement for the sale and purchase of a deferred selection property.

3. TRANSFER OF THE DEFERRED SELECTION PROPERTY

3.1 The Crown must transfer the fee simple estate in the deferred selection property to the governance entity on the terms set out in clause 6 of the deed, and in this part 3.5, subject to and, where applicable, with the benefit of:

3.1.1 the disclosed encumbrances affecting or benefiting that property (as those disclosed encumbrances may be varied under paragraph 3.2); and

3.1.2 if the property is a leaseback property, the lease to the land holding agency referred to in clause 6.8~~9~~ of the deed.

3.2 The Crown and the governance entity may agree in writing to vary or add to the disclosed encumbrances affecting the deferred selection property.

3.3 The governance entity must not unreasonably withhold or delay its consent to varying a disclosed encumbrance or granting a new encumbrance affecting the deferred selection property.

3.4 The Crown will pay any survey and registration costs required to transfer the fee simple estate in the deferred selection property to the governance entity.

4. OBLIGATIONS PRIOR TO DEFERRED SELECTION SETTLEMENT DATE

4.1 The Crown must maintain a deferred selection property, or ensure its maintenance, until the actual deferred selection settlement date in substantially the same condition as it was in at the notification date, fair wear and tear excepted.

**NGĀTI APA DEED OF SETTLEMENT
PROPERTY REDRESS SCHEDULE**

3.5: ALL DEFERRED SELECTION PROPERTIES - TERMS OF TRANSFER

- 4.2 Between the notification date and the actual deferred selection settlement date the Crown must consult with, and obtain the prior written consent of, the governance entity (which will not be unreasonably withheld or delayed) before:
- 4.2.1 agreeing to any material variation in the terms of a disclosed encumbrance affecting or benefiting a deferred selection property; or
 - 4.2.2 procuring any consent, or providing any waiver, under the Resource Management Act 1991, or other legislation, that materially affects the deferred selection property.
- 4.3 The Crown must, if it carries out works, or gives specific authority in writing for works to be carried out, on a deferred selection property, between the notification date and the actual deferred selection settlement date, for which the Crown must by law obtain a building consent or permit, comply with any obligations imposed on the Crown under the Building Act 2004 in respect of such works.
- 4.4 The Crown must pay all charges for electric power, gas, water, and other utilities that the Crown owes as owner of a deferred selection property until the actual deferred selection settlement date except where those charges are payable by any tenant or occupant directly to the relevant supplier.
- 4.5 Subject to the terms of any disclosed encumbrance affecting the deferred selection property, the Crown must use reasonable endeavours to obtain permission for the governance entity (or a person authorised by the governance entity), upon reasonable notice, to enter a deferred selection property on one occasion before the deferred selection settlement date to examine it.

5. POSSESSION AND SETTLEMENT

- 5.1 On the deferred selection settlement date:
- 5.1.1 the governance entity shall pay to the Crown an amount equal to the transfer value (plus GST if any) either by way of bank cheque drawn on a New Zealand registered bank and made payable to the land holding agency or by electronic transfer;
 - 5.1.2 possession must be given and taken of the deferred selection property subject to the disclosed encumbrances (as they may be varied under paragraph 3.2 of this part); and
 - 5.1.3 vacant possession must be given and taken of the deferred selection property if it is not:
 - (a) a leaseback property; or
 - (b) subject to any disclosed encumbrance (as they may be varied under paragraph 3.2 of this part) that prevent vacant possession being given and taken.

