

**Reprint  
as at 30 January 2021**



## **Ngāti Tuwharetoa (Bay of Plenty) Claims Settlement Act 2005**

Public Act    2005 No 72  
Date of assent    23 May 2005  
Commencement    see section 2

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**Note**

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.  
Note 4 at the end of this reprint provides a list of the amendments incorporated.

**This Act is administered by the Ministry of Justice.**

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## Preamble

### Kupu Whakataki

- (1) Kua whakatakotoria te Tiriti o Waitangi, taurira reo Māori, taurira reo Pākehā hoki, i roto i te Wāhanga Tuatahi o te Ture Tiriti o Waitangi 1975. I hainatia te Tiriti nei i te tau 1840:

- (2) Mā ngā whiti (3) ki (44) o tēnei Kupu Whakataki ka kitea he whakarāpopototanga o ngā kōrero o muri i te kerēme o neherā o Ngāti Tuwharetoa (Bay of Plenty) kua whakatakotoria ki roto i te whakaaetanga whakataunga i whakamanahia i waenga i a Ngāti Tuwharetoa (Bay of Plenty) rāua ko te Karauna:

*Tāhuhu kōrero*

- (3) Ko tā tēnei wāhanga, he whakatakoto i te tāhū kōrero e whakakaupapa mai ana i ngā manakohanga me te whakapāha a te Karauna:

*Te rohe o Ngāti Tuwharetoa (Bay of Plenty)*

Ko Pūtauaki te Maunga, Ko Te Takanga i ō Apa te Awa, Ko Te Aotahi te Tangata, Ko Ngāti Tuwharetoa (Bay of Plenty) te Iwi:

- (4) E kī ana a Ngāti Tuwharetoa (Bay of Plenty), ko tōna rohe mai Ōtamarākau ka whai i te awa o Waitahanui ki Ōtari ki Motuotara ki Maungawhakamana ki Ngāraraia takiwā ki Haehaenga ki Kākahuoteritenga ki Waikareao ki Maraetahia ki Monehu ki Ōkorotere ki Panepane ki Pūtauaki ki Tāhuna ki Rākeihopukia ki Wahieroa ki Rurima ki Ōtamarākau. Ko te rohe o Ngāti Tuwharetoa (Bay of Plenty) kua huaina i runga ake nei, kei kō atu o te rārangi raupatu. Ko te Rangitaiki rāua ko Tarawera ngā awa nui o roto i te rohe. Tāpae atu ki ngā tohu whenua nei, ko ngā pūkorero nui a te iwi:
- (5) I runga i tōna tūranga hei tangata whenua o te rohe nei, ko ētahi o ngā wāhi nui kei roto i ngā kōrero a te iwi o Ngāti Tuwharetoa (Bay of Plenty), ko Ōtamarākau, ko Ōtari, ko Motuotara, ko Maungawhakamana, ko Ngāraraia, ko Haehaenga, ko Kākahuoteritenga, ko Waikareao, ko Maraetahia, ko Te Monehu, ko Ōkorotere, ko Panepane, ko Pūtauaki, ko Tāhuna, ko Rākeihopukia, ko Wahieroa, ko Ngā Moutere o Rurima, ko Ōtaramuturangi, ko Pāniwhaniwha (Ngāpariwhakairo), ko Mangāti, ko Tūwatawata, ko Te Waikoukou, ko Moturoa, Puketapu, ko Ōtukoiro, ko Te Kiore Pohoroa, ko Korotiwha, ko Oti-tapu, ko Paokoroiti, ko Te Pātāua, ko Te Pakipaki, ko Tainapeka, ko Tau-manawa, ko Tūmanuka, ko Peketā, ko Te Waha-o-te-Parata, ko Ōpeke, ko Tāhunarua, ko Tahutu, ko Whakarewa, ko Ōniao, ko Umuhika, ko Hāhūru, ko Ōkōtuku, ko Ōwhirirangi, ko Whātangi, ko Koroaha, ko Tutarautawhai, ko Parangaehe, ko Mangapehi, ko Ōterangikahamai, ko Poutakamoko, ko Pukehīnau, ko Pokanui, ko Ōteao, ko Te Ahi-inanga, ko Te Atua Reretahi, ko Te Kopua, ko Huratoki, ko Te Haehaenga, ko Ōtangihia, ko Pōkohu, ko Ōtangiwhaka, ko Taranaki, ko Mātirawhāiti, ko Whakapaukōrero, ko Whakapaukarakia, ko Mōkaingārara, ko Ōhinetewai, ko Tūhaepō, ko Te Kōhika, ko Te Ahikōkōwai, ko Kākamea, ko Whakahoro, ko Mangawhio, ko Ruataniwha. Ko ētahi o ngā awaawa ko: Waitahanui, ko Hauone, ko Herepuru, ko Pikowai, ko Mimiha/Whakarewa, ko Ōhinekoao, ko Waihoko, ko Kohi-o-Awa, ko Wai-te-Ariki, ko Wai-te-puru, ko Awakaponga, ko Whāriki-te-toki, ko Waikamihī, ko Wairere-atu (te ingoa mohiotia ai e Ngāti Tuwharetoa (Bay of Plenty) a Braemar Springs), ko Pōkerekere, ko Te Kaokaoroa:

- (6) I kī a Ngāti Tuwharetoa (Bay of Plenty) i mua o te tau 1866 ko ā ratou mahi i aua wā ko te whakatipu māra kūmara, rīwai, wīti, harakeke hoki hei hoko ki ngā kaihokohoko Pākehā, ko te hari hoki i aua taonga ki ngā māketē. Ko Ōkākāru (wāhi ngāwhā) i te takiwā o Kawerau tētahi wāhi motuhake mō te whakaora me te whakamāui, me te whakatō moata o ngā tipu pēnei i te kūmara. I rongonui te wāhi nei mō te mahi a te tuna, a te ika, hei wāhi hoki mō te whāngai tuna, me kī, i ngā wāhi e mahana ana i te waiariki. Ko te haere mā runga waka ka mutu, nui ana te kai i ngā repo:

*Ngā whakamārama mō te Raupatu—Te Riri i te Waiariki ki te Rāwhiti*

- (7) Nō te marama o Hūrae o te tau 1863 pakaru mai ai te riri ki waenganui i te Karauna me ngā Māori i Waikato; hei wāhanga o te riri nei, i pakaru ētahi whawhai ki te Waiariki i te haurua tōmua o te tau 1864:
- (8) Nō te marama o Hūrae o te tau 1865, whai muri o tētahi wā whakariuka, ka patua a James Fulloon, tētahi āpiha nā te Karauna, me ētahi heremana tokotoru o runga i te kaupuke *Kate*, e ētahi Māori i Whakatāne. Nā T H Smith, te Komihana Karauna i Maketū te whakamana kia hopukina te hunga i whai wāhi ki ngā mahi kōhuru i te hunga i runga i te kaupuke *Kate*:
- (9) Nō te marama o Ākuhata o te tau 1865 takatū ai tētahi ope taua a te Karauna e 500 ngā hōia, tae noa ki ētahi Māori mai i ngā hapū me ngā iwi e noho tata ana, kei raro i ngā whakahau a Meiha William Mair, Kaiwhakawā ā-Rohe, ki te mauhere i ērā i ingoatia i te whakamana. Ka whāia ērā i ingoatia i te whakamana, ka awhitia ētahi pā i te Waiariki ki te rāwhiti. Ko ētahi o Ngāti Tuwharetoa (Bay of Plenty) e noho ana ki aua pā:
- (10) Nō te hipanga o te ope taua i te pā o Pārawai ka pakaru mai te whawhai. Ka murua e ngā hōia o te Karauna ngā kararehe me ngā pātaka kai engari kore rawa te pā i horo. Kātahi ka neke ngā hōia ki Te Umuhika, i reira tū ano te puehu i waenganui i ngā hōia me ētahi tāngata mai i te pā o Pārawai. I te pakanga nei, ka mate a Hoete o te hapū o Te Tāwera, i a ia e aukati ana i ngā hōia e whakaeke ana i te pā. E toru tāima a ia e pūhia ana. Ko te whakapae i whiua ki runga i atahi o Ngāti Tuwharetoa (Bay of Plenty), nā rātou ētahi o ngā “tāngata hara” i atawhai. Ka whakamatea ēnei e te ope taua a te Karauna, kātahi ia ka neke ki Te Kupenga. E ai ki a Ngāti Tuwharetoa (Bay of Plenty) ko ētahi o ngā tāngata i whakamatea, kāore i te paku aha, i te manaaki noa iho i ērā i te whāia e te Karauna:
- (11) Nō te 2 o Hepetema o te tau 1865 whakaputaina ai e te Karauna tētahi Pānui Rongomau e kī ana kua mutu te pakanga. I kī te Pānui, kāore e hāmenetia ērā i tū mārō ki te Karauna mai i te tau 1863, mō ā rātou hara o mua. Kāore i whakaurua ki te Pānui Rongomau te hunga nā rātou a Fulloon me ētahi atu i kōhuru. I kī anō te Pānui, ki te kore e hoatuna ki te Karauna te hunga nā rātou a Fulloon mā i kōhuru, “ka raupatutia e te Karauna tētahi wāhanga o ngā whenua o ngā iwi kei te huna i ngā kaikohuru nei”:



- (12) Nō te 4 o te marama o Hepetema o te tau 1865 whakaputaina ai e te Kawana tētahi Pānui Ture Taua ki ngā rohe o Whakatāne me Ōpotiki, e tareka ai te hopu i te hunga nā rātou a Fulloon mā i kōhuru. Noho ai ngā hōia a te Karauna ki waho o ētahi pā, ki te whai i te hunga tērā i roto rātou i ngā mahi kōhuru:
- (13) I te marama o Oketopa o te tau 1865, ka mahue te pā o Pārawai e ngā tāngata i roto, ka haere ki te pā o Te Kupenga, ki reira hono atu ai ki ētahi atu o ngā iwi o te Waiariki, tae rawa ki ētahi o te hunga i ingoatia he tangata hara. Ka whakaekea a Te Kupenga e te Karauna. Nō te 20 o Oketopa o te tau 1865 taka ai te toenga o ngā tāngata i te pā o Te Kupenga ki raro i te mana o te Karauna:

*Te Raupatu i raro i Te Ture Whakatau Manene ki Niu Tireni 1863*

- (14) Nō te 17 o Hānuere o te tau 1866, nā tētahi Whakahau Kaunihera, i raupatutia e te Karauna ētahi 448 000 eka i te Waiariki ki te rāwhiti, i raro i Te Ture Whakatau Manene ki Niu Tireni 1863. I whakahouhia te raina raupatu i raro i tētahi pānui Karauna i te 1 o Hepetema o te tau 1866. I uru atu ki ngā whenua raupatu nei ko te 87 000 eka o Ngāti Tuwharetoa (Bay of Plenty):
- (15) E ai ki ngā korero a te ture, ko ētahi take i whakaturia ai Te Ture Whakatau Manene ki Niu Tireni 1863, ko te whakaū i te rongomau me te maru, me te whakatu me te pupuri i te mana o te Kuini. E ai ki tā te Ture nei, ko te whakakuhi mai i ētahi tāngata whai te “huarahi pai, tōtika rawa” e tūtuki ai aua kaupapa:
- (16) Kāore te Ture i kōrero mō te whakawhiu, engari koia tērā tōna whāinga. I whakamahia te Ture ki te raupatu i ngā whenua Māori inā tau ana te Kāwana kei te “hara tētahi iwi, tētahi wāhanga rānei o tētahi iwi, ētahi tāngata tokomaha rēnei mai i tētahi iwi” ki te mana o te Kuini mai i te 1 o te marama o Hanuere o te tau 1863. Ka āhei te Kāwana ki te whakatau i tētahi Rohe i raro i te Ture, i runga i te mea he whenua kei taua rohe nō ētahi tāngata e kīia nei he tangata hara rātou:
- (17) I whakatau te Karauna, he iwi hara ngā iwi o te Waiariki i te mea i “ātete” rātou ki ngā hōia i haere ki te rohe ki te mauhere i te hunga nā rātou a Fulloon mā i kōhuru:

*Te Tikanga Pāremata*

- (18) I whakatūria Te Kōti Pāremata i raro i ngā tikanga o Te Ture Whakatau Manene ki Niu Tireni 1863, ki te whakarongo ki ngā kerēme mō te whakahoki i ngā whenua raupatu. I mua o te wā noho o te Kōti Pāremata, i te marama o Pepuere o te tau 1866, tohungia ai ko Āpiha Karauna John A Wilson hei komihana motuhake, ki te whakarongo ki ngā wāwāhitanga o ngā whenua raupatu i Te Waiariki:
- (19) I whakaritea e Wilson kia wehea ki ētahi poraka ngā whenua e 87 000 eka i raupatutia, mai i te raina raupatu ki te uru, ahu atu ki te awa o Tarawera. He rahi tonu te wāhanga o te whenua nei, e kerēmehia ana e Ngāti Tuwharetoa (Bay of Plenty) me ētahi atu iwi, i tukuna kē ki ētahi iwi mai i Te Arawa me

ētahi atu hei utu mō ngā mahi hōia. I riro atu anō ngā whenua, he pānga nō Ngāti Tuwharetoa (Bay of Plenty) i te taha rāwhiti o te awa o Tarawera:

- (20) I rongo Te Kōti Pāremata i ētahi korero mai i ētahi tāngata o Ngāti Tuwharetoa (Bay of Plenty) e pā ana ki ngā whenua kei roto i te raupatu, kei te taha hauāuru o te awa o Tarawera. Ko ētahi o ngā kerēme a Ngāti Tuwharetoa (Bay of Plenty) e whakaaehia ana e te Koti, mō ngā poraka whenua o Tawhitinui (e 6 320 eka) rāua ko Rotoitipaku (e 13 675 eka):
- (21) Nō te marama o Tīhema o te tau 1867 whakawhiwhia ai e Te Kōti Pāremata te poraka o Rotoitipaku ki ētahi tāngata tekau ā, ko te poraka o Tawhitinui i whakawhiwhia ki ētahi tāngata tekau mā tōru. I whakawhiwhia ēnei tāngata i te mea ko rātou te hunga whai pānga ki aua whenua ā, kāore rātou i kuhu ki ngā mahi “hara”:
- (22) Ko te titiro a Ngāti Tuwharetoa (Bay of Plenty) ki ēnei whakawhiwhinga, mō te iwi kē ā, ko ngā tāngata i tohungia, i te tū kē hei kaitiaki mō te hapū. Hāunga, nō te pānuitanga o ngā whakawhiwhinga a Te Kōti Pāremata i roto i Te Kāhiti o Niu Tirenī i te tau 1874, kāore he kōrero mō te kaitiaki, engari he kōrero kē mō te whakawhiwhi noa ki te hunga nei:
- (23) I whakawhiwhia ētahi o ngā tāngata o te hapū o Te Tāwera ki ētahi whenua i te takiwā o Umuhika, i runga tonu i ngā whakaritenga a Wilson; hei tāna, he rahi tonu ngā whenua o Te Tāwera i taua takiwā i mua o te pakaru mai o te riri:
- (24) Nō te marama o Tīhema o te tau 1867, whakawhiwhia ai e Te Kōti Pāremata ētahi pito whenua e 50 eka te rahi mai i ngā poraka whenua o Rotoitipaku me Tawhitinui ki ētahi tāngata tekau. Katoa ēnei whakawhiwhinga i raro i ngā tekiona 4 me te 6 o Te Ture Whenua Raupatu 1867, e āhei ana te Karauna ki te whakahoki whenua ki ētahi tāngata e whakaaro ana te Karauna kua “tāngata hara kua tūohu ki te Karauna”:
- (25) I mahia e Wilson āna mahi i raro i ngā tekiona o Te Ture Whakatau Manene ki Niu Tirenī 1863, me āna whakarereketanga. Nō muri kē ka whakatakoto ture hōu te Karauna, pēnei i Te Ture Whenua Raupatu 1867 e aha ai, e mana ā-ture ai ngā whakaritenga a Wilson:
- (26) Ahakoa te mea i whakawhiwhia a Ngāti Tuwharetoa (Bay of Plenty) ki ētahi whenua mā te huarahi o te tikanga pāremata, i ngaro ā rātou tika ki te kuhu ki ērā o ō rātou whenua me ā ratou rawa:
- (27) Ko ngā whenua i hoki mai mā te tikanga pāremata, i hoki mai ke ki ngā tangata takitahi, āpā te hapū, te iwi rānei. Kāore i hāngai ngā momo whakawhiwhinga nei ki ngā tikanga tiaki whenua o mua, nā reira i mōrearea te noho o aua whenua kei wehea:

#### *Ngā Hoko a te Karauna*

- (28) Nō te tau 1873, tīmata ai ngā āpiha hoko whenua a te Karauna ki te whakarite mō te rīhi i ngā poraka whenua o Rotoitipaku me Tawhitinui. Tokowaru ngā tāngata o Ngāti Tuwharetoa (Bay of Plenty) i haina i tētahi whakaaetanga rīhi

mō ngā poraka. Ko ētahi o ngā tāngata nei i ingoatia hei kaitiaki mō ngā poraka e rua i roto i ngā whakamārama a Wilson i te wā o ngā whiwhi pāremata:

- (29) Nō te tau 1874, whai muri i te pānuitanga o ngā whakawhiwhinga mō ngā poraka o Rotoitipaku me Tawhitinui i roto i *Te Kāhiti o Niu Tirenī*, i mārama te kitea atu, i te hē kē ngā ingoa i runga i ngā whakaaetanga rīhi. I ngana ngā āpiha hoko whenua a te Karauna ki te tutuki i te whakaaetanga rīhi mā te tiki i ngā hainatanga mai i te hunga katoa i roto i te rārangi i te pānui kāhiti. Uaua te mahi nei, i te taha whakahaere me te mea i te ngaro ētahi o te hunga i rārangitia i te kāhiti. Nō muri ka whakatau te Karauna kia hokona kē aua poraka:
- (30) Nō te tau 1878 āta wehea ai ētahi wāhi i roto i ngā poraka whenua o Rotoitipaku me Tawhitinui ā, i te nuinga o te wā, i ruritia ēnei whenua hei whenua rāhui, i raro tonu i ngā whakahau a ngā āpiha a te Karauna. I te tau o muri mai, i te wā o ngā whakaritenga me ētahi o te hunga i te rārangi kāhiti, i whakaae ngā āpiha hoko whenua a te Karauna kia kaua e uru aua whenua i rāhuitia ki ngā hokohoko:
- (31) I roto i ngā tau ka whai, ka whakarite te Karauna me ētahi o te hunga nō rātou ngā whenua kia hokona te katoa o te poraka o Tawhitinui; nō te tau 1883 i tutuki tērā. I wehea mai tētahi whenua rāhui e 88 eka te korahi i ngā mahi hokohoko:
- (32) I whakarite anō ngā āpiha a te Karauna kia hokona ngā pānga o ētahi tokorima o te hunga i whakawhiwhia ki te poraka o Rotoitipaku. I tuhi reta ki te Minita mō ngā Take Māori ētahi atu o te hunga i whakawhiwhia, i runga i tā rātou whakahē ki te hoko o te whenua. Ka tonu te Karauna ki Te Kōti Whenua Māori kia pānuitia ōna pānga i roto i te poraka. I te wā e noho ana Te Kōti Whenua Māori, ka whakahē ētahi o te hunga kāore i hiahia ki te hoko i te whenua, kia whakaae rā anō ngā tāngata tekau katoa i whakawhiwhia ki te poraka, tae rawa ki ō rātou hapū. Ahakoa ō rātou whakahē, nō te 25 o Hūne o te tau 1883 whakawhiwhia ai e te Kōti ki te Karauna te hāwhe whaka-te-tonga o te poraka whenua o Rotoitipaku. Nō te 25 o Hūne o te tau 1883 tuhi atu ai ētahi o Ngāti Tuwharetoa (Bay of Plenty) ki te Minita mō ngā Take Māori, e whakamārama ana i ngā whakahē o ētahi o Ngāti Tuwharetoa ki Kawerau me Ngāti Umutahi ki te hoko, me te pātai mēnā e pai ana kia whakahokia ngā moni he mea homai e te Karauna mō ngā whenua:
- (33) Nō te rironga atu o ō rātou whenua mā te raupatu, mā ngā māhi hoko a te Karauna me ētahi atu tikanga wehe i te tāngata mai i ōna whenua, he mea uaua i nāianeī mō Ngāti Tuwharetoa (Bay of Plenty) ki te whātoro ki ana rawa pēnei i te takutai me ngā repo, me kī, ngā kaiwhakarato kai, rongoā, haumaru hoki. Ka ngaro hoki tō rātou mana ki runga i ētahi o ō rātou urupā me ō rātou wāhi nui. Hei tā Ngāti Tuwharetoa (Bay of Plenty) he pēhi kino tēnei i runga i tō rātou hononga ā-wairua, ā-kikokiko me te whenua:

*Ngā Nekeneke o te Rau Tau 20*

- (34) Mai i te timatanga o te tekau tau 1890 i ngana ngā tāngata whai kia whakatahea ngā wai o te repo o Rangitaiki, e noho ātaahua ake ai te whenua mō ngā mahi ahuhenua. I whakaae te Karauna ki tēnei mahi. Nō te tau 1910 ka riro mā te Karauna e whakahaere ngā mahi whakatahe wai ā, nō te tau 1914 oti ai te keria o tētahi maero e puta tika ai te awa o Rangitaiki ki te moana. Rerekē katoa te āhua o ngā repo i ngā mahi kerikeri me te aha, ka raru ngā wāhi tapu me ngā wāhi kōhi kai, aha noa atu:
- (35) Nō te tekau tau 1950 whakaturia ai te tāone me te mīra pepa o Kawerau, i runga paku noa ake o te kāinga o Ngāti Tuwharetoa (Bay of Plenty). Ko te otinga, ko te whakaparuparu me te whakaparahako i te awa o Tarawera (he wāhi nui mō te mahi kai, rawa hoki) me te takiwā o Ōkākāru (e ai ki a Ngāti Tuwharetoa (Bay of Plenty), he wāhi tenei mō te whakaora me te whakangā) i ngā paru mai i ngā kāinga, ahumahi hoki. Nā te Tasman Pulp and Paper Company Enabling Act 1954 i mana ai te tuku para mai i te mīra ki te awa o Tarawera, i raro i ngā aratohu a te Pollution Advisory Council:
- (36) Nā te whakamanatanga o te Geothermal Energy Act 1953, ka riro ki te Karauna anake ngā tika mō ngā rawa ngāwhā. Kāore te Karauna i kōrero ki a Ngāti Tuwharetoa (Bay of Plenty) i mua o tana haere i tēnei huarahi. Nā runga i tēnei mahi, kua kore te mana me te āheinga o Ngāti Tuwharetoa (Bay of Plenty) ki ngā rawa ngāwhā kei te takiwā o Kawerau:

*Ngā Kerēme o Ngāti Tuwharetoa (Bay of Plenty) me ngā Whakaritenga mō te Whakataunga*

- (37) Ki tā Ngāti Tuwharetoa (Bay of Plenty), i takahia e te Karauna te Tiriti o Waitangi, me te aha, kua pā mai ngā whakawhiunga ki te iwi. Mai anō i te wā o te raupatu, kua rapu a Ngāti Tuwharetoa (Bay of Plenty) i te tika mō ēnei takahitanga o te Tiriti kei te whakapaetia. Puta noa i ngā rau tau 19 me te 20, kua pīkauria e Ngāti Tuwharetoa (Bay of Plenty) tana whakamau ki te Karauna, mā ngā petihana me ngā hui me ngā āpiha a te Karauna i Kawerau, i Matatā, me Te Whanganui-a-Tara. Kāore tonu i aro mai te Karauna ki ēnei tonono; kua noho tēnei hei whakamau nui mā Ngāti Tuwharetoa (Bay of Plenty):
- (38) Nō te tau 1988 rehitatia ai e Ngāti Tuwharetoa (Bay of Plenty) tana kerēme raupatu (Wai 62), whai muri o tētahi whakahōunga o Te Ture mō Te Tiriti o Waitangi e aha ai, e tareka ai te tirohia o ngā kerēme hoki rā anō ki te tau 1840. I te tau 1994 me te tau 1995 i rongohia e Te Rōpu Whakamana i te Tiriti te kerēme a Ngāti Tuwharetoa (Bay of Plenty) i te marae i Hāhuru me ētahi atu wāhi; hei wāhanga noa ēnei noho o ngā noho a Te Rōpu Whakamana i te Tiriti i te rohe o Te Waiariki ki te rāwhiti. I taua wā i aro nui Te Rōpu Whakamana i te Tiriti ki te tūranga o Ngāti Tuwharetoa (Bay of Plenty) hei rōpu motuhake me “ana kerēme nui, whai kiko hoki” i te rohe o Te Waiariki ki te rāwhiti. Nō te marama o Oketopa o te tau 1999 whākina ai ngā putanga a Te Rōpu Whakamana i te Tiriti e pā ana ki ana noho i Te Waiariki ki te rāwhiti:

- (39) Nō te marama o Hānuere o te tau 1998 tukuna ai e Ngāti Tuwharetoa (Bay of Plenty) tētahi Whakaaetanga Mana Kōkiri ki te Karauna ā, nō te marama o Maehe o te tau 1998 mana ai te mana kōkiri, ki ta te Karauna titiro. Ka whakamanatia e ngā kaiwhakarite i tētahi hui-a-iwi i tū ki te marae o Ngāti Umutahi, ā, tīmata ana ngā whakarite me te Karauna:
- (40) Nō te marama o Ākuhata o te tau 1998 whakatakotoria ai e Ngāti Tuwharetoa (Bay of Plenty) ki mua i te aroaro o te Karauna te whakamārama mō ngā whakamau i te iwi i roto i ngā tau i mua o te tau 1992, kia tāpaea ki te taha o te kerēme Wai 62. I roto i ngā whakamau i tāpaea e Ngāti Tuwharetoa (Bay of Plenty) ko ngā rongotanga i ngā mamae o te raupatu i runga i a Ngāti Tuwharetoa (Bay of Plenty) e rongohia tonu i tēnei wā tonu, te tauwehe o ngā whenua i hē te raupatu, te korenga ake o te whakamahi, whakahaere me te whai hua mai i ēnei whenua me ngā rawa pēnei i ngā awaawa. I uru atu ki ēnei whakapā kino, ko te keria o te repo o Rangitaiki, te rironga atu o ngā rawa ngāwhā (he taonga nui rawa atu tēnei nā Ngāti Tuwharetoa (Bay of Plenty)) me ngā putanga o te whakatū o te tāone o Kawerau me te ahumahi pepa:
- (41) Nō te 8 o te marama o Hepetema 1998 hainahia ai e Ngāti Tuwharetoa (Bay of Plenty) me te Karauna Ngā Tikanga Whakarite ā, ko tāna, he whakamārama i te hōkai, ngā whāinga me ngā tikanga whakahaere i ngā whakaritenga:
- (42) I raro i Ngā Tikanga Whakarite, i whakaū ngā kaiwhakarite whaimana ki te Karauna, he mana kōkiri tā rātou ki te tū hei māngai mō Ngāti Tuwharetoa (Bay of Plenty) i roto i ngā whakaritenga me te Karauna mō te whakatau o ngā kerēme katoa:
- (43) Tīmata ai ngā whakaritenga whai kiko i waenganui i te Karauna me Ngāti Tuwharetoa (Bay of Plenty) i te marama o Oketopa o te tau 1998. I titiro ēnei whakaritenga ki ngā whakamau i roto i ngā tau i whakaarahia ake e Ngāti Tuwharetoa (Bay of Plenty) pēnei i ngā ture whenua Māori, te whakatakotahi i ngā taitara whenua me ngā ture mahi tumatanui. Nō te marama o Tīhema o te 2000 whakaae tahi ai a Ngāti Tuwharetoa (Bay of Plenty) me te Karauna mō te whānui o te whakatika hapa ā, nō te marama o Hānuere o te tau 2001 whakatakotoria ai e te Karauna tana tāpaetanga:
- (44) I te 22 o Oketopa 2002 ka whakaretangia e te Karauna me Ngāti Tuwharetoa (Bay of Plenty) he whakaaetanga o ngā whakataunga. Ka tatū i te Karauna me Ngāti Tuwharetoa (Bay of Plenty) taua whakaaetanga o ngā whakataunga i te 6 o Hune 2003, e whakatatū ana i ngā take katoa e tika ana kia whakatauria tuturutia te katoa o ngā kerēme o neherā o te iwi o Ngāti Tuwharetoa (Bay of Plenty).

### Background

- (1) The Treaty of Waitangi (Te Tiriti o Waitangi), as set out in English and in Māori in Schedule 1 of the Treaty of Waitangi Act 1975, was signed in 1840:
- (2) Recitals (3) to (44) of this Preamble present, in summary form, the background to the Ngāti Tuwharetoa (Bay of Plenty) historical claims that is set out in the

deed of settlement entered into by Ngāti Tuwharetoa (Bay of Plenty) and the Crown:

*Historical account*

- (3) The acknowledgements and the apology from the Crown to Ngāti Tuwharetoa (Bay of Plenty) are based on the following historical account:

*Rohe of Ngāti Tuwharetoa (Bay of Plenty)*

Ko Pūtauaki te Maunga, Ko Te Takanga i ō Apa te Awa, Ko Te Aotahi te Tangata, Ko Ngāti Tuwharetoa (Bay of Plenty) te Iwi:

- (4) Ngāti Tuwharetoa (Bay of Plenty) describe their rohe as running from Ōtamarākau following the Waitahanui Stream to Ōtari to Motuotara to Maungawhakamana to Ngārara in Haehaenga territory to Kākahuteritenga to Waikareao to Maraetahia to Monehu to Ōkorotere to Panepane to Pūtauaki to Tāhuna to Rākeihopukia to Wahieroa to Rurima to Ōtamarākau. The rohe of Ngāti Tuwharetoa (Bay of Plenty) as described extends beyond the confiscation lines. The Rangitaiki and Tarawera rivers are the major rivers within the rohe. Significant tribal pūkoro are connected to these tribal landmarks:
- (5) As tangata whenua of the described rohe, places of historical and cultural significance to Ngāti Tuwharetoa (Bay of Plenty) include Ōtamarākau, Ōtari, Motuotara, Maungawhakamana, Ngārara, Haehaenga, Kākahuteritenga, Waikareao, Maraetahia, Te Monehu, Ōkorotere, Panepane, Pūtauaki, Tāhuna, Rākeihopukia, Wahieroa, Rurima Islands, Ōtaramuturangi, Pāniwhaniwha (Ngāpariwhakairo), Mangāti, Tūwatawata, Te Waikoukou, Moturoa, Puketapu, Ōtukoiro, Te Kiore Pohoroa, Korotiwha, Otitapu, Paokoroiti, Te Pātaua, Te Pakipaki, Tainapekapeka, Taumanawa, Tūmanuka, Peketā, Te Waha o te Parata, Ōpeke, Tāhunaroa, Tahutu, Whakarewa, Ōniao, Umuhika, Hāhūru, Ōkōtuku, Ōwhirirangi, Whātangi, Koroaha, Tutarautawhai, Parangaehe, Mangapehi, Ōterangikahamai, Poutakamoko, Pukehīnau, Pokanui, Ōteao, Te Ahiinanga, Te Atua Reretahi, Te Kopua, Huratoki, Te Haehaenga, Ōtangihia, Pōkohu, Ōtangiwaka, Taranaki, Mātirawhāiti, Whakapaukōrero, Whakapaukarakia, Mōkaingārara, Ōhinewai, Tūhaepō, Te Kōhika, Te Ahikōkōwai, Kākaramea, Whakahoro, Mangawhio, and Ruataniwha. Waterways include: Waitahanui, Hauone, Herepuru, Pikowai, Mimiha/Whakarewa, Ōhinekoao, Waihoko, Kohi-o-Awa, Wai-te-Ariki, Wai-te-puru, Awakaponga, Whāriki-te-toki, Waikamihī, Wairere-a-tu (the name by which Ngāti Tuwharetoa (Bay of Plenty) know the Braemar Springs), Pōkerekere, and Te Kaokaoroa:
- (6) Ngāti Tuwharetoa (Bay of Plenty) state that prior to 1866 they were actively engaged in the cultivation of large kumara gardens, potatoes, wheat, and flax for sale to and barter with local European traders, and the transport of goods to markets. They were also involved in customary trade with other iwi. The area at Ōkākāru (geothermal region) in the Kawerau area was used as a special place of healing and recuperation and for early cultivation of plants, in particular kumara. The area was also famous for the plentiful supply of eels and fish

and the breeding of eels, especially in the warmest thermal waters. Transport was by waka and the surrounding wetlands were plentiful in kai:

*Background to Raupatu—Conflict in Eastern Bay of Plenty*

- (7) In July 1863, war broke out between the Crown and Māori in the Waikato; as part of this conflict hostilities occurred in the Bay of Plenty during the first half of 1864:
- (8) Following a period of unrest, a Crown official, James Fulloon, and 3 crew members of the vessel *Kate* were killed by some local Māori at Whakatāne in July 1865. T H Smith, the Civil Commissioner at Maketū, issued a warrant for the arrests of those alleged to have taken part in the murders on board the *Kate*:
- (9) In August 1865, a Crown expedition of some 500 men, including Māori from neighbouring iwi and hapū, was mounted under Major William Mair, Resident Magistrate, to apprehend those named in the warrant. They pursued those named in the warrant, laying siege to a number of pā in the eastern Bay of Plenty. Ngāti Tuwharetoa (Bay of Plenty) hapū resided at some of these pā:
- (10) Fighting broke out as the Crown expedition passed Pārawai Pā. Crown troops raided livestock and pillaged crops and food supplies but failed to take the pā. The troops moved onto Te Umuhika where they became involved in a skirmish with some people from Pārawai Pā. In the ensuing conflict Hoete, of Te Tāwera hapū, was shot 3 times and died, defending the pā and his kin from the troops. Others of Ngāti Tuwharetoa (Bay of Plenty) who were accused of harbouring “tangata hara” were killed as the Crown expedition moved towards Te Kupenga. According to Ngāti Tuwharetoa (Bay of Plenty), a number of those killed were providing customary hospitality to those being pursued by the Crown:
- (11) On 2 September 1865, the Crown issued a proclamation of peace, declaring the war at an end. The proclamation stated that those who had taken up arms against the Crown since 1863 would not be prosecuted for past offences. Those responsible for the killings of Fulloon and others were among those excluded from this amnesty. The proclamation also stated that if those responsible for the killing of Fulloon were not given up then “the Governor will seize a part of the lands of the Tribes who conceal these murderers”:
- (12) On 4 September 1865, the Governor issued a proclamation of martial law in the Whakatāne and Ōpotiki areas to enable the capture of those accused of the murder of Fulloon and others. Crown troops remained stationed outside some pā, for the purpose of pursuing those thought to be involved in the murders:
- (13) Around October 1865, the occupants of Pārawai Pā evacuated and went to Te Kupenga Pā, joining other Bay of Plenty iwi, including some of the individuals listed in the arrest warrant. Crown troops attacked Te Kupenga. On 20 October 1865 all those remaining at Te Kupenga surrendered to the Crown force:

*Confiscation under New Zealand Settlements Act 1863*

- (14) By an Order in Council on 17 January 1866, the Crown confiscated approximately 448 000 acres of land in the eastern Bay of Plenty under the New Zealand Settlements Act 1863. The description of the confiscation boundary was amended by a subsequent Crown proclamation of 1 September 1866. The confiscated area included approximately 87 000 acres of the traditional lands of Ngāti Tuwharetoa (Bay of Plenty):
- (15) According to the legislation, 2 of the purposes of the New Zealand Settlements Act 1863 were to provide permanent peace and security, and establish and maintain the Queen’s authority. The Act described the introduction of a sufficient number of settlers as “the best and most effectual means” of achieving those purposes:
- (16) The Act did not mention punishment, but was punitive in nature. It was used to effect the confiscation of Māori land whenever the Governor in Council was satisfied that “any Native Tribe or Section of a Tribe or any considerable number thereof” had been engaged in “rebellion” against the authority of the Queen since 1 January 1863. The Governor could proclaim a district, for the purposes of the Act, where there was any land owned in that district by those deemed to have been in rebellion:
- (17) The Crown considered the Bay of Plenty tribes to have been in rebellion because of the “resistance” to the forces sent into the area to arrest those responsible for the deaths of Fulloon and others:

*The compensation process*

- (18) The Compensation Court was established under the provisions of the New Zealand Settlements Act 1863 to hear claims for the return of confiscated land. Prior to the sitting of the Compensation Court, Crown Agent John A Wilson was appointed as a special commissioner in February 1866 to deal with the allocation of confiscated land in the Bay of Plenty:
- (19) Wilson arranged for approximately 87 000 acres of confiscated land between the western confiscation boundary and the Tarawera River to be divided into blocks. Much of this area, which Ngāti Tuwharetoa (Bay of Plenty) and other iwi also claim, went to certain Te Arawa iwi and others as military awards. Ngāti Tuwharetoa (Bay of Plenty) also lost lands, which they traditionally held interests in on the eastern side of the Tarawera River:
- (20) The Compensation Court heard evidence from members of Ngāti Tuwharetoa (Bay of Plenty) in relation to land within the confiscation boundary on the west side of the Tarawera River. The Ngāti Tuwharetoa (Bay of Plenty) claims recognised by the court included those for the Tawhitinui block (6 320 acres) and the Rotoitipaku block (13 675 acres):
- (21) In December 1867, the Compensation Court awarded the Rotoitipaku block to 10 people and the Tawhitinui block to 13 people. These awards were made on



the basis that they were the rightful owners and not implicated in the “rebellion”:

- (22) Ngāti Tuwharetoa (Bay of Plenty) viewed the awards of these blocks as a tribal endowment with the named individuals acting as kaitiaki or trustees for the hapū. However, when the Compensation Court awards were officially notified in the *Gazette* 7 years later, in 1874, there was no mention of trustees. Rather the blocks were officially awarded to the listed individuals as grantees:
- (23) Members of Te Tāwera hapū were granted land in the Umuhika area, in accordance with an arrangement made by Wilson, who noted that Te Tāwera had been major landholders in the area prior to the war:
- (24) In December 1867, the Compensation Court also awarded 10 individuals 50 acre blocks within the Rotoitipaku and Tawhitinui blocks. All of these awards were made under sections 4 and 6 of the Confiscated Land Act 1867, which allowed the return of land to those considered by the Crown to be “surrendered rebels”:
- (25) Wilson carried out his activities under the provisions of the New Zealand Settlements Act 1863 and its amendments. The Crown then enacted further legislation, including the Confiscated Lands Act 1867, in order to validate Wilson’s arrangements:
- (26) While Ngāti Tuwharetoa (Bay of Plenty) were granted some land through the compensation process, they lost their customary rights of access to other traditional lands and resources:
- (27) Land restored through the compensation process was returned to individuals rather than to the hapū or iwi. The awards did not reflect the customary forms of tenure and land became more susceptible to partition and alienation:

*Crown purchases*

- (28) In 1873, Crown land purchase agents began negotiating to lease the Rotoitipaku and Tawhitinui blocks. Eight Ngāti Tuwharetoa (Bay of Plenty) men signed a deed of lease for the blocks. Some of these men were listed as trustees for the 2 blocks in the schedules Wilson prepared of the compensation awards:
- (29) In 1874, after publication of the awards for the Rotoitipaku and Tawhitinui blocks in the *Gazette*, it became clear that the existing deed of lease did not have the appropriate signatories. Crown land purchase agents attempted to complete the lease deeds by obtaining the signatures for all the grantees listed in the *Gazette* notice. This proved difficult for a number of reasons, including administrative difficulties and the absence of some grantees from the area. The Crown subsequently decided to attempt to purchase the blocks instead:
- (30) In 1878, a number of areas within the Rotoitipaku and Tawhitinui blocks were set aside and, in many cases, surveyed as reserves under instruction from Crown officials. During negotiations with some of the grantees the following year, the Crown land purchase agent agreed that these reserves would be excluded from purchase:

- (31) Over the next few years, the Crown negotiated with some of the owners, purchasing all of the Tawhitinui block in 1883. An 88 acre reserve was excluded from the sale:
- (32) Crown agents also negotiated the purchase of the interests of 5 of the grantees of the Rotoitipaku block. Some of the other grantees wrote to the Minister of Native Affairs in December 1882 objecting to the sale. The Crown applied to the Native Land Court to have its interest in the block declared. During the Native Land Court hearing some non-selling grantees opposed the land being sold without the consent of all 10 of the grantees and the backing of their hapū. Despite their objections, the court awarded the southern half of Rotoitipaku to the Crown on 25 June 1883. There was no provision for reserves within the section of Rotoitipaku awarded to the Crown. Members of Ngāti Tuwharetoa (Bay of Plenty) wrote to the Minister of Native Affairs on 25 June 1883, outlining the objections of some Ngāti Tuwharetoa around the Kawerau area and Ngāti Umutahi to the sale and asking to be allowed to return the money advanced by the Government:
- (33) The loss of their traditional lands through confiscation, Crown purchases and other alienations under the native land laws has impacted on the access of Ngāti Tuwharetoa (Bay of Plenty) to resources such as the coast and the swamp that traditionally provided food, medicine, and shelter. They also lost control over some of their urupā and significant sites. Ngāti Tuwharetoa (Bay of Plenty) state that this has had an ongoing impact on the spiritual and physical relationship of the iwi with the land:

*20th century developments*

- (34) From the early 1890s onwards, attempts were made by settlers, with the sanction of the Government, to drain the Rangitaiki swamp area to make it more suitable for farming. The Government took over the local land drainage scheme in 1910 and in 1914 a channel was cut to provide the Rangitaiki River with a direct route to the sea. The physical characteristics of these wetlands were significantly altered by the drainage and river diversion scheme, and this affected Ngāti Tuwharetoa (Bay of Plenty) wāhi tapu and traditional gathering areas for food and other resources:
- (35) In the 1950s, the Kawerau township and pulp and paper mill were established above the settlement of Ngāti Tuwharetoa (Bay of Plenty). These developments resulted in the pollution and degradation of the Tarawera River (which was a valuable food and water resource for Ngāti Tuwharetoa (Bay of Plenty)) and the Ōkākāru area (which Ngāti Tuwharetoa (Bay of Plenty) hold to be a historically significant area for healing and recuperation), by urban and industrial waste. The Tasman Pulp and Paper Company Enabling Act 1954 authorised the discharge of waste from the mill into the Tarawera River in accordance with Pollution Advisory Council guidelines:
- (36) With the passing of the Geothermal Energy Act 1953, the Crown established for itself, without the consent of Ngāti Tuwharetoa (Bay of Plenty), the sole

right to the geothermal energy resource. In relation to the Kawerau geothermal field, this has resulted in Ngāti Tuwharetoa (Bay of Plenty) losing control of and access to geothermal resources in the area:

*The claims of Ngāti Tuwharetoa (Bay of Plenty) and settlement negotiations*

- (37) Ngāti Tuwharetoa (Bay of Plenty) considers that the Crown has breached the Treaty of Waitangi (Te Tiriti o Waitangi) and caused significant prejudice to the iwi. Ngāti Tuwharetoa (Bay of Plenty) have sought justice for these alleged Treaty breaches since the raupatu. Throughout the 19th and 20th centuries a number of Ngāti Tuwharetoa (Bay of Plenty) tangata have carried their grievance to the Crown through petitions and in meetings with Crown officials in Kawerau, Matatā, and in Wellington. The failure of the Crown to redress these wrongs has also become a significant grievance for Ngāti Tuwharetoa (Bay of Plenty):
- (38) Ngāti Tuwharetoa (Bay of Plenty) registered their raupatu claim (Wai 62) in 1988, following a 1985 amendment to the Treaty of Waitangi Act 1975 to allow the hearing of claims back to 1840. The Ngāti Tuwharetoa (Bay of Plenty) claim was heard by the Waitangi Tribunal at Hāhuru marae and at other venues as part of the Eastern Bay of Plenty hearings during the course of 1994 and 1995. At that time the Waitangi Tribunal recognised the status of Ngāti Tuwharetoa (Bay of Plenty) as an independent group with “significant and compelling claims” in the eastern Bay of Plenty area. The findings of the Waitangi Tribunal in relation to the Eastern Bay of Plenty hearings were released in October 1999:
- (39) Ngāti Tuwharetoa (Bay of Plenty) submitted a deed of mandate to the Crown in January 1998 and the Crown recognised the mandate in March 1998. Negotiators were mandated at a hui-a-iwi at Ngāti Umutahi marae, Matatā, and negotiations with the Crown commenced:
- (40) In August 1998, Ngāti Tuwharetoa (Bay of Plenty) presented the Crown with a detailed statement of all the historical grievances of the iwi prior to 1992 to be addressed alongside the Wai 62 claim. The grievances that Ngāti Tuwharetoa (Bay of Plenty) presented included the ongoing impact of the raupatu on Ngāti Tuwharetoa (Bay of Plenty), subsequent alienation of wrongly confiscated lands, the loss of use, control, and benefits of these lands and resources including waterways. The drainage of the Rangitaiki wetlands, loss of geothermal resource (a key taonga of Ngāti Tuwharetoa (Bay of Plenty)), and the impact on Ngāti Tuwharetoa (Bay of Plenty) of the development of the Kawerau township and the pulp and paper industry were also stated to be grievances of Ngāti Tuwharetoa (Bay of Plenty):
- (41) Ngāti Tuwharetoa (Bay of Plenty) and the Crown signed terms of negotiation on 8 September 1998 which specified the scope, objectives, and general procedures for negotiations:

- (42) Under the terms of negotiation, the mandated negotiators confirmed to the Crown that they had a mandate to represent Ngāti Tuwharetoa (Bay of Plenty) in negotiations with the Crown for settlement of all the historical claims:
- (43) Substantive negotiations between the Crown and Ngāti Tuwharetoa (Bay of Plenty) began in October 1998. These negotiations addressed all the historical grievances raised by Ngāti Tuwharetoa (Bay of Plenty) including the native land laws, individualisation of title, and public works legislation. The Crown and Ngāti Tuwharetoa (Bay of Plenty) agreed on the scope of the total redress package in December 2000, and the Crown made a settlement offer in January 2001:
- (44) The Crown and Ngāti Tuwharetoa (Bay of Plenty) initialled a deed of settlement on 22 October 2002. Ngāti Tuwharetoa (Bay of Plenty) ratified the Crown's settlement offer and entered into a deed of settlement on 6 June 2003 recording matters to give effect to a full and final settlement of all the historical claims of Ngāti Tuwharetoa (Bay of Plenty).

## **1 Title**

This Act is the Ngāti Tuwharetoa (Bay of Plenty) Claims Settlement Act 2005.

## **2 Commencement**

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

# **Part 1**

## **Acknowledgements and apology by the Crown to Ngāti Tuwharetoa (Bay of Plenty), and preliminary provisions**

### **3 Purpose**

The purpose of this Act is to—

- (a) record the acknowledgements and apology given by the Crown to Ngāti Tuwharetoa (Bay of Plenty) in the deed of settlement dated 6 June 2003 and signed by the Minister in Charge of Treaty of Waitangi Negotiations, the Honourable Margaret Wilson, for the Crown, and by Rae Beverley Adlam, the Reverend Canon Robert David Schuster, Tai Tukiwaho Te Riini, and Ani Te Waikaretu Wickliffe for Ngāti Tuwharetoa (Bay of Plenty); and
- (b) give effect to certain provisions of the deed of settlement, which is a deed that settles the Ngāti Tuwharetoa (Bay of Plenty) historical claims.

### **4 Act binds the Crown**

This Act binds the Crown.

## 5 Outline

- (1) This section is a guide to the overall scheme and effect of this Act, but does not affect the interpretation or application of the other provisions of this Act or of the deed of settlement.
- (2) Part 1 includes the preliminary provisions relating to the commencement and purpose of the Act and records the acknowledgements and apology given by the Crown to Ngāti Tuwharetoa (Bay of Plenty) in the deed of settlement.
- (3) Part 2 defines terms used in this Act, including key terms such as Ngāti Tuwharetoa (Bay of Plenty) and Ngāti Tuwharetoa (Bay of Plenty) historical claims.
- (4) Part 3 provides that the settlement of Ngāti Tuwharetoa (Bay of Plenty) historical claims is final, and deals with related issues, including—
  - (a) the effect of the settlement on the jurisdiction of a court, tribunal, or other judicial body to consider the Ngāti Tuwharetoa (Bay of Plenty) historical claims; and
  - (b) consequential amendments to the Treaty of Waitangi Act 1975; and
  - (c) the effect of the settlement on certain resumptive memorials; and
  - (d) miscellaneous matters relating to the settlement, such as the exclusion of the limit on the duration of a trust and the timing of actions or matters provided for in the Act.
- (5) Part 4 includes provisions relating to the following matters:
  - (a) the issue of protocols to the governance entity by the Minister of Conservation, the Minister of Fisheries, and the Minister for Arts, Culture, and Heritage; and
  - (b) the vesting in the governance entity of the fee simple estate in 5 cultural redress properties; and
  - (c) an acknowledgement by the Crown of the statements made by Ngāti Tuwharetoa (Bay of Plenty) of their cultural, spiritual, historical, and traditional association with 7 statutory areas, with provision for entering into deeds of recognition in relation to 5 statutory areas, together with provisions as to the effect of these instruments; and
  - (d) an acknowledgement by the Crown of the statements made by Ngāti Tuwharetoa (Bay of Plenty) of their cultural, spiritual, historical, and traditional association with the geothermal energy and geothermal water located in the Kawerau Geothermal system, together with provisions as to the effect of this instrument; and
  - (e) the establishment of a joint advisory committee to perform specified functions in relation to 3 cultural redress properties and retained sites; and
  - (f) the grant of renewable Nohoanga entitlements over a Nohoanga site; and

- (g) an acknowledgement of Ngāti Tuwharetoa (Bay of Plenty) values in relation to the site declared as Owhakatihi in the Parimahana Scenic Reserve.
- (6) Part 5 sets out provisions relating to the transfer of commercial redress properties and related matters.
- (7) There are 9 schedules that—
  - (a) describe the cultural redress properties; and
  - (b) describe the areas over which statutory acknowledgements are made, and set out the texts of the statements by Ngāti Tuwharetoa (Bay of Plenty) of their association with the areas; and
  - (c) describe the Nohoanga site for the purposes of subpart 5 of Part 4; and
  - (d) describe the Owhakatihi for the purposes of subpart 6 of Part 4 and set out the Ngāti Tuwharetoa (Bay of Plenty) values relating to the Owhakatihi.