NGĀTI APA DEED OF SETTLEMENT
PROPERTY REDRESS SCHEDULE

3.5: ALL DEFERRED SELECTION PROPERTIES – TERMS OF TRANSFER

- 5.2 Subject to paragraphs 5.3 and 11.1.2, the Crown must provide the governance entity with the following in relation to a deferred selection property on the deferred selection settlement date:
- 5.2.1 evidence of:
- (a) a registrable transfer instrument; and
 - (b) any other registrable instrument required by this deed in relation to the property; and
- 5.2.2 all contracts and other documents (but not public notices such as proclamations and *Gazette* notices) that create unregistered rights or obligations affecting the registered proprietor's interest in the property after the deferred selection settlement date.
- 5.3 If the fee simple estate in the deferred selection property may be transferred to the governance entity electronically under the relevant legislation:
- 5.3.1 paragraph 5.2.1 does not apply;
- 5.3.2 the Crown must ensure its solicitor:
- (a) a reasonable time before the deferred selection settlement date for the property:
 - (i) creates a Landonline workspace for the transfer to the governance entity of the fee simple estate in the property; and
 - (ii) prepares, certifies, signs, and pre-validates in the Landonline workspace the transfer instrument, and all other instruments, necessary, to effect the transfer electronically (the "**electronic transfer instruments**"); and
 - (b) on the deferred selection settlement date, releases the electronic transfer instruments so that the governance entity's solicitor may submit them for registration under the relevant legislation;
- 5.3.3 the governance entity must ensure its solicitor, a reasonable time before the deferred selection settlement date, certifies and signs the transfer instrument for the property prepared in the Landonline workspace under paragraph 5.3.2(a)(ii); and
- 5.3.4 paragraphs 5.3.2 and 5.3.3 are subject to paragraph 11.1.2.
- 5.4 The **relevant legislation** for the purposes of paragraph 5.3 is:
- 5.4.1 the Land Transfer Act 1952; and
- 5.4.2 the Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002.
- 5.5 All outgoings and incomings (including rates, excluding insurance premiums) must be apportioned at the actual deferred selection settlement date.

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3.5: ALL DEFERRED SELECTION PROPERTIES - TERMS OF TRANSFER

- 5.6 The Crown must supply a statement of apportionments to the governance entity before the actual deferred selection settlement date. On the actual deferred selection settlement date:
- 5.6.1 the governance entity must pay to the Crown the amount by which the outgoings (except for insurance premiums) for the deferred selection properties pre-paid by the Crown in respect of a period after the actual deferred selection settlement date exceed the incomings received by the Crown for that period; or
- 5.6.2 the Crown must pay to the governance entity the amount by which the incomings received by the Crown in respect of a period after the actual deferred selection settlement date exceed the outgoings (except for insurance premiums) for the deferred selection property pre-paid by the Crown for that period.
- 5.7 The Crown must make available to the governance entity on the actual deferred selection settlement date any keys to gates, exterior doors, and electronic door openers (if any) and/or security codes to alarms (if any) for the deferred selection property that are in the possession of the Crown at the actual deferred selection settlement date provided that the Crown shall not have any obligation under this paragraph where in the Crown's reasonable opinion, due to the nature of the deferred selection property, it would be inappropriate to make such items available.
- 5.8 The deferred selection property must be transferred inclusive of all fixtures and fittings that are owned by the Crown and are situated on the deferred selection property at the notification date, except in the case of a leaseback property, in which case ownership of all lessee's improvements remain with the land holding agency.
- 5.9 Fixtures and fittings transferred under paragraph 5.8 above are to be free of any mortgage or charge.
- 5.10 No chattels situated on the deferred selection property will be included in its transfer.
- 5.11 In respect of a leaseback property, paragraphs 5.5-5.10 above apply only to the extent they are consistent with the lease.

6. RISK AND INSURANCE

- 6.1 The deferred selection property will remain at the sole risk of the Crown until the actual deferred selection settlement date and, from the actual deferred selection settlement date, it will remain at the sole risk of the governance entity.
- 6.2 In the event that, prior to the actual deferred selection settlement date, the deferred selection property is destroyed or damaged and such destruction or damage has not been made good by the actual deferred selection settlement date, then the following provisions apply:
- 6.2.1 the governance entity must complete the transfer of the deferred selection property at its transfer value on the condition that the Crown pay to the governance entity an amount equal to the amount (if any) by which the transfer value for the deferred selection property is more than the value of the deferred selection property as at the actual deferred selection settlement date as a result of the destruction or damage; and