Section 5(4)(d): amended, on 30 January 2021, by section 161 of the Trusts Act 2019 (2019 No 38).

## **6 Acknowledgements and apology**

Sections 7 to 10 record the acknowledgements and apology based on these acknowledgements given by the Crown to Ngāti Tuwharetoa (Bay of Plenty) in the deed of settlement.

## **7 Text of acknowledgements in Māori—Ngā Whakaaetanga na te Karauna**

The text of the acknowledgements in Māori as set out in the deed of settlement is as follows:

- (1) E whakaae ana te Karauna, mai ano i te wā o te raupatu kua rapū a Ngāti Tuwharetoa (Bay of Plenty) kia whakaaetia o ratou whakamau, a, kua roa rawa te wā e tariana tenei. Na reira e whakaae ana te Karauna ki te tika o ngā whakamau a Ngāti Tuwharetoa (Bay of Plenty) i roto i ngā tau, na reira e whai iho nei ko ana whakaaetanga.
- (2) E whakaae ana te Karauna:
  - (a) na tana raupatu i ngā whenua o Ngāti Tuwharetoa (Bay of Plenty) i te Waiariki-ki-te-rāwhiti i raro i Te Ture Whakatau Manene ki Niu Tireni 1863, i tineia te mana tuku iho a te Māori ki runga i te whenua, a, riro tonu atu ngā whenua me ngā rawa o Ngāti Tuwharetoa (Bay of Plenty); a
  - (b) na te raupatu o ngā whenua o Ngāti Tuwharetoa (Bay of Plenty) ka pa te kino ki runga i te noho, te ohanga me te whakapakaritanga o Ngāti Tuwharetoa (Bay of Plenty), ka aukatia te iwi ki ona rawa taiao me ona wāhi tapu, ka whai wāhi hoki ki te noho wehe me te marara o te iwi; a
  - (c) kaore i te tika tana raupatu i ngā whenua o Ngāti Tuwharetoa (Bay of Plenty), i tua atu, he takahitanga tenei o te Tiriti o Waitangi me ona matapono.

- (3) E whakaae ana te Karauna:
- (a) i pupū ake i te raupatu, ko te whakatoihara a, na ngā tupuhitanga o te whakahaere o Te Kōti Pāremata ka kino ake te pa mai o taua whakatoihara; a
  - (b) kaore he tikanga o te raupatu whenua, ināra kaore te Karauna i whakahoki ngā whenua katoa o te hunga—ki ta ratou titiro—kaore i roto i ngā mahi i raupatutia ai ngā whenua i te tuatahi; a
  - (c) i whakawhiwhia etahi whenua o Ngāti Tuwharetoa (Bay of Plenty) ki iwi ke. Ko te otinga atu o tenei, i wehe mai etahi o te iwi o Ngāti Tuwharetoa (Bay of Plenty) i ngā whenua kua roa nei e nohia ana e ratou, e whakatipuria ana ki te kai mai ra ano; a
  - (d) na ngā whakawhiti whenua i raro i ngā ture whenua Māori, penei i ngā hoko whenua a te Karauna, ka iti haere te korahi o ngā whenua o Ngāti Tuwharetoa (Bay of Plenty); a
  - (e) i whakawhiwhia e Te Kōti Pāremata me Te Kōti Whenua Māori ngā whenua ki ngā tangata takitahi, apa ngā hapū, te iwi ranei. Kaore tenei i te tika i raro i ngā whakahaere whenua a te Māori, me te mea ano na tenei mahi, ka noho morearea ngā whenua nei, kei wehea, kei hokona; a
  - (f) na enei mahi i raru te noho a-hapori, te mana me te rangatiratanga o Ngāti Tuwharetoa (Bay of Plenty). Kaore i eke te tiaki a te Karauna i a Ngāti Tuwharetoa (Bay of Plenty) i ngā whakawhiunga o enei mahi, na reira he takahitanga tenei o Te Tiriti o Waitangi me ona matapono.
- (4) E whakaae ana te Karauna, ko te pūtanga o te kore nganā a te Karauna ki te tiaki i ngā pānga a Ngāti Tuwharetoa (Bay of Plenty) ki ngā whenua i hiahia te iwi ki te pupūri, kua tata kore nei ngā whenua o te iwi inaianei. I takahi te Karauna i Te Tiriti o Waitangi, i tana kore ngāna kia toe mai he whenua ki a Ngāti Tuwharetoa (Bay of Plenty), e tutuki ai ona hiahia mo tenei wa, mo ngā ra hoki kei te tu.
- (5) E whakaae ana te Karauna na:
- (a) te whakamanatanga o te Geothermal Energy Act 1953 e te Karauna (kaore i whakaae a Ngāti Tuwharetoa); a
  - (b) te rironga atu o te mana whakahaere o Ngāti Tuwharetoa (Bay of Plenty) ki runga i ngā Ngawha o Kawerau; a
  - (c) te whakaparariko i te awa o Tarawera me te takiwa o Ōkākāru.
- (6) E whakaae ana te Karauna:
- (a) i whiwhi, i whai hua a Niu Tireni mai i ngā whenua o Ngāti Tuwharetoa (Bay of Plenty) i raupatutia; a
  - (b) ko etahi atu o ngā rawa penei i ngā ngāwhā, i tangohia me te kore whakaae o Ngāti Tuwharetoa (Bay of Plenty); whiwhi katoa a Niu Tireni, mo

tānā ora me tānā whanaketanga, i ngā rawa a Ngāti Tuwharetoa (Bay of Plenty); a

- (c) mai ano i te tau 1840, kua whakaatu mai te nuinga o ngā tangata o Ngāti Tuwharetoa (Bay of Plenty) i te pai o ta ratou noho me te Kāwanatanga. Kua tutuki e Ngāti Tuwharetoa (Bay of Plenty) ona kawenga i raro i Te Tiriti o Waitangi, ko tetahi wāhi o enei kawenga me ki, ko te haere ki ngā pakānga o Aotearoa ki tāwāhi. E mihi ana te Karauna ki te wāhi a Ngāti Tuwharetoa (Bay of Plenty) i roto i te tiaki me te arai i te whenua nei o Niu Tireni.

## **8 Text of acknowledgements in English**

The text of the acknowledgements in English as set out in the deed of settlement is as follows:

- (1) The Crown acknowledges that the people of Ngāti Tuwharetoa (Bay of Plenty) have sought acknowledgement of their grievances since the raupatu and that recognition of these grievances is long overdue. The Crown hereby acknowledges the legitimacy of the Ngāti Tuwharetoa (Bay of Plenty) historical grievances and makes the following acknowledgements.
- (2) The Crown acknowledges that:
  - (a) its confiscation of Ngāti Tuwharetoa (Bay of Plenty) lands in the Eastern Bay of Plenty by means of the New Zealand Settlements Act 1863 extinguished Māori customary title to land and deprived Ngāti Tuwharetoa (Bay of Plenty) of tribal lands and resources; and
  - (b) the confiscation of Ngāti Tuwharetoa (Bay of Plenty) lands had a damaging effect on the welfare, economy, and development of Ngāti Tuwharetoa (Bay of Plenty), deprived the iwi of access to its traditional natural resources and wāhi tapu, and contributed significantly to the subsequent dislocation and fragmentation of the iwi; and
  - (c) its confiscation of Ngāti Tuwharetoa (Bay of Plenty) lands was unjust and a breach of the Treaty of Waitangi (Te Tiriti o Waitangi) and its principles.
- (3) The Crown acknowledges that:
  - (a) the prejudice created by the confiscation was compounded by inadequacies in the Compensation Court process; and
  - (b) the confiscations were indiscriminate in that the Crown failed to return land in full to those it did not consider to have been involved in the actions that prompted the confiscation; and
  - (c) some Ngāti Tuwharetoa (Bay of Plenty) land was awarded to other iwi. As a result some Ngāti Tuwharetoa (Bay of Plenty) tangata were dislocated from the lands they traditionally occupied and cultivated; and



- (d) Ngāti Tuwharetoa (Bay of Plenty)'s traditional tribal estate was further reduced by transfer under the native land laws, including Crown purchases; and
  - (e) the Compensation Court and the Native Land Court awarded land to individuals rather than iwi or hapū. This was not consistent with customary tenure and made those lands more susceptible to partition and alienation; and
  - (f) these actions eroded the traditional social structures, mana, and rangatiratanga of Ngāti Tuwharetoa (Bay of Plenty). The Crown failed to adequately protect Ngāti Tuwharetoa (Bay of Plenty) from the impact of these actions and this was a breach of the Treaty of Waitangi (Te Tiriti o Waitangi) and its principles.
- (4) The Crown acknowledges that the cumulative effect of the Crown's actions, particularly its failure to actively protect Ngāti Tuwharetoa (Bay of Plenty) interests in the land they wished to retain has left the iwi virtually landless. The Crown breached the Treaty of Waitangi (Te Tiriti o Waitangi) by failing to ensure that Ngāti Tuwharetoa (Bay of Plenty) were left with sufficient land for their present and future needs.
- (5) The Crown acknowledges that the following matters have caused a sense of grievance within Ngāti Tuwharetoa (Bay of Plenty) that is still held today:
- (a) the passing of the Geothermal Energy Act 1953 by the Crown (without the consent of Ngāti Tuwharetoa (Bay of Plenty)); and
  - (b) Ngāti Tuwharetoa (Bay of Plenty) having lost control of, and access to, the Kawerau Geothermal system; and
  - (c) the pollution and degradation of the Tarawera River and the Okākāru area.
- (6) The Crown acknowledges that:
- (a) the lands confiscated from Ngāti Tuwharetoa (Bay of Plenty) have made a valuable contribution to the wealth and development of the nation; and
  - (b) the other resources, such as the geothermal resource, taken without the consent of Ngāti Tuwharetoa (Bay of Plenty), have made a valuable contribution to the wealth and development of the nation; and
  - (c) most Ngāti Tuwharetoa (Bay of Plenty) people have demonstrated a record of co-operation with the Government from 1840. Ngāti Tuwharetoa (Bay of Plenty) has honoured its obligations and responsibilities under the Treaty of Waitangi (Te Tiriti o Waitangi), especially, but not exclusively, in its contribution to New Zealand's war effort overseas. The Crown pays tribute to the contribution made by Ngāti Tuwharetoa (Bay of Plenty) to the defence of the nation.

**9 Text of apology in Māori—Te Whakapaha na te Karauna**

The text of the apology in Māori as set out in the deed of settlement is as follows:

- (1) E aro ana te Karauna ki ngā okeoke a ngā tīpuna o Ngāti Tuwharetoa (Bay of Plenty) i a ratou ka whai i a ratou kereme mo te tika ki te Karauna mai i te wā o te raupatu. I tua atu ka tuku whakapaha te Karauna ki a Ngāti Tuwharetoa (Bay of Plenty), ki o ratou tīpuna me o ratou uri whakaheke.
- (2) E tino awhitu ana, e tino whakapaha ana te Karauna mo ana takahitanga i Te Tiriti o Waitangi me ona matapono, e whakamaramatia ana i runga ake nei.
- (3) Ko te mea nui, e tino awhitu ana, e tino whakapaha ana te Karauna mo tana raupatu i ngā whenua o Ngāti Tuwharetoa (Bay of Plenty), me ngā whaka-whiunga mai i ana mahi i pa ki ngā whakatipūranga, tapae atu ko ngā putanga kino ki te hāpori, te ohanga, te taiao me te whakapakaritanga o Ngāti Tuwharetoa (Bay of Plenty).
- (4) Ka tino awhitu te Karauna mo tana kore aro ki te mana me te rangatiratanga o Ngāti Tuwharetoa (Bay of Plenty).
- (5) Na reira, i runga i tenei whakapaha, e rapū ana te Karauna kia whakahāngaitia enei he ōna, katahi ia ka tīmata ki te whakapai i te hononga. E rika ana te Karauna kia tu mai tetahi hononga, ko tona putake ko te whakawhirinakitanga me te mahi tahi me Ngāti Tuwharetoa (Bay of Plenty).

**10 Text of apology in English**

The text of the apology in English as set out in the deed of settlement is as follows:

- (1) The Crown recognises the struggles of the ancestors of Ngāti Tuwharetoa (Bay of Plenty) in pursuit of their claims for justice against the Crown since the raupatu and hereby makes this apology to Ngāti Tuwharetoa (Bay of Plenty), to their ancestors, and to their descendants.
- (2) The Crown profoundly regrets and unreservedly apologises for the breaches of the Treaty of Waitangi (Te Tiriti o Waitangi) and its principles.
- (3) In particular, the Crown profoundly regrets and unreservedly apologises for its confiscation of Ngāti Tuwharetoa (Bay of Plenty) lands and for the cumulative effect of its actions over the generations, which have had a damaging effect on the welfare, economy, environment, and development of Ngāti Tuwharetoa (Bay of Plenty).
- (4) The Crown profoundly regrets its failure to acknowledge the mana and rangatiratanga of Ngāti Tuwharetoa (Bay of Plenty).
- (5) Accordingly, with this apology, the Crown seeks to atone for these wrongs and to begin the process of healing. The Crown looks forward to building a relationship of mutual trust and co-operation with Ngāti Tuwharetoa (Bay of Plenty).

## Part 2 Interpretation

### 11 Interpretation of Act generally

It is the intention of Parliament that the provisions in this Act are interpreted in a manner that best furthers the agreements expressed in the deed of settlement.

### 12 Interpretation

In this Act, unless the context otherwise requires,—

**archaeological site** has the meaning given by section 6 of the Heritage New Zealand Pouhere Taonga Act 2014

**business day** means the period of 9 am to 5 pm on any day of the week other than—

- (a) Saturday, Sunday, Good Friday, Easter Monday, Anzac Day, the Sovereign's birthday, Labour Day, and Waitangi Day; and
- (b) a day in the period commencing with 25 December in a year and ending with the close of 15 January in the following year; and
- (ba) if Waitangi Day or Anzac Day falls on a Saturday or a Sunday, the following Monday; and
- (c) the days observed as the anniversaries of Wellington and Auckland

**commercial redress property** means a property described in Schedules 6.1 and 6.2 of the deed of settlement

**Commissioner of Crown Lands** has the same meaning as Commissioner in section 2 of the Land Act 1948

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

**Conservation Board** has the meaning given by section 2(1) of the Conservation Act 1987

**conservation document** means a conservation management plan

**conservation management plan** has the meaning given by section 2(1) of the Reserves Act 1977

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

**Crown forestry licence** has the meaning given by section 2(1) of the Crown Forest Assets Act 1989

**cultural redress property** means a property listed in Schedule 1

**deed of recognition** means a deed of recognition entered into by the Crown and the governance entity under section 53

**deed of settlement and deed—**

- (a) means the deed of settlement dated 6 June 2003 signed by the Minister in Charge of Treaty of Waitangi Negotiations, the Honourable Margaret Wilson, for the Crown, and by Rae Beverley Adlam, the Reverend Canon Robert David Schuster, Tai Tukiwaho Te Riini, and Ani Te Wai-karetu Wickliffe for Ngāti Tuwharetoa (Bay of Plenty); and
- (b) includes—
  - (i) the schedules of, and attachments to, the deed; and
  - (ii) any amendments to the deed, the attachments, or the schedules

**Director-General** has the meaning given by section 2(1) of the Conservation Act 1987

**DOC protocol** means a protocol issued under section 21 by the Minister of Conservation that—

- (a) sets out how the Department of Conservation will interact with the governance entity on the matters specified in the protocol; and
- (b) provides for the input of Ngāti Tuwharetoa (Bay of Plenty) into processes of the Department in relation to the matters specified in the protocol; and
- (c) is in the form set out in Schedule 5.1 of the deed of settlement

**DOC protocol area** means the area shown on the map attached to the DOC protocol, together with the adjacent waters to the extent that they are administered by the Department of Conservation

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

**encumbrance** means a tenancy, lease, licence, licence to occupy, easement, covenant, or other third party right that—

- (a) affects a cultural redress property and is listed in column 3 of Schedule 1; or
- (b) affects a commercial redress property and is part of the description of the commercial redress property in Schedules 6.1 and 6.2 of the deed of settlement

**fisheries legislation** means—

- (a) the Fisheries Act 1983;
- (b) the Fisheries Act 1996;
- (c) all regulations made under either or both of those Acts that remain in force

**fisheries protocol** means a protocol issued under section 21 by the Minister of Fisheries that—

- (a) sets out how the Ministry of Fisheries will interact with the governance entity on the matters specified in the protocol; and

(b) provides for the input of Ngāti Tuwharetoa (Bay of Plenty) into the processes of that Ministry in relation to the matters specified in the protocol; and

(c) is in the form set out in Schedule 5.2 of the deed of settlement

**fisheries protocol area** means the area shown on the map attached to the fisheries protocol, together with the adjacent waters

**governance entity** means the Ngāti Tuwharetoa (Bay of Plenty) Settlement Trust established in accordance with clause 2.1 of the deed of settlement

**Heritage New Zealand Pouhere Taonga** means the Crown entity established by section 9 of the Heritage New Zealand Pouhere Taonga Act 2014

**licensee**, in relation to a Crown forestry licence, means the holder of the licence

**member of Ngāti Tuwharetoa (Bay of Plenty)** means every individual referred to in section 13(1)

**New Zealand Conservation Authority** has the meaning given by section 2(1) of the Conservation Act 1987

**Ngāti Tuwharetoa (Bay of Plenty) and Ngāti Tuwharetoa (Bay of Plenty) ancestor** have the meanings set out in section 13

**Ngāti Tuwharetoa (Bay of Plenty) area of interest** means the area identified in attachment 1.1 of the deed of settlement as the area which Ngāti Tuwharetoa identifies as its area of interest, together with the adjacent waters and the Rurima Islands

**Ngāti Tuwharetoa (Bay of Plenty) historical claims** has the meaning set out in section 14

**protected New Zealand objects protocol** means a protocol issued under section 21 by the Minister for Arts, Culture and Heritage that—

(a) sets out how the Ministry for Culture and Heritage will interact with the governance entity on the matters specified in the protocol; and

(b) provides for the input of Ngāti Tuwharetoa (Bay of Plenty) into the processes of the Ministry in relation to the matters specified in the protocol; and

(c) is in the form set out in Schedule 5.3 of the deed of settlement

**protected New Zealand objects protocol area** means the area shown on the map attached to the protected New Zealand objects protocol, together with the adjacent waters

**Registrar-General** means the Registrar-General of Land appointed in accordance with section 4 of the Land Transfer Act 1952

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

**representative entity** means—

- (a) the governance entity; and
- (b) any person (including any trust or trustees) acting for, or on behalf of—
  - (i) the iwi, or the collective group referred to in section 13(1)(a)(i):
  - (ii) any 1 or more of the individuals referred to in section 13(1)(a)(ii):
  - (iii) any 1 or more of the hapū, groups, families, or whānau referred to in section 13(1)(b)

**resource consent** has the meaning given by section 87 of the Resource Management Act 1991

**responsible Minister** means, in subpart 1 of Part 4, one of the following Ministers:

- (a) the Minister of Conservation:
- (b) the Minister of Fisheries:
- (c) the Minister for Arts, Culture, and Heritage:
- (d) any other Minister of the Crown who is authorised by the Prime Minister to exercise powers and perform functions and duties under subpart 1 of Part 4

**responsible Ministry** means, in subpart 1 of Part 4, one of the following departments of State:

- (a) the Department of Conservation:
- (b) the Ministry of Fisheries:
- (c) the Ministry for Culture and Heritage:
- (d) any other department of State authorised by the Prime Minister to exercise powers and perform functions and duties under subpart 1 of Part 4

**river**, in relation to a statutory acknowledgement, means a continuously or intermittently flowing body of fresh water, including a stream or modified watercourse and the bed of the river

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

**statutory acknowledgement** means an acknowledgement made by the Crown under section 38 in respect of a statutory area on the terms set out in subpart 3 of Part 4

**statutory area** means the areas and rivers defined in Schedules 4 to 8, the general locations of which are indicated on the SO plan referred to in those schedules

**statutory plan—**

- (a) means a regional policy statement, regional coastal plan, district plan, regional plan, or proposed plan as defined in section 2(1) of the Resource Management Act 1991; and
- (b) includes a proposed policy statement or plan provided for in Schedule 1 of the Resource Management Act 1991

**waterway—**

- (a) means a lake, being a body of fresh water that is entirely or nearly surrounded by land, or a river, being a continuously or intermittently flowing body of fresh water, and includes a stream and modified watercourse; and
- (b) includes coastal waters, including harbours; but
- (c) does not include an artificial watercourse such as an irrigation canal, water supply race, canal for the supply of water for electricity power generation, or farm drainage canal.

Section 12 **antiquities protocol**: repealed, on 1 November 2006, by section 35 of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 12 **antiquities protocol area**: repealed, on 1 November 2006, by section 35 of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 12 **archaeological site**: amended, on 20 May 2014, by section 107 of the Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26).

Section 12 **business day** paragraph (ba): inserted, on 1 January 2014, by section 8 of the Holidays (Full Recognition of Waitangi Day and ANZAC Day) Amendment Act 2013 (2013 No 19).

Section 12 **Heritage New Zealand Pouhere Taonga**: inserted, on 20 May 2014, by section 107 of the Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26).

Section 12 **Historic Places Trust**: repealed, on 20 May 2014, by section 107 of the Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26).

Section 12 **protected New Zealand objects protocol**: inserted, on 1 November 2006, by section 35 of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 12 **protected New Zealand objects protocol area**: inserted, on 1 November 2006, by section 35 of the Protected Objects Amendment Act 2006 (2006 No 37).

**13 Meaning of Ngāti Tuwharetoa (Bay of Plenty)**

(1) In this Act, **Ngāti Tuwharetoa (Bay of Plenty)**—

- (a) means—
  - (i) the collective group composed of individuals referred to in subparagraph (ii); and
  - (ii) every individual who is—
    - (A) descended from a Ngāti Tuwharetoa (Bay of Plenty) ancestor or ancestors:
    - (B) a member of a hapū, group, family, or whānau referred to in paragraph (b):

- (C) a whāngai of Ngāti Tuwharetoa (Bay of Plenty); and
- (b) includes—
- (i) the hapū of Ngāti Tuwharetoa (Bay of Plenty); and
  - (ii) any hapū, group, family, or whānau composed of individuals referred to in paragraph (a)(ii).
- (2) In this section and in section 14, **Ngāti Tuwharetoa (Bay of Plenty) ancestor** means a person who exercised customary rights—
- (a) by virtue of being descended from—
    - (i) Tuwharetoa;
    - (ii) a recognised ancestor of any of the hapū of Ngāti Tuwharetoa (Bay of Plenty); and
  - (b) predominantly in relation to the Ngāti Tuwharetoa (Bay of Plenty) area of interest at any time after 6 February 1840.
- (3) In this section,—

**customary rights** means rights according to tikanga Māori (Māori customary values and practices), including the following:

- (a) rights to occupy land; and
- (b) rights in relation to the use of—
  - (i) land;
  - (ii) natural or physical resources

**hapū of Ngāti Tuwharetoa (Bay of Plenty)** means the following 9 hapū being—

- (a) Umutahi;
- (b) Te Tawera;
- (c) Ngāti Peehi;
- (d) Ngāi Tamarangi;
- (e) Te Aotahi;
- (f) Ngāti Poutomuri;
- (g) Ngāti Iramoko;
- (h) Ngāti Irawharo;
- (i) Ngāti Manuwhare

**whāngai of Ngāti Tuwharetoa (Bay of Plenty)** means a Māori who is recognised as Ngāti Tuwharetoa (Bay of Plenty) in accordance with Ngāti Tuwharetoa (Bay of Plenty) tikanga (customary values and practices).

#### 14 Meaning of Ngāti Tuwharetoa (Bay of Plenty) historical claims

In this Act, **Ngāti Tuwharetoa (Bay of Plenty) historical claims**—



- (a) means every claim (whether or not the claim has arisen or been considered, researched, registered, notified, or made on or before the settlement date) that Ngāti Tuwharetoa (Bay of Plenty) (or a representative entity) had at, or at any time before, the settlement date, or may have at any time after the settlement date, that—
- (i) is, or is founded on, a right arising—
    - (A) from the Treaty of Waitangi (Te Tiriti o Waitangi) or the principles of the Treaty of Waitangi (Te Tiriti o Waitangi); or
    - (B) under legislation or at common law (including in relation to aboriginal title or customary law); or
    - (C) from fiduciary duty; or
    - (D) otherwise; and
  - (ii) arises from, or relates to, acts or omissions before 21 September 1992—
    - (A) by, or on behalf of, the Crown; or
    - (B) by, or under, legislation; and
- (b) includes all claims to the Waitangi Tribunal to which paragraph (a) applies, including the Wai 62 claim (Ngāti Tuwharetoa ki Kawerau Land Claim) made in February 1988 as amended by the following:
- (i) the undated statement of claims received by the Waitangi Tribunal on 19 October 1990:
  - (ii) the statement of claim dated December 1990 and received by the Waitangi Tribunal on 12 April 1991:
  - (iii) the second amended statement of claim dated 16 October 1995; but
- (c) does not include the following claims:
- (i) Wai 411 (Tarawera Forest Claim) filed with the Waitangi Tribunal on 14 June 1993 and amended on 26 April 2000:
  - (ii) Wai 21 (Tasman Company Pollution Claim) filed with the Waitangi Tribunal on 26 April 1985 and amended on 23 October 1992 (except any further amendment to the Wai 21 claim to the extent that the further amendment is a claim referred to in paragraph (a)):
  - (iii) any claim that a member of Ngāti Tuwharetoa (Bay of Plenty), or a hapū, group, family, or whānau referred to in section 13(1)(b) had at, or at any time before, the settlement date, or may have at any time after the settlement date, that is, or is founded on, a right arising from being descended from an ancestor who is not a Ngāti Tuwharetoa (Bay of Plenty) ancestor:

- (iv) any claim based on descent from a recognised ancestor of Te Tawera to the extent that the claim is, or is founded on, a right arising from being descended from Awanuiarangi II:
- (v) any claim that a representative entity may have to the extent that the claim is, or is founded on, a claim referred in subparagraph (iii).

### Part 3

#### Settlement of historical claims and miscellaneous matters

##### Subpart 1—Settlement of historical claims

*Jurisdiction of courts, etc, removed*

#### **15 Settlement of Ngāti Tuwharetoa (Bay of Plenty) historical claims final**

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

*Treaty of Waitangi Act 1975 amended*

*[Repealed]*

Heading: repealed, on 23 May 2008, pursuant to section 7 of the Treaty of Waitangi Amendment Act 2008 (2008 No 34).

#### **16 Jurisdiction of Tribunal to consider claims**

*[Repealed]*

Section 16: repealed, on 23 May 2008, by section 7 of the Treaty of Waitangi Amendment Act 2008 (2008 No 34).

*Protections no longer apply*

**17 Certain enactments do not apply**

- (1) Nothing in the enactments listed in subsection (2) applies to a cultural redress property or a commercial redress property.
- (2) The enactments are—
  - (a) sections 8A to 8HJ of the Treaty of Waitangi Act 1975;
  - (b) sections 27A to 27C of the State-Owned Enterprises Act 1986;
  - (c) sections 568 to 570 of the Education and Training Act 2020;
  - (d) Part 3 of the Crown Forest Assets Act 1989;
  - (e) Part 3 of the New Zealand Railways Corporation Restructuring Act 1990.
- (3) This section does not apply to the redress licensed land if the agreement referred to in clause 6.1.2(f) of the deed of settlement is cancelled.

Section 17(2)(c): replaced, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).

**18 Removal of resumptive memorials**

- (1) The chief executive of Land Information New Zealand must, as soon as reasonably practicable after the settlement date, issue to the Registrar-General a certificate that identifies each certificate of title or computer register that—
  - (a) relates to a cultural redress property or a commercial redress property; and
  - (b) contains a memorial entered under an enactment referred to in section 17(2).
- (2) Each certificate must state that it is issued under this section.
- (3) The Registrar-General must, as soon as reasonably practicable after receiving a certificate issued under subsection (1),—
  - (a) register the certificate against each certificate of title or computer register identified in the certificate; and
  - (b) cancel each memorial that, under an enactment referred to in section 17(2), is entered on a certificate of title or computer register identified in the certificate.

## Subpart 2—Miscellaneous matters

### *No limit on duration of trusts*

Heading: replaced, on 30 January 2021, by section 161 of the Trusts Act 2019 (2019 No 38).

#### **19 Limit on duration of trusts does not apply**

No rule of law or provisions of an Act limiting the duration of a trust, including section 16 of the Trusts Act 2019,—

- (a) prescribe or restrict the period during which the governance entity may—
  - (i) exist in law; or
  - (ii) deal with property (including income derived from property); or
- (b) apply to a document entered into to give effect to the deed of settlement (including the deeds that grant rights of first refusal referred to in clauses 6.4.2 and 6.5.1 of the deed of settlement) if the application of that rule or the provisions of that Act would otherwise make the document, or a right conferred by the document, invalid or ineffective.

Section 19 heading: replaced, on 30 January 2021, by section 161 of the Trusts Act 2019 (2019 No 38).

Section 19: amended, on 30 January 2021, by section 161 of the Trusts Act 2019 (2019 No 38).

### *Date when actions or matters must occur*

#### **20 Timing of actions or matters**

- (1) Actions or matters that occur, or are treated as if they had occurred, or are required to occur under this Act occur or take effect on the settlement date.
- (2) If a provision of this Act requires an action or matter to occur or take effect on a date other than the settlement date, that action or matter occurs or takes effect on that other date.

## **Part 4**

### **Cultural redress**

#### Subpart 1—Protocols

##### *General provisions*

#### **21 Authority to issue, amend, or cancel protocols**

- (1) Each responsible Minister may—
  - (a) issue a protocol to the governance entity in the form set out in Schedules 5.1 to 5.3 of the deed of settlement; and
  - (b) amend or cancel that protocol.

- (2) A protocol may be amended or cancelled under subsection (1) at the initiative of either—
  - (a) the governance entity; or
  - (b) the Minister who issued the protocol.
- (3) The Minister who issued the protocol may amend or cancel that protocol only after consulting with, and having particular regard to the views of, the governance entity.

## **22 Protocols subject to the Crown's obligations**

Protocols do not restrict—

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

## **23 Enforceability of protocols**

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

## **24 Limitation of rights**

- (1) The DOC protocol does not have the effect of granting, creating, or providing evidence of any estate or interest in, or any rights relating to, land held, managed, or administered, or flora or fauna managed or administered, under—
  - (a) the Conservation Act 1987; or
  - (b) the enactments listed in Schedule 1 of that Act.
- (2) The fisheries protocol does not have the effect of granting, creating, or providing evidence of, any estate or interest in, or any rights relating to, assets or

other property rights held, managed, or administered under fisheries legislation or under the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 (including fish, aquatic life, and seaweed).

- (3) The protected New Zealand objects protocol does not have the effect of granting, creating, or providing evidence of any estate or interest in, or any rights relating to, protected New Zealand objects or ngā taonga tūturu managed or administered under the Protected Objects Act 1975.
- (4) In this section, **protected New Zealand object** and **taonga tūturu** have the meanings given by section 2 of the Protected Objects Act 1975.

Section 24(3): amended, on 1 November 2006, by section 35 of the Protected Objects Amendment Act 2006 (2006 No 37).

Section 24(4): amended, on 1 November 2006, by section 35 of the Protected Objects Amendment Act 2006 (2006 No 37).