**NGĀTI APA DEED OF SETTLEMENT
PROPERTY REDRESS SCHEDULE**

3.5: ALL DEFERRED SELECTION PROPERTIES - TERMS OF TRANSFER

- 6.2.2 either party may give the other party notice in writing requiring that any dispute as to the application of this paragraph 6.2 be determined by an arbitrator to be appointed by the president of the New Zealand Law Society, and the party serving the notice may at any time after that refer the dispute to the arbitrator for determination under the Arbitration Act 1996.
- 6.3 If a dispute relating to a claim by the governance entity for a diminution in value of the deferred selection property under paragraph 6.2.2 is not determined by the actual deferred selection settlement date, then:
- 6.3.1 settlement shall take place on the actual deferred selection settlement date in accordance with this part 3.5 as if there had been no destruction or damage; and
- 6.3.2 upon the determination of the dispute the Crown shall pay to the governance entity within 7 business days from such determination a sum equal to the diminution in value of the deferred selection property and interest from settlement date to the date of that payment at the rate set out in clause 6.4.2 of the deed.
- 6.4 The governance entity will not be required to take over from the Crown any insurance policies in relation to the deferred selection property.

7. TRANSFER VALUE

- 7.1 To avoid doubt, the parties acknowledge that the transfer value of the deferred selection property will not be affected by:
- 7.1.1 any addition or variation to the disclosed encumbrances agreed in writing by the Crown and the governance entity under paragraph 3.2 of this part; or
- 7.1.2 any variation to a disclosed encumbrance agreed by the Crown and the governance entity under paragraph 4.2.1.

8. BOUNDARIES, TITLE, ETC

- 8.1 The Crown will not be bound to point out the boundaries of a deferred selection property.
- 8.2 If the deferred selection property is subject only to disclosed encumbrances (as they may be varied under paragraph 3.2 of this part), the governance entity:
- 8.2.1 will be treated as having accepted the Crown's title to the deferred selection property as at the actual deferred selection settlement date; and
- 8.2.2 may not make any objections to, or requisitions on, it.
- 8.3 Except as otherwise expressly set out in this part 3.5 no error, omission or misdescription of the deferred selection property or its title shall annul the transfer of the deferred selection property.

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PROPERTY REDRESS SCHEDULE**

3.5: ALL DEFERRED SELECTION PROPERTIES - TERMS OF TRANSFER

8.4 The Crown will not be liable to pay for, or contribute towards, the expense of erection or maintenance of any fence between the deferred selection property and any contiguous land of the Crown (unless it is the Crown that requires the fence in which case the Crown shall meet all the costs of erecting the fence), and:

8.4.1 this paragraph will not continue for the benefit of any subsequent purchaser of the contiguous land; and

8.4.2 the Crown may require the inclusion of a fencing covenant to this effect in any transfer of the deferred selection property.

9. OBLIGATIONS AFTER SETTLEMENT

9.1 If the Crown receives any notice or demand in relation to the deferred selection property from the Crown, any territorial authority or any tenant after the actual deferred selection settlement date, the Crown will, if not paying or complying with such notice or demand, promptly deliver it to the governance entity or the governance entity's solicitor and, if the Crown fails to do so, the Crown will be liable for any penalty incurred.

9.2 Immediately after the actual deferred selection settlement date, the Crown will give notice of the transfer of the deferred selection property to the territorial authority having jurisdiction in respect of that property.

10. DISCLOSURE INFORMATION

10.1 The Crown warrants to the governance entity that the disclosure information in relation to the deferred selection property is all the material information about the property that the land holding agency is aware of at the date of providing that information having inspected its records but not having undertaken a physical inspection of the deferred selection property or made enquiries beyond its records.

10.2 Except as provided in paragraph 10.1, the Crown gives no representation or warranty (whether express or implied) nor accepts any responsibility with respect to:

10.2.1 the deferred selection property including as to its ownership, management, occupation, physical condition, use or compliance with:

- (a) any legislation including by-laws; or
- (b) any enforcement or other notice, requisition or proceedings issued by any authority; or

10.2.2 the completeness or accuracy of the disclosure information in relation to the deferred selection property.

10.3 The governance entity acknowledges that (although the Crown is not giving any representation or warranty in relation to the deferred selection property except as provided in paragraph 10.1 of this part) the governance entity had the opportunity prior to the deferred selection settlement date (in addition to being able to examine the disclosure information) to:

10.3.1 inspect the deferred selection property; and

10.3.2 determine its state and condition.

3.5: ALL DEFERRED SELECTION PROPERTIES - TERMS OF TRANSFER

11. DELAYED TRANSFER OF LEGAL TITLE

11.1 The Crown covenants for the benefit of the governance entity that it will:

11.1.1 arrange for the creation of a computer freehold register for the land of a deferred selection property that:

- (a) is not contained in a computer freehold register; or
- (b) is contained in a computer freehold register or registers but together with other land; and

11.1.2 transfer the fee simple estate in a deferred selection property to which paragraph 11.1.1 applies as soon as reasonably practicable after complying with that paragraph in relation to the property but not later than five years after the deferred selection settlement date.

11.2 The covenant given by the Crown under paragraph 11.1 shall have effect and be enforceable, despite being positive in effect and there being no dominant tenement.

11.3 If paragraph 11.1 applies then, for the period from the actual deferred selection settlement date until the date that the Crown transfers the title to that deferred selection property to the governance entity:

11.3.1 the governance entity will be the beneficial owner of that property; and

11.3.2 all obligations and rights will be performed and arise as if full legal title had passed to the governance entity on the actual deferred selection settlement date.

12. DELAY IN SETTLEMENT PROVISIONS

12.1 If, from any cause whatever (save the default of the Crown), all or any part of the transfer value or any other moneys payable by the governance entity to the Crown is not paid on the deferred selection settlement date, the Crown shall not be obliged to give possession to the governance entity, and the governance entity shall pay to the Crown default interest at the rate of 12% per annum on all or that part of the transfer value (plus GST if any) so unpaid for the period from the deferred selection settlement date to the actual deferred selection settlement date, but without prejudice to any other rights or remedies available to the Crown at law or in equity.

12.2 If, without the written agreement of the parties, settlement is not effected on the deferred selection settlement date then without prejudice to the rights of the party not in default the following provisions shall apply:

12.2.1 either the Crown or the governance entity may at any time after the deferred selection settlement date serve on the other of them notice in writing ("**settlement notice**") to effect settlement but the notice shall be effective only if the party serving it is at the time of service either in all material respects ready able and willing to proceed to effect settlement in accordance with the settlement notice or is not so ready able and willing to effect settlement only by reason of the default or omission of the other party. For the sake of clarity the governance entity acknowledges that it may not serve a settlement notice where there is a delay or transfer of legal title as contemplated by paragraph 11;

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12.2.2 upon service of a settlement notice, the party on which the settlement notice is served shall effect settlement within 10 business days after the date of service of the settlement notice (excluding the date of service) and in respect of that period time shall be of the essence but without prejudice to any intermediate right of cancellation (if any) by the other party; and

12.2.3 if the party in default does not comply with the terms of a settlement notice then without prejudice to any other rights or remedies available to the party serving the settlement notice at law or in equity that party may cancel the agreement constituted by paragraph 2.1 of part 3.1 by written notice.

13. UNLICENSED LAND

13.1 The transfer value for the unlicensed land will be adjusted to give effect to any difference between the value of trees standing on the land on the actual deferred settlement date and the amounts assumed in establishing the transfer value under part 3.3.

13.2 In the event that, prior to the actual deferred settlement date, there is a dispute about the adjustment to be made to the transfer value under paragraph 13.1 above, then the following provisions apply:

13.2.1 the governance entity must complete the transfer of the unlicensed land at its transfer value on the condition that the appropriate party must pay to the other party an amount equal to the amount (if any) by which the transfer value following adjustment differs from the transfer value as determined under part 3.3; and

13.2.2 either party may give the other party notice in writing requiring that any dispute as to the application of this paragraph 13.2 be determined by an arbitrator to be appointed by the president or vice-president of the New Zealand Law Society, and the party serving the notice may at any time after that refer the dispute to the arbitrator for determination under the Arbitration Act 1996.