### *Noting of certain protocols*

#### **25 Noting of DOC protocol**

- (1) The existence of the DOC protocol must be noted in the conservation documents affecting the DOC protocol area.
- (2) The noting of the DOC protocol must include a summary of the terms under which the protocol is issued, as set out in Schedule 5.1 of the deed of settlement.
- (3) The noting of the DOC protocol is—
  - (a) for the purpose of public notice only; and
  - (b) not an amendment to a conservation document for the purposes of section 171 of the Conservation Act 1987 or section 46 of the National Parks Act 1980.

#### **26 Noting of fisheries protocol**

- (1) The existence of the fisheries protocol must be noted in fisheries plans affecting the fisheries protocol area.
- (2) The noting of the fisheries protocol must include a summary of the terms under which the protocol is issued, as set out in Schedule 5.2 of the deed of settlement.
- (3) The noting of the fisheries protocol is—
  - (a) for the purpose of public notice only; and
  - (b) not an amendment to a fisheries plan for the purposes of section 11A of the Fisheries Act 1996.
- (4) In this section, **fisheries plan** means a plan approved or amended under section 11A of the Fisheries Act 1996.

## Subpart 2—Cultural redress properties

### *Vesting of cultural redress properties*

#### **27 Interpretation**

In this Act,—

**Otitapu Lookout** means the land described by that name in Schedule 1

**Te Atua Reretahi** means the land described by that name in Schedule 1

**Te Kaukahiwi o Tirotirowhetu** means the land described by that name in Schedule 1

**Te Wahieroa** means the land described by that name in Schedule 1

**Whakapaukorero** means the land described by that name in Schedule 1.

#### **28 Te Wahieroa**

- (1) The vesting of Te Wahieroa in the Whakatāne District Council is cancelled.
- (2) The reservation of Te Wahieroa as a recreation reserve subject to section 17 of the Reserves Act 1977 is revoked.
- (3) The fee simple estate in Te Wahieroa vests in the governance entity.
- (4) Te Wahieroa is declared a reserve and classified as a recreation reserve subject to section 17 of the Reserves Act 1977.
- (5) Despite section 16(10) of the Reserves Act 1977, the recreation reserve created under subsection (4) is named Te Wahieroa Recreation Reserve.
- (6) The governance entity is the administering body of Te Wahieroa Recreation Reserve for the purposes of the Reserves Act 1977.

#### **29 Te Atua Reretahi**

- (1) Te Atua Reretahi ceases to be a conservation area under the Conservation Act 1987.
- (2) The fee simple estate in Te Atua Reretahi vests in the governance entity, subject to the conservation covenant referred to in clause 4.2.4 of the deed of settlement.
- (3) The conservation covenant referred to in subsection (2) must be treated as a conservation covenant for the purposes of section 77 of the Reserves Act 1977.

#### **30 Te Kaukahiwi o Tirotirowhetu**

- (1) The reservation of Te Kaukahiwi o Tirotirowhetu as a scenic reserve subject to section 19 of the Reserves Act 1977 is revoked.
- (2) The fee simple estate in Te Kaukahiwi o Tirotirowhetu vests in the governance entity.

- (3) Te Kaukahiwi o Tirotirowhetu is declared a reserve and classified as a scenic reserve subject to section 19 of the Reserves Act 1977.
- (4) Despite section 16(10) of the Reserves Act 1977, the scenic reserve created under subsection (3) is named Te Kaukahiwi o Tirotirowhetu Scenic Reserve.
- (5) The governance entity is the administering body of Te Kaukahiwi o Tirotirowhetu Scenic Reserve for the purposes of the Reserves Act 1977.

### **31 Otitapu Lookout**

- (1) The reservation of Otitapu Lookout as a scenic reserve subject to section 19 of the Reserves Act 1977 is revoked.
- (2) The fee simple estate in Otitapu Lookout vests in the governance entity, subject to the protected private land agreement referred to in clause 4.4.4 of the deed of settlement.
- (3) The protected private land agreement referred to in subsection (2) must be treated as an agreement for the purposes of section 76 of the Reserves Act 1977.
- (4) The Registrar-General must note a memorial on the computer freehold register of Otitapu Lookout that it is subject to a protected private land agreement.
- (5) If the parties agree to terminate the protected private land agreement referred to in subsection (2), the Registrar-General must, on receipt of notification to that effect from the Minister of Conservation, remove the notation required by subsection (4) from the computer freehold register that relates to the land.

### **32 Whakapaukorero**

- (1) The reservation of Whakapaukorero as a scenic reserve subject to section 19 of the Reserves Act 1977 is revoked.
- (2) The fee simple estate in Whakapaukorero vests in the governance entity.
- (3) Whakapaukorero is declared a reserve and classified as a historic reserve subject to section 18 of the Reserves Act 1977.
- (4) Despite section 16(10) of the Reserves Act 1977, the historic reserve created under subsection (3) is named Whakapaukorero.
- (5) The governance entity is the administering body of the historic reserve declared by subsection (3) for the purposes of the Reserves Act 1977.

#### *Provisions relating to vesting of cultural redress properties*

### **33 Vesting subject to encumbrances**

The vesting of each cultural redress property is subject to the encumbrances (if any) listed in column 3 of Schedule 1.

### **34 Intermediate vesting of certain land in the Crown**

- (1) This section applies to the following sites:



- (a) Otitapu Lookout:
  - (b) Te Kaukahiwi o Tirotirowhetu:
  - (c) Te Wahieroa:
  - (d) Whakapaukorero.
- (2) When the reserve status of the sites identified in subsection (1) is revoked under this subpart, the sites vest in the Crown as Crown land and are subject to section 82 of the Reserves Act 1977 before they vest in the governance entity.

### **35 Registration of ownership**

- (1) This section applies to the fee simple estate in a cultural redress property that vests in the governance entity by virtue of this Act.
- (2) The Registrar-General must, on written application by a person authorised by the Director-General, comply with subsections (3) and (4).
- (3) To the extent that a property comprises all the land in a certificate of title or computer freehold register, the Registrar-General must—
- (a) register the trustees of the governance entity as the proprietor of the fee simple estate in the land; and
  - (b) make those entries in the register and generally do all things necessary to give effect to this subpart and section 4 of the deed of settlement.
- (4) To the extent that a property does not comprise all the land in a certificate of title or computer freehold register, or there is no certificate of title or computer freehold register for all or part of the property, the Registrar-General must, in accordance with the application referred to in subsection (2), create 1 or more computer freehold registers in the name of the trustees of the governance entity, subject to, and together with, any encumbrances that are registrable or notifiable and that are described in the written application.
- (5) Subsection (4) applies subject to completing any survey necessary to create a computer freehold register.
- (6) A computer freehold register must be created under this section as soon as is reasonably practicable after the settlement date but no later than—
- (a) 24 months after the vesting of the property in the governance entity; or
  - (b) any later date that may be agreed in writing by the governance entity and the Crown.

### **36 Application of other enactments**

- (1) Sections 24 and 25 of the Reserves Act 1977 do not apply to the revocation under this subpart of the reserve status of a cultural redress property vested in the governance entity under this subpart.

- (2) Sections 78(1)(a) and 79 to 81 of the Reserves Act 1977 do not apply to the vesting in the governance entity of a cultural redress property under this subpart.
- (3) Section 11 and Part 10 of the Resource Management Act 1991 do not apply to—
  - (a) the vesting in the governance entity of the fee simple estate in a cultural redress property under this subpart; or
  - (b) a matter incidental to, or required for the purpose of, the vesting of the fee simple estate in a cultural redress property under this subpart.
- (4) The vesting of the fee simple estate in a cultural redress property under this subpart does not—
  - (a) limit sections 10 or 11 of the Crown Minerals Act 1991; or
  - (b) affect private rights to subsurface minerals.
- (5) The vesting in the governance entity of a fee simple estate in a cultural redress property under this subpart is a disposition for the purposes of Part 4A of the Conservation Act 1987, but sections 24(2A), 24A, and 24AA of that Act do not apply to the disposition.

### Subpart 3—Statutory acknowledgements and deeds of recognition

#### *Statutory acknowledgements*

#### **37 Statutory acknowledgements by the Crown**

The Crown acknowledges the statements made by Ngāti Tuwharetoa (Bay of Plenty) of the particular cultural, spiritual, historical, and traditional association of Ngāti Tuwharetoa (Bay of Plenty) with the statutory areas listed in Schedule 3, the texts of which are set out in Schedules 4 to 8.

#### **38 Purposes of statutory acknowledgements**

- (1) The only purposes of the statutory acknowledgements are—
  - (a) to require relevant consent authorities, the Environment Court, and Heritage New Zealand Pouhere Taonga to have regard to the statutory acknowledgements, as provided for in sections 39 to 41; and
  - (b) to require relevant consent authorities to forward summaries of resource consent applications to the governance entity, as provided for in section 43; and
  - (c) to enable the governance entity and a member of Ngāti Tuwharetoa (Bay of Plenty) to cite the statutory acknowledgements as evidence of the association of Ngāti Tuwharetoa (Bay of Plenty) with the relevant statutory areas, as provided for in section 44; and

- (d) to provide a statement by Ngāti Tuwharetoa (Bay of Plenty) for inclusion in a deed of recognition of the association of Ngāti Tuwharetoa (Bay of Plenty) with a statutory area.
- (2) This section does not limit the operation of sections 59 to 62.  
Section 38(1)(a): amended, on 20 May 2014, by section 107 of the Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26).

**39 Relevant consent authorities to have regard to statutory acknowledgements**

- (1) From the effective date, a relevant consent authority must have regard to a statutory acknowledgement relating to a statutory area in forming an opinion in accordance with sections 93 to 94C of the Resource Management Act 1991 as to whether the governance entity is a person who may be adversely affected by the granting of a resource consent for activities within, adjacent to, or impacting directly on the statutory area.
- (2) Subsection (1) does not limit the obligations of a relevant consent authority under Part 2 of the Resource Management Act 1991.

**40 Environment Court to have regard to statutory acknowledgements**

- (1) From the effective date, the Environment Court must have regard to a statutory acknowledgement in determining under section 274 of the Resource Management Act 1991 whether the governance entity is a person having an interest in the proceedings greater than the public generally in respect of an application for a resource consent for activities within, adjacent to, or impacting directly on the statutory area.
- (2) Subsection (1) does not limit the obligations of the Environment Court under Part 2 of the Resource Management Act 1991.

**41 Heritage New Zealand Pouhere Taonga and Environment Court to have regard to statutory acknowledgements**

If, on or after the effective date, an application is made under section 44, 56, or 61 of the Heritage New Zealand Pouhere Taonga Act 2014 for an authority to undertake an activity that will or may modify or destroy an archaeological site within a statutory area,—

- (a) Heritage New Zealand Pouhere Taonga, in exercising its powers under section 48, 56, or 62 of that Act in relation to the application, must have regard to the statutory acknowledgement relating to the statutory area; and
- (b) the Environment Court, in determining under section 59(1) or 64(1) of that Act any appeal against a decision of Heritage New Zealand Pouhere Taonga in relation to the application, must have regard to the statutory acknowledgement relating to the statutory area, including in making a

determination as to whether the governance entity is a person directly affected by the decision.

Section 41: replaced, on 20 May 2014, by section 107 of the Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26).

#### **42 Recording statutory acknowledgements on statutory plans**

- (1) From the effective date, relevant consent authorities must attach information recording a statutory acknowledgement to all statutory plans that wholly or partly cover the statutory area.
- (2) The attachment of information under subsection (1) to a statutory plan—
  - (a) may be by reference to this subpart or by setting out the statutory acknowledgement in full; and
  - (b) is for the purpose of public information only, and the information is not—
    - (i) part of the statutory plan (unless adopted by the relevant consent authority); or
    - (ii) subject to the provisions of Schedule 1 of the Resource Management Act 1991.

#### **43 Distribution of resource consent applications to governance entity**

- (1) A relevant consent authority must, for a period of 20 years from the effective date, forward to the governance entity a summary of resource consent applications received by that consent authority for activities within, adjacent to, or impacting directly on a statutory area.
- (2) The information provided under subsection (1) must be—
  - (a) the same as would be provided under section 93 of the Resource Management Act 1991 to persons likely to be adversely affected, or any other information that may be agreed between the governance entity and the relevant consent authority; and
  - (b) provided as soon as is reasonably practicable after the application is received, and before a determination is made under sections 93 to 94C of the Resource Management Act 1991.
- (3) The governance entity may, by notice in writing to a relevant consent authority,—
  - (a) waive its rights to be notified under this section; and
  - (b) state the scope of that waiver.
- (4) This section does not affect the obligation of a relevant consent authority to—
  - (a) notify an application in accordance with sections 93 to 94C of the Resource Management Act 1991;
  - (b) form an opinion as to whether the governance entity is a person that is likely to be adversely affected under those sections.

#### 44 Use of statutory acknowledgement

- (1) The governance entity and a member of Ngāti Tuwharetoa (Bay of Plenty) may, as evidence of the association of Ngāti Tuwharetoa (Bay of Plenty) with a statutory area, cite the relevant statutory acknowledgement in submissions to, and in proceedings before, a relevant consent authority, the Environment Court, or Heritage New Zealand Pouhere Taonga concerning activities within, adjacent to, or impacting directly on the statutory area.
- (2) The content of the statement of association, as recorded in the statutory acknowledgement, is not, by virtue of the statutory acknowledgement, binding as deemed fact on—
  - (a) relevant consent authorities:
  - (b) the Environment Court:
  - (c) Heritage New Zealand Pouhere Taonga:
  - (d) parties to proceedings before those bodies:
  - (e) any other person able to participate in those proceedings.
- (3) Despite subsection (2), the statutory acknowledgement may be taken into account by the bodies and persons specified in that subsection.
- (4) Neither the governance entity nor a member of Ngāti Tuwharetoa (Bay of Plenty) is precluded from stating that Ngāti Tuwharetoa (Bay of Plenty) have an association with a statutory area that is not described in the statutory acknowledgement.
- (5) The content and existence of the statutory acknowledgement do not limit a statement made under subsection (4).

Section 44(1): amended, on 20 May 2014, by section 107 of the Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26).

Section 44(2)(c): replaced, on 20 May 2014, by section 107 of the Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26).

#### *Geothermal statutory acknowledgement*

#### 45 Interpretation

In this subpart—

**geothermal energy** and **geothermal water**—

- (a) have the same meanings as in section 2(1) of the Resource Management Act 1991; but
- (b) for the purposes of paragraph (a), do not include any geothermal energy or geothermal water above the ground on land that is not owned by the Crown

**geothermal statutory acknowledgement** means an acknowledgement made by the Crown under section 46 in respect of the geothermal energy and geo-

thermal water located in the Kawerau Geothermal system on the terms set out in Schedule 5.16 of the deed of settlement

**Kawerau Geothermal system** means the geothermal system within the boundary generally indicated on SO 61730 South Auckland Land District.

#### **46 Geothermal statutory acknowledgement by the Crown**

The Crown acknowledges the statements made by Ngāti Tuwharetoa (Bay of Plenty) of their particular cultural, spiritual, historical, and traditional association with, and use of, the geothermal energy and geothermal water located in the Kawerau Geothermal system as set out in Schedule 5.16 of the deed of settlement.

#### **47 Purposes of geothermal statutory acknowledgement**

- (1) The only purposes of the geothermal statutory acknowledgement are—
  - (a) to require relevant consent authorities and the Environment Court to have regard to the geothermal statutory acknowledgement, as provided for in sections 48 and 49; and
  - (b) to require relevant consent authorities to forward summaries of certain kinds of resource consent applications to the governance entity, as provided for in section 51; and
  - (c) to enable the governance entity and a member of Ngāti Tuwharetoa to cite the geothermal statutory acknowledgement as evidence of the association of Ngāti Tuwharetoa (Bay of Plenty) with, and use by Ngāti Tuwharetoa (Bay of Plenty) of, the geothermal energy and geothermal water located in the Kawerau Geothermal system, as provided for in section 52.
- (2) This section does not limit the operation of sections 59 to 62.

#### **48 Relevant consent authorities to have regard to geothermal statutory acknowledgement**

- (1) From the effective date, a relevant consent authority must have regard to the geothermal statutory acknowledgement relating to the Kawerau Geothermal system in forming an opinion in accordance with sections 93 to 94C of the Resource Management Act 1991 as to whether the governance entity is a person who may be adversely affected by the granting of a resource consent in respect of the geothermal energy or geothermal water located in the Kawerau Geothermal system.
- (2) Subsection (1) does not limit the obligations of a consent authority under Part 2 of the Resource Management Act 1991.