13.3 If a dispute relating to paragraph 13.2.2 above is not determined by the actual deferred settlement date, then:

13.3.1 settlement shall take place on the actual deferred settlement date in accordance with this part 3.5 as if no adjustment to the transfer value were necessary; and

13.3.2 upon the determination of the dispute the appropriate party shall pay a balancing payment to the other party and interest from the actual deferred settlement date to the date of that payment at the rate set out in clause 6.4.2 of the deed.

13.4 For the purposes of paragraphs 13.2 and 13.3 of this part, appropriate party means:

13.4.1 if the adjustment reduces the transfer value, the Crown; and

13.4.2 if the adjustment increases the transfer value, the governance entity.

3.5: ALL DEFERRED SELECTION PROPERTIES - TERMS OF TRANSFER

14. MISCELLANEOUS

Further assurances

- 14.1 The Crown and the governance entity must, at the request of the other, sign and deliver any further documents or assurances and do all acts and things that the other may reasonably require to give full force and effect to clause 6 of the deed and this part 3.5.

Non-merger

- 14.2 On transfer of a deferred selection property to the governance entity, the provisions of this part 3.5 will not merge and, to the extent any provision has not been fulfilled, will remain in force.

3.6 SCHEDULE OF DEFERRED SELECTION PROPERTIES

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3.6: SCHEDULE OF DEFERRED SELECTION PROPERTIES

NGĀTI APA DEFERRED SELECTION PROPERTIES

Land Holding Agency		Department of Conservation	
Property	Address	Legal Description	Leaseback
Nelson High/ District Court House (to be leased back to Ministry of Justice)	200 Bridge St Nelson Courthouse	0.4000 hectares, approximately, being Part Sections 181 and 201 City of Nelson. Part Computer Freehold Register NL10B/664. Nelson Land District. Subject to survey.	Yes

Land Holding Agency		Ministry of Education	
Property	Address	Legal Description	Leaseback
Tapawera Area School	Main Road Tapawera	2.0381 hectares, approximately, being Part Lot 20 DP 2610. All GN. 261098.1. Subject to survey. 2.3335 hectares, more or less, being Part Section 72 District of Upper Motueka and Defined on DP 2800 and DP 3171. All Computer Freehold Register NL89/159. 1.5082 hectares, more or less, being Part Section 72 District of Upper Motueka and Defined on DP 4492. All Computer Freehold Register NL112/23. 0.0278 hectares, more or less, being Part Section 72 District of Upper Motueka and Defined on DP 3536. All Computer Freehold Register NL96/75. All Nelson Land District.	Yes
Renwick School	High Street Renwick	0.3541 hectares, more or less, being Part Section 163 District of Wairau. All Computer Freehold Register MB34/101. 0.5868 hectares, more or less, being Parts Section 163 District of Wairau. All Computer Freehold Register MB34/200. 0.4071 hectares, approximately, being Part Section 163 District of Wairau and Stopped Road on SO 5562. All Proc. 24101. Subject to survey. 0.3255 hectares, more or less, being Section 10 Block XIII Cloudy Bay Survey District. All GN. 25805. 0.4289 hectares, more or less, being Section 167 Wairau Registration District. All GN. 138861. 0.1214 hectares, approximately, being Part Section 163 District of Wairau. All GN. 107605. Subject to survey. 0.4249 hectares, approximately, being Part Section 163 District of Wairau. All Gazette 1897 page 1637. Subject to survey. All Marlborough Land District.	Yes

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3.6: SCHEDULE OF DEFERRED SELECTION PROPERTIES

Land Holding Agency	Ministry of Education		Leaseback
Property	Address	Legal Description	Leaseback
Riverlands School	School Road Blenheim	0.3564 hectares, more or less, being Part Lot 23 Section 37 District of Opawa. Balance Computer Freehold Register MB32/20. 0.6050 hectares, more or less, being Part Lot 2 DP 1232. Balance Computer Freehold Register MB36/218. 0.2704 hectares, more or less, being Lot 2 DP 3694. All Computer Freehold Register MB2A/699. All Marlborough Land District	Yes
Birchwood School	Durham Street Stoke	2.5348 hectares, approximately, being Part Lot 1 DP 7222, Nelson Land District. All GN. 155063. Subject to survey.	Yes
Enner Glynn School	The Ridgeway Stoke	0.0597 hectares, more or less, being Lot 1 DP 5662. All Computer Freehold Register NL141/31. 1.6187 hectares, more or less, being Part Section 42 District of Suburban South Defined on DP 4269. All Computer Freehold Register NL109/14. 0.1389 hectares, more or less, being Lot 16 DP 3438. All Proclamation 72329. 0.4654 hectares, approximately, being Part Section 42 District of Suburban South. All GN. 87991. Subject to survey. All Nelson Land District.	Yes
Motueka South School	Courtney Street Motueka	2.7485 hectares, more or less, being Lot 2 DP 15920 and Parts 3, 4 and 10 of Section 167 Motueka District, Nelson Land District. All Computer Freehold Register NL10B/1167.	Yes
Riwaka School	School Road Motueka	1.6091 hectares, more or less, being Lot 6 DP 2833, Nelson Land District. All Computer Freehold Register NL83/204.	Yes
Brooklyn School (Motueka)	Umukuri Road Motueka	0.5311 hectares, more or less, being Part Section 13 District of Motueka and Defined on DP 3857. All Computer Freehold Register NL104/207. 0.2074 hectares, more or less, being Part Section 13 District of Motueka and Defined on DP 2938. All Computer Freehold Register NL85/115. 0.1012 hectares, more or less, being Part Accommodation Section 13 District of Motueka. All Computer Freehold Register NL1C/498. 0.3035 hectares, more or less, being Part Section 13 District of Motueka. All Computer Freehold Register NL62/219. All Nelson Land District.	Yes

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3.6: SCHEDULE OF DEFERRED SELECTION PROPERTIES

Land Holding Agency	Ministry of Education		
Property	Address	Legal Description	Leaseback
Stoke School	601 Main Road Nelson	1.0168 hectares, more or less, being Lot 38 DP 2905. All Computer Freehold Register NL86/49. 0.4047 hectares, more or less, being Part Section 53 Suburban South District. All Computer Freehold Register NL33/147. 0.1328 hectares, more or less, being Part Lot 2 DP 2905. Balance Computer Freehold Register NL94/165. 0.3726 hectares, more or less, being Part Section 53 Suburban South District. Balance Computer Freehold Register NL59/258. Limited as to parcels. 0.1811 hectares, more or less, being Part Section 53 Suburban South District. Balance Computer Freehold Register NL48/181. 0.0139 hectares, more or less, being Lot 15 DP 5252. All GN. 120462. 0.6333 hectares, approximately, Part Lot 2 DP 2641. All Proclamation 2061. Subject to survey. All Nelson Land District.	Yes
Tahunanui School	69 Muritai Street Nelson	0.2024 hectares, more or less, being Lots 47 and 48 DP 144. All Computer Freehold Register NL27/50. 0.1012 hectares, more or less, being Lot 49 DP 144. All Computer Freehold Register NL28/259. 0.3498 hectares, more or less, being Lots 50, 51 and 52 DP 144. All Computer Freehold Register NL45/136. 0.6541 hectares, more or less, being Lot 1 DP 979. All Computer Freehold Register NL45/273. 0.3417 hectares, more or less, being Lots 10 and 11 and Part Lot 2 DP 3692. All Computer Freehold Register NL107/116. 0.0139 hectares, more or less, being Lot 1 DP 4090. All Computer Freehold Register NL107/114. 0.2711 hectares, more or less, being Lot 3 DP 1566 and Lot 3 DP 3692. All Computer Freehold Register 124178. 0.1330 hectares, approximately, being Part Lots 1 and 2 DP 3112 and Part Lot 9 DP 3692. All GN. 98496. Subject to survey. All Nelson Land District.	Yes

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PROPERTY REDRESS SCHEDULE

3.6: SCHEDULE OF DEFERRED SELECTION PROPERTIES

Land Holding Agency	Ministry of Agriculture and Forestry		
Property	Address	Legal Description	Leaseback
Speeds Valley Forest	Speeds Road Picton	415.4098 hectares, more or less, being Section 2 Block XI Linkwater Survey District, Sections 1, 4 and 15 Block XIV Linkwater Survey District and Section 34 Block XV Linkwater Survey District, Marlborough Land District. All Computer Freehold Register MB3D/332.	No