**49 Environment Court to have regard to geothermal statutory acknowledgement**

- (1) From the effective date, the Environment Court must have regard to the geothermal statutory acknowledgement relating to the Kawerau Geothermal system in determining under section 274 of the Resource Management Act 1991 whether the governance entity is a person having an interest in the proceedings greater than the public generally in relation to an application for a resource consent in respect of the geothermal energy or geothermal water located in the Kawerau Geothermal system.
- (2) Subsection (1) does not limit the obligations of the Environment Court under Part 2 of the Resource Management Act 1991.

**50 Recording geothermal statutory acknowledgement on statutory plans**

- (1) From the effective date, relevant consent authorities must attach to all statutory plans that cover wholly or partly the Kawerau Geothermal system information recording the geothermal statutory acknowledgement.
- (2) The attachment of information under subsection (1) to a statutory plan—
  - (a) may be by reference to this subpart or by setting out the geothermal statutory acknowledgement in full; and
  - (b) is for the purpose of public information only, and the information is not—
    - (i) part of the statutory plan (unless adopted by the relevant consent authority); or
    - (ii) subject to the provisions of Schedule 1 of the Resource Management Act 1991.

**51 Distribution of resource consent applications to governance entity**

- (1) A relevant consent authority must, for a period of 20 years from the effective date, forward to the governance entity a summary of resource consent applications received by that consent authority in respect of the geothermal energy or geothermal water located in the Kawerau Geothermal system.
- (2) The information provided under subsection (1) must be—
  - (a) the same as would be given under section 93 of the Resource Management Act 1991 to persons likely to be adversely affected, or any other information that may be agreed between the governance entity and the relevant consent authority; and
  - (b) provided as soon as reasonably practicable after the application is received, and before a determination is made under sections 93 to 94C of the Resource Management Act 1991.
- (3) The governance entity may, by notice in writing to a relevant consent authority,—

- (a) waive its rights to be notified under this section; and
  - (b) state the scope of that waiver.
- (4) This section does not affect the discretion of a relevant consent authority to—
- (a) notify an application under sections 93 to 94C of the Resource Management Act 1991:
  - (b) determine whether the governance entity is a person who may be adversely affected under those sections.

## **52 Use of geothermal statutory acknowledgement**

- (1) The governance entity and a member of Ngāti Tuwharetoa (Bay of Plenty) may, as evidence of the association of Ngāti Tuwharetoa (Bay of Plenty) with, and use by Ngāti Tuwharetoa (Bay of Plenty) of, the geothermal energy and geothermal water located in the Kawerau Geothermal system, cite the geothermal statutory acknowledgement in submissions to, and in proceedings before, a consent authority or the Environment Court concerning the taking, use, damming, or diverting of any geothermal energy or geothermal water from a site located in the Kawerau Geothermal system.
- (2) The content of the statement of association, as recorded in the geothermal statutory acknowledgement, is not, by virtue of the acknowledgement, binding as deemed fact on—
- (a) consent authorities:
  - (b) the Environment Court:
  - (c) parties to proceedings before those bodies:
  - (d) any other person able to participate in those proceedings.
- (3) Despite subsection (2), the geothermal statutory acknowledgement may be taken into account by the bodies and persons specified in that subsection.
- (4) Neither the governance entity nor a member of Ngāti Tuwharetoa (Bay of Plenty) is precluded from stating that Ngāti Tuwharetoa (Bay of Plenty) has an association with the geothermal energy or geothermal water located in the Kawerau Geothermal system that is not described in the geothermal statutory acknowledgement.
- (5) The content and existence of the geothermal statutory acknowledgement do not limit a statement made under subsection (4).

### *Deeds of recognition*

## **53 Authorisation to enter into and amend deeds of recognition**

A Minister of the Crown with statutory responsibility for land within a statutory area, or the Commissioner of Crown Lands, may—

- (a) enter into deeds of recognition with the governance entity—



- (i) in respect of the land within the statutory areas referred to in Schedule 3; and
  - (ii) on the terms and conditions set out for each statutory area (or part of an area) in Schedules 5.9 to 5.15 of the deed of settlement:
- (b) amend a deed of recognition by entering into a deed with the governance entity to amend that deed of recognition.

#### **54 Purpose of deed of recognition**

- (1) The only purpose of a deed of recognition is to require that the governance entity be consulted, and regard be had to its views, as provided for in the deed of settlement and in each deed of recognition.
- (2) Subsection (1) does not limit or affect sections 59 to 62.

#### **55 Termination of deed of recognition**

A deed of recognition terminates in respect of a statutory area or part of it if—

- (a) the governance entity and a Minister of the Crown with statutory responsibility for land within a statutory area or the Commissioner of Crown Lands agree in writing that a deed of recognition is no longer appropriate for the area concerned; or
- (b) the area concerned is disposed of by the Crown; or
- (c) there is a change in the Minister or the department responsible for the management of the area concerned.

#### **56 Crown management**

The entry into a deed of recognition does not, in relation to a statutory area to which the deed of recognition applies,—

- (a) require the Crown to increase or resume management or administrative functions; or
- (b) preclude the Crown from undertaking only limited management or administrative functions.

#### *Application of statutory acknowledgements and deeds of recognition in relation to rivers*

#### **57 Statutory acknowledgements in relation to rivers**

If a statutory acknowledgement relates to a river, the river does not include—

- (a) a part of the bed of the river that is not owned by the Crown; or
- (b) land that the waters of the river do not cover at its fullest flow without overlapping its banks; or
- (c) an artificial watercourse; or
- (d) a tributary flowing into the river.

**58 Deed of recognition for rivers**

If a deed of recognition relates to a river, that deed of recognition relates only to the bed of the river, which does not include—

- (a) a part of the bed that is not owned and managed by the Crown; or
- (b) land that the waters of the river do not cover at its fullest flow without overlapping its banks; or
- (c) the bed of an artificial watercourse; or
- (d) the bed of a tributary flowing into the river.

*General provisions***59 Crown not precluded from granting other statutory acknowledgements, geothermal statutory acknowledgement, or deeds of recognition**

Neither the provision of a statutory acknowledgement nor the geothermal statutory acknowledgement nor the entry into a deed of recognition precludes the Crown from providing a statutory acknowledgement to, or entering into a deed of recognition with, persons other than Ngāti Tuwharetoa (Bay of Plenty) or the governance entity with respect to the same statutory area, or the geothermal energy or geothermal water located in the Kawerau Geothermal system.

**60 Exercise of powers, duties, and functions not affected**

- (1) Except as expressly provided in this subpart,—
  - (a) neither a statutory acknowledgement nor the geothermal statutory acknowledgement nor a deed of recognition affects, or may be taken into account by, a person exercising a power or performing a function or duty under a statute, regulation, or bylaw:
  - (b) no person, in considering a matter or making a decision or recommendation under a statute, regulation, or bylaw, may give greater or lesser weight to the association with, or use by, Ngāti Tuwharetoa (Bay of Plenty) of a statutory area or the geothermal energy or geothermal water located in the Kawerau Geothermal system (as described in the relevant statutory acknowledgement or deed of recognition) than that person would give under the relevant statute, regulation, or bylaw if no statutory acknowledgement or deed of recognition existed in respect of the statutory area or the geothermal energy or geothermal water located in the Kawerau Geothermal system.
- (2) Subsection (1)(b) does not affect the operation of subsection (1)(a).

**61 Rights not affected**

Except as expressly provided in this subpart, neither a statutory acknowledgement nor the geothermal statutory acknowledgement nor a deed of recognition

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

**62 Limitation of rights**

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

- (a) a statutory area; or
- (b) the geothermal energy or geothermal water located in the Kawerau Geothermal system; or
- (c) the Kawerau Geothermal system.

*Amendment to Resource Management Act 1991*

**63 Amendment to Resource Management Act 1991**

*Amendment(s) incorporated in the Act(s).*

Subpart 4—Joint advisory committee for Matata Scenic Reserve,  
Whakapaukorero, and Te Awa a Te Atua

**64 Interpretation**

In this subpart, unless the context otherwise requires,—

**joint advisory committee** or **committee** means the committee appointed under subpart 4 of Part 4 of the Ngāti Awa Claims Settlement Act 2005

**Minister** means the Minister of Conservation

**Whakapaukorero** has the same meaning as in section 27.

**65 Appointment of members to joint advisory committee**

- (1) In addition to the members appointed under section 60(1) of the Ngāti Awa Claims Settlement Act 2005, the Minister must appoint to the joint advisory committee 2 members nominated by the governance entity.
- (2) Section 60(2) to (4) of the Ngāti Awa Claims Settlement Act 2005 applies to members appointed under subsection (1).

**66 Constitution of joint advisory committee**

In addition to the members referred to in section 61 of the Ngāti Awa Claims Settlement Act 2005, the joint advisory committee also consists of the 2 members appointed under section 65 of this Act.

**67 Functions of joint advisory committee**

In addition to the functions of the joint advisory committee specified in section 62 of the Ngāti Awa Claims Settlement Act 2005, a function of the committee is to advise the governance entity on conservation matters affecting Whakapaukorero.

**68 Advice on Whakapaukorero**

The governance entity must have regard to the advice of the joint advisory committee in relation to conservation matters affecting Whakapaukorero.

**69 Vacancy in membership of committee**

No act or proceeding of the joint advisory committee is invalid merely because of a failure of the governance entity to nominate persons as members of the committee under section 65.

**70 Costs and expenses of committee**

The governance entity must meet the costs relating to the joint advisory committee as set out in clause 5.8.6 of the deed of settlement.

**Subpart 5—Nohoanga entitlements****71 Interpretation**

In this subpart, unless the context otherwise requires,—

**entitlement land** means a site over which a Nohoanga entitlement is granted

**land holding agent** means the Minister of the Crown responsible for the department that manages the entitlement land, or the Commissioner of Crown Lands, as the case may be

**Nohoanga entitlement** means an entitlement granted to the governance entity—

- (a) under this subpart; and
- (b) over the site described in Schedule 2, or a site granted as a replacement site under section 89 or section 90; and
- (c) on the terms and conditions referred to in section 72(3)

**Nohoanga site** means a site—

- (a) described in Schedule 2; or
- (b) granted as a replacement site under section 89 or section 90.

**72 Grant and renewal of Nohoanga entitlements**

- (1) The Crown must, in accordance with this subpart, grant to the governance entity a Nohoanga entitlement over each Nohoanga site.

- (2) The grant of a Nohoanga entitlement must be for an initial term of 10 years beginning on the settlement date.
- (3) The grant referred to in subsection (1) must be made on the terms and conditions referred to in Schedule 5.18 of the deed of settlement, or as varied in accordance with section 74.
- (4) Ngāti Tuwharetoa (Bay of Plenty) may renew a Nohoanga entitlement for further terms of 10 years unless the entitlement is terminated under section 89 or section 90.

### **73 Notification of Nohoanga entitlement**

- (1) The land holding agent must notify the grant of a Nohoanga entitlement in the *Gazette*.
- (2) The chief executive of Land Information New Zealand must note in his or her records the grant of an entitlement and the notice in the *Gazette* relating to it.
- (3) Subsections (1) and (2) apply to the renewal of a Nohoanga entitlement as if it were the grant of the Nohoanga entitlement.

### **74 Form of Nohoanga entitlement may be varied**

- (1) The form of a Nohoanga entitlement granted under section 72 may be varied by—
  - (a) the addition, at the time of the grant of a Nohoanga entitlement, of terms reasonably required by the Crown to protect and preserve—
    - (i) the land over which the Nohoanga entitlement is granted:
    - (ii) the surrounding land:
    - (iii) associated flora and fauna; or
  - (b) agreement between the land holding agent and the governance entity.
- (2) Additional terms and terms varied under subsection (1) must be in writing and must not be inconsistent with this subpart.

### **75 Purpose of Nohoanga entitlements**

A Nohoanga entitlement is granted to the governance entity for the purpose of permitting members of Ngāti Tuwharetoa (Bay of Plenty) to occupy land, temporarily, exclusively, and on a non-commercial basis,—

- (a) so as to have access to a waterway for lawful fishing; and
- (b) for the lawful gathering of other natural resources in the vicinity of the entitlement land.

### **76 Occupation of entitlement land by members of Ngāti Tuwharetoa (Bay of Plenty)**

- (1) The governance entity has the right to permit members of Ngāti Tuwharetoa (Bay of Plenty) to occupy entitlement land—

- (a) for the purpose of the entitlement, as set out in section 75; and
  - (b) to the exclusion of other persons during the period or periods that it exercises the right to occupy the land.
- (2) Subsection (1) applies subject to sections 77 to 82.

#### **77 Period of occupation of entitlement land**

- (1) The governance entity may permit members of Ngāti Tuwharetoa (Bay of Plenty) to occupy the entitlement land for any period or periods in a calendar year that do not exceed 210 days in total.
- (2) The governance entity must not permit members of Ngāti Tuwharetoa (Bay of Plenty) to occupy the entitlement land in a calendar year during the period beginning on 1 May and ending at the close of 15 August.

#### **78 Right to erect temporary dwellings**

- (1) The governance entity may permit members of Ngāti Tuwharetoa (Bay of Plenty), while occupying the entitlement land under a Nohoanga entitlement, to erect camping shelters or similar temporary dwellings on the land.
- (2) The governance entity must ensure the removal of camping shelters or similar temporary dwellings erected on entitlement land whenever the right to occupy the entitlement land is not being exercised.

#### **79 Condition of land when occupation ceases**

- (1) The governance entity must, whenever members of Ngāti Tuwharetoa (Bay of Plenty) permitted to occupy entitlement land under section 76 cease to occupy the land, leave the site in substantially the same condition as it was in at the beginning of the period when the governance entity was last entitled to permit members of Ngāti Tuwharetoa (Bay of Plenty) to occupy the site.
- (2) The requirement to leave the site in substantially the same condition under subsection (1) includes the obligation to remove rubbish and waste from the entitlement land and any adjacent reserve.
- (3) Subsection (1) does not apply to temporary effects normally associated with occupation of entitlement land under a Nohoanga entitlement.

#### **80 Activities on entitlement land**

- (1) This section applies subject to section 78.
- (2) The governance entity may, with the consent of the land holding agent, undertake other activities on entitlement land that are reasonably necessary for the Nohoanga entitlement to be used for the purpose set out in section 75.
- (3) When applying for the land holding agent's consent, the governance entity must provide to the land holding agent details relating to the proposed activities, including (but not limited to)—
- (a) the effect of the activities—

- (i) on the entitlement land; and
  - (ii) if the entitlement land is held under the Conservation Act 1987 or an Act listed in Schedule 1 of that Act, on the surrounding land and wildlife; and
- (b) measures that the governance entity proposes to take (if the land holding agent's consent is given) to avoid, remedy, or mitigate adverse effects.
- (4) In considering whether to give consent in relation to land held under the Conservation Act 1987 or an Act listed in Schedule 1 of that Act, the land holding agent may require the governance entity to obtain (at its own expense) an environmental impact report about the proposed activities and an audit of that report.
- (5) The giving of consent is at the complete discretion of the land holding agent.
- (6) The land holding agent may give consent subject to any conditions that he or she thinks fit to impose.
- (7) Without limiting subsection (6), in giving consent in relation to land held under the Conservation Act 1987 or an Act listed in Schedule 1 of that Act, the land holding agent may impose reasonable conditions to avoid, remedy, or mitigate adverse effects of the proposed activities on the entitlement land, surrounding land, or wildlife.
- (8) If the Crown has complied with its obligations under a Nohoanga entitlement, the Crown is not liable to compensate the governance entity (whether on termination of a Nohoanga entitlement or at another time) for activities undertaken by the governance entity on the entitlement land.

*Obligations relating to Nohoanga entitlements*

**81 Nohoanga entitlements must not impede public access**

The grant and exercise of a Nohoanga entitlement must not impede access by members of the public along a waterway.

**82 Crown functions to continue**

The grant and exercise of a Nohoanga entitlement does not prevent agents of the Crown or persons exercising statutory powers from undertaking their functions in relation to the entitlement land.

**83 Nohoanga entitlement does not restrict the Crown's right to alienate land**

The grant and exercise of a Nohoanga entitlement does not restrict the Crown's right to alienate any entitlement land, land adjacent to the entitlement land, or land adjacent to a waterway.

**84 Governance entity may enforce rights against other persons**

While members of Ngāti Tuwharetoa (Bay of Plenty) are occupying entitlement land under a Nohoanga entitlement, the governance entity may enforce its

rights under the Nohoanga entitlement against persons who are not parties to the deed of settlement as if the governance entity were the owner of the entitlement land.