Land Holding Agency	Office of Treaty Settlements		
Property	Address	Legal Description	Leaseback
Office of Treaty Settlements PF 508	Maitai Crescent Tapawera	0.0770 hectares, more or less, being Section 31 Town of Tapawera, Nelson Land District. Part GN. 326477.1.	No
Office of Treaty Settlements PF 798	155 The Ridgeway Nelson	0.0857 hectares, more or less, being Lot 1 DP 18107, Nelson Land District. All Computer Freehold Register NL12A/1037.	No
Office of Treaty Settlements PF 1306	260 Annesbrook Drive Nelson	0.0900 hectares, more or less, being Lot 1 DP 6470, Nelson Land District. All GN. 327705.1.	No
Office of Treaty Settlements PF 1317	243-245 Annesbrook Drive Nelson	0.1450 hectares, more or less, being Lot 1 DP 20382, Nelson Land District. All Computer Freehold Register NL13C/99.	No
Office of Treaty Settlements PF 1318	SH60, Mahana Nelson	5.8668 hectares, more or less, being Lot 1 DP 327142 and Section 4 SO 15642, Nelson Land District. All Computer Freehold Register 110232.	No
Office of Treaty Settlements PF 1357	3 Stafford Avenue Nelson	0.0807 hectares, more or less, being Part Lot 11 DP 2382, Nelson Land District. Balance Computer Freehold Register NL7B/1221.	No

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3.6: SCHEDULE OF DEFERRED SELECTION PROPERTIES

Land Holding Agency	Department of Conservation		
Property	Address	Legal Description	Leaseback
Department of Conservation	Melville Cove/Port Gore	1.2141 hectares, more or less, being Section 10 Block XII Gore Survey District, Marlborough Land District. As shown on OTS-099-82.	No
Department of Conservation	Tunnel Bay/Port Gore	1.2141 hectares, more or less, being Section 16 Block XII Gore Survey District, Marlborough Land District. As shown on OTS-099-83.	No

3.7 SCHEDULE OF LINZ/NZTA DEFERRED SELECTION PROPERTIES

NGĀTI APA DEED OF SETTLEMENT
PROPERTY REDRESS SCHEDULE

3.7: SCHEDULE OF LINZ/NZTA DEFERRED SELECTION PROPERTIES

LINZ/NZTA DEFERRED SELECTION PROPERTIES

Land Holding Agency	NZ Transport Agency			
Property	Address	Legal Description	Conditions	Leaseback
Gravel Pit	State Highway 1 Tuamarina	0.4300 hectares, approximately, being Part Section 47 Waitohi Valley District, Marlborough Land District. All Gazette 1953 page 1754. Subject to survey to exclude a 10 metre wide strip for future road re-alignment.	Subject to it being formally declared surplus and obtaining necessary statutory clearances.	No
Gravel Pit	State Highway 1 Tuamarina	0.4299 hectares, approximately, being Crown Land SO 3848, Marlborough Land District. Part Gazette 1950 page 1561. Subject to survey.	Subject to it being formally declared surplus and obtaining necessary statutory clearances.	No

Land Holding Agency	Land Information New Zealand		
Property	Address	Legal Description	Leaseback
LIPS 12867	State Highway 1 Tuamarina	1.8079 hectares, approximately, being Part Section 47 Waitohi Valley District, Marlborough Land District. Subject to survey.	No
LIPS 15391	Ferry Road Spring Creek	0.0305 hectares, approximately, being Part Section 98 Deeds 12, Marlborough Land District. Part Deeds Register C4/334 (SO 7292). Subject to survey.	No
LIPS 17204	Off Hall-Jones Street & McGowan Street Pūponga	0.3600 hectares, approximately, being Crown Land Residence Site Licence 12893 Block II Onetaua Survey District, Nelson Land District. Crown land, no registration. Subject to survey.	No