#### **85 Crown's obligation to provide lawful access**

- (1) If an event described in subsection (2) occurs during the term of a Nohoanga entitlement, the Crown must ensure that the governance entity continues, for the rest of the term, to have the same type of lawful access to the entitlement land as it had before the event occurred.
- (2) The events are—
  - (a) the alienation by the Crown of land adjacent to entitlement land;
  - (b) a change in the classification or status of land adjacent to the entitlement land.
- (3) The Crown's obligation in subsection (1) is subject to compliance with all applicable provisions in or under any other enactment.

#### **86 Compliance with laws, bylaws, and land and water management practices**

- (1) The governance entity, members of Ngāti Tuwharetoa (Bay of Plenty) permitted to occupy the entitlement land under section 76, and activities carried out on the entitlement land by them are subject to the laws, regulations, bylaws, and land and water management practices that apply to the entitlement land.
- (2) The land holding agent, in carrying out land and water management practices that relate to the entitlement land, must—
  - (a) have regard to the existence of a Nohoanga entitlement; and
  - (b) notify the governance entity of an activity that may adversely affect the governance entity's use of the land; and
  - (c) avoid unreasonable disruption to the governance entity's use of the land.
- (3) The governance entity is subject to any requirement to apply for resource consents for activities on the entitlement land.
- (4) Subsection (3) does not limit subsection (1).
- (5) In this section, **activities** includes activities undertaken under section 80.

#### **87 Rights of governance entity under Nohoanga entitlement not assignable**

The rights of the governance entity under a Nohoanga entitlement are not assignable.

#### *Suspension and termination of Nohoanga entitlement*

#### **88 Suspension of Nohoanga entitlement**

- (1) The land holding agent may suspend a Nohoanga entitlement in accordance with this section.



- (2) The land holding agent must not suspend a Nohoanga entitlement unless he or she first—
  - (a) consults the governance entity; and
  - (b) has particular regard to the views of the governance entity.
- (3) The land holding agent must not suspend a Nohoanga entitlement unless he or she considers the suspension necessary for the management of the land, having regard to the purposes for which the land is held by the land holding agent.
- (4) If a Nohoanga entitlement is suspended, the governance entity may, after the end of the suspension, permit members of Ngāti Tuwharetoa (Bay of Plenty) to occupy the entitlement land for a period equal to the period of the suspension.
- (5) The occupation of the entitlement land under subsection (4) is not subject to the restriction under section 77(2).

#### **89 Termination of Nohoanga entitlement**

- (1) The governance entity and the Crown may terminate a Nohoanga entitlement by agreement in writing.
- (2) The Crown may terminate a Nohoanga entitlement by giving written notice to the governance entity on 1 or more of the following grounds:
  - (a) that the Crown has alienated the entitlement land:
  - (b) that the entitlement land has, by a natural cause, been destroyed or permanently and detrimentally affected:
  - (c) that the entitlement land is on reserve land that is required for the specific purpose for which it was originally set apart as a reserve:
  - (d) that the entitlement land was an unformed legal road that is now formed:
  - (e) subject to section 85, that lawful access to the entitlement land has ceased to exist.
- (3) On the termination of a Nohoanga entitlement under this section, the Crown must take all reasonable steps to grant replacement entitlement land to the governance entity.
- (4) Subsection (3) does not apply in relation to a Nohoanga entitlement if the fee simple estate in the entitlement land is vested in the governance entity.
- (5) The grant of replacement entitlement land under subsection (3) must be over land that—
  - (a) complies with clause 5.6.4 of the deed of settlement; and
  - (b) is identified by similar processes used by the Crown and Ngāti Tuwharetoa (Bay of Plenty) to identify entitlement land before entering into the deed of settlement.

**90 Termination of Nohoanga entitlement for breach of obligations**

- (1) This section applies if the governance entity defaults in performing any of its obligations under a Nohoanga entitlement.
- (2) If the default is capable of remedy, the Crown may give notice to the governance entity in writing, specifying the default and the remedy for the default required by the Crown.
- (3) The remedy required by the Crown must be reasonable in the circumstances.
- (4) If, at the end of 41 business days after notice is given by the Crown under subsection (2), the governance entity has not remedied, or taken appropriate action to remedy, the default as required by the Crown, the Crown may immediately terminate the Nohoanga entitlement by notice in writing to the governance entity.
- (5) If the default is not capable of remedy, the Crown may immediately terminate the Nohoanga entitlement by notice in writing to the governance entity.
- (6) The governance entity may, not earlier than 2 years after the termination of a Nohoanga entitlement under this section, apply to the Minister of Māori Affairs for the grant of a replacement Nohoanga entitlement that complies with clause 5.6.4 of the deed of settlement.
- (7) On receipt of an application under subsection (6), the Crown may, in its discretion, take reasonable steps to grant a replacement Nohoanga entitlement over land that—
  - (a) complies with clause 5.6.4 of the deed of settlement; and
  - (b) is identified by similar processes used by the Crown and Ngāti Tuwharetoa (Bay of Plenty) to identify Nohoanga entitlements before entering into the deed of settlement.

**91 Notification of termination of Nohoanga entitlement**

- (1) If a Nohoanga entitlement is terminated under section 89 or section 90, the land holding agent must give notice of the termination in the *Gazette*.
- (2) The chief executive of Land Information New Zealand must note in his or her records the termination of the Nohoanga entitlement and its notification in the *Gazette*.

*Rights not affected or created***92 Rights of other parties not affected**

Except as expressly provided in this subpart, the grant and exercise of a Nohoanga entitlement does not affect the lawful rights or interests of a person who is not a party to the deed of settlement.

**93 No creation of rights in entitlement land**

Except as expressly provided in this subpart, the grant and exercise of a Nohoanga entitlement does not have the effect of granting, creating, or providing evidence of an estate or interest in, or rights relating to, the entitlement land.

*Application of other enactments*

**94 Part 3B of Conservation Act 1987 not to apply**

Part 3B of the Conservation Act 1987 does not apply to the grant of a Nohoanga entitlement.

**95 Local Government (Rating) Act 2002**

- (1) To avoid doubt, section 8(1) and (3) of the Local Government (Rating) Act 2002 applies to land over which a Nohoanga entitlement is granted.
- (2) The governance entity must reimburse the person paying the rates under section 9 of the Local Government (Rating) Act 2002 for the entitlement land in proportion to the period for which the governance entity is entitled to occupy the Nohoanga site.

**96 Section 44 of Reserves Act 1977 not to apply**

Section 44 of the Reserves Act 1977 does not apply in relation to a Nohoanga entitlement granted over land subject to that Act.

**97 Section 11 and Part 10 of Resource Management Act 1991 not to apply**

The grant of a Nohoanga entitlement is not a subdivision for the purposes of section 11 and Part 10 of the Resource Management Act 1991.

**Subpart 6—Owhakatihī**

**98 Meaning of Ngāti Tuwharetoa (Bay of Plenty) values**

In this subpart, **Ngāti Tuwharetoa (Bay of Plenty) values** means the statement by Ngāti Tuwharetoa (Bay of Plenty) of the cultural, spiritual, historical, and traditional association of Ngāti Tuwharetoa (Bay of Plenty) with the Owhakatihī, the text of which is set out in Schedule 9.

**99 Declaration of Owhakatihī**

The site described in Schedule 9 is an Owhakatihī.

**100 Crown's acknowledgement of Ngāti Tuwharetoa (Bay of Plenty) values**

The Crown acknowledges the statement by Ngāti Tuwharetoa (Bay of Plenty) of Ngāti Tuwharetoa (Bay of Plenty) values in relation to the Owhakatihī.

**101 Purposes of Owhakatihi**

- (1) The only purposes of the Crown declaring the Owhakatihi under section 99 and acknowledging Ngāti Tuwharetoa (Bay of Plenty) values under section 100 in relation to the Owhakatihi are to—
  - (a) enable agreement on protection principles under section 102; and
  - (b) give effect to the requirement that the New Zealand Conservation Authority and relevant Conservation Boards have particular regard to Ngāti Tuwharetoa (Bay of Plenty) values and the protection principles, as provided in sections 103 and 104; and
  - (c) enable the taking of action under sections 106 to 110.
- (2) This section does not limit sections 113 to 115.

**102 Agreement on protection principles**

The governance entity and the Crown may agree on specific protection principles that aim to avoid harm to, or diminution of, the Ngāti Tuwharetoa (Bay of Plenty) values in relation to the Owhakatihi.

**103 New Zealand Conservation Authority and Conservation Boards to have particular regard to Ngāti Tuwharetoa (Bay of Plenty) values**

When the New Zealand Conservation Authority or any Conservation Board approves or otherwise considers any general policy or conservation documents in relation to the Owhakatihi, it must have particular regard to—

- (a) Ngāti Tuwharetoa (Bay of Plenty) values in relation to the Owhakatihi; and
- (b) any protection principles agreed between the governance entity and the Crown under section 102.

**104 New Zealand Conservation Authority and relevant Conservation Boards to consult with governance entity**

The New Zealand Conservation Authority or relevant Conservation Board must consult with the governance entity and have particular regard to its views as to the effect on Ngāti Tuwharetoa (Bay of Plenty) values in relation to the Owhakatihi of any general policy or conservation document referred to in section 103.

**105 Notification of Owhakatihi**

- (1) The declaration of the Owhakatihi must be identified and described in all conservation documents affecting the site.
- (2) The noting of the Owhakatihi under subsection (1)—
  - (a) is for the purpose of public notice only; and

- (b) is not an amendment to a conservation document for the purposes of section 171 of the Conservation Act 1987 or section 46 of the National Parks Act 1980.

#### **106 Actions by Director-General**

- (1) On notification by the Minister of Conservation in the *Gazette* of the protection principles agreed under section 102, the Director-General must take action in relation to those principles.
- (2) The Director-General retains a complete discretion to determine the method and extent of the action to be taken.
- (3) The Director-General must notify the governance entity of what action the Director-General intends to take under subsection (1).
- (4) If requested in writing by the governance entity, the Director-General must not take action in respect of the protection principles to which the request relates.

#### **107 Amendment to conservation documents**

- (1) The Director-General may initiate an amendment of a conservation document to incorporate objectives relating to protection principles (including a recommendation to make regulations or bylaws).
- (2) The Director-General must consult with affected Conservation Boards before initiating an amendment under subsection (1).
- (3) An amendment initiated under subsection (1) is an amendment for the purposes of section 171(1) to (3) of the Conservation Act 1987, or section 46(1) to (4) of the National Parks Act 1980, as the case may be.
- (4) This section does not limit section 106(2).

#### **108 Regulations**

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

- (a) to provide for the implementation of objectives included in conservation documents under section 107(2):
- (b) to regulate or prohibit activities or conduct by members of the public in relation to the Owihakatihi:
- (c) to create offences in respect of the contravention of any regulations made under paragraph (b), and providing for the imposition of fines—
  - (i) not exceeding \$5,000 for those offences; and
  - (ii) for a continuing offence, an amount not exceeding \$50 for every day during which the offence continues.

#### **109 Bylaws**

The Minister of Conservation may make bylaws for the following purposes:

- (a) to provide for the implementation of objectives included in conservation documents under section 107(1);
- (b) to regulate or prohibit activities or conduct by members of the public in relation to the Owhakatihi;
- (c) to create offences in respect of the contravention of any bylaws made under paragraph (b), and providing for the imposition of fines—
  - (i) not exceeding \$1,000 for those offences; and
  - (ii) for continuing offences, an amount not exceeding \$50 for every day during which the offence continues.

**110 Notification of actions in *Gazette***

- (1) The Minister of Conservation must notify in the *Gazette*—
  - (a) the declaration of the Owhakatihi; and
  - (b) any protection principles agreed under section 102, and any agreed changes to those principles.
- (2) The Director-General may, at his or her discretion, notify in the *Gazette* any action taken or intended to be taken under any of sections 106 to 108.
- (3) The Director-General must notify in the *Gazette* any action taken or intended to be taken under section 109.

**111 Existing classification of Owhakatihi**

The purpose or classification of an area as a national park, conservation area, or reserve is not affected by the fact that the area is, or is in, the Owhakatihi.

**112 Termination of status**

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister of Conservation, declare that all or part of the Owhakatihi is no longer an Owhakatihi.
- (2) The Minister of Conservation must not make a recommendation for the purposes of subsection (1) unless—
  - (a) the governance entity and the Minister of Conservation have agreed in writing that the status as an Owhakatihi is no longer appropriate for the area concerned; or
  - (b) the area concerned is alienated by the Crown; or
  - (c) the responsibility for managing the area concerned is transferred to another Minister of the Crown or department.
- (3) Subsection (4) applies if—
  - (a) either of subsection (2)(b) or (c) applies; or
  - (b) there is a change in the statutory management regime that applies to all or part of the Owhakatihi.

- (4) If this subsection applies, the Crown must take reasonable steps to ensure that the governance entity continues to have input into the management of the Owhakatihi, or that part of it affected by the alienation or change in management responsibility, through negotiation with the governance entity by—
- (a) the Minister of the Crown responsible for the new management or the management regimes; or
  - (b) the Commissioner of Crown Lands; or
  - (c) any other responsible officer.

**113 Exercise of powers, duties, and functions**

- (1) Nothing in section 99 or section 100 affects or may be taken into account in the exercise of any power, duty, or function of any person or entity under any statute, regulation, or bylaw.
- (2) No person or entity, in considering any matter or making any decision or recommendation under any statute, regulation, or bylaw, may give any greater or lesser weight to Ngāti Tuwharetoa (Bay of Plenty) values than that person or entity would give under the relevant statute, regulation, or bylaw, if the area were not an Owhakatihi and Ngāti Tuwharetoa (Bay of Plenty) values had not been acknowledged in relation to the area.
- (3) Subsection (2) does not limit the operation of subsection (1).
- (4) This section applies subject to the other express provisions of this subpart.

**114 Rights not affected**

- (1) Sections 99 and 100 do not affect the lawful rights or interests of any person who is not a party to the deed of settlement.
- (2) This section applies subject to the express provisions of this subpart.

**115 Limitation of rights**

- (1) Sections 99 and 100 do not have the effect of granting, creating, or providing evidence of any estate or interest in, or any rights of any kind relating to, the Owhakatihi.
- (2) This section applies subject to the other express provisions of this subpart.

**Part 5**  
**Commercial redress**

*Transfer of commercial redress properties*

**116 Transfer of commercial redress properties**

- (1) To give effect to clause 6.3 of the deed of settlement, the Crown (acting through the Commissioner of Crown Lands) is authorised to do 1 or more of the following:

- (a) transfer the fee simple estate in a commercial redress property to the governance entity;
  - (b) sign a memorandum of transfer or other document, or do any other thing, to execute such a transfer.
- (2) In exercising the powers conferred by subsection (1), the Crown is not required to comply with any other enactment that would otherwise regulate or apply to the transfer of a commercial redress property.
- (3) Subsection (2) applies subject to section 119(2).

#### **117 Minister of Conservation may grant easements**

- (1) The Minister of Conservation may grant any easement over conservation land required by clause 6.3.6 of the deed of settlement.
- (2) An easement granted under subsection (1)—
  - (a) is registrable under section 17ZA(2) of the Conservation Act 1987 as if it were a deed to which that provision applied; and
  - (b) is enforceable on its terms despite Part 3B of the Conservation Act 1987.
- (3) In this section, **conservation land** means land held under the Conservation Act 1987.

#### **118 Creation of computer register**

- (1) This section applies to a commercial redress property to the extent that—
  - (a) the property is not all of the land contained in a certificate of title or computer freehold register; or
  - (b) there is no certificate of title or computer freehold register for all or part of the property.
- (2) The Registrar-General must, on written application by an appropriate person, comply with subsection (3).
- (3) The Registrar-General must, in accordance with the application, create 1 or more computer freehold registers in the name of the Crown subject to, and together with, any encumbrances that are registrable or notifiable and that are described in the written application.
- (4) A computer freehold register created in accordance with subsection (3) must be created in the name of the Crown without any statement of purpose.
- (5) The appropriate person may grant a covenant to arrange for the later creation of 1 or more computer freehold registers for a property that is to be transferred to the governance entity.
- (6) Despite the Land Transfer Act 1952,—
  - (a) the appropriate person may request the Registrar-General to register a covenant referred to in subsection (5) under the Land Transfer Act 1952 by creating a computer interest register; and



- (b) the Registrar-General must register the covenant in accordance with paragraph (a).
- (7) In this section, **appropriate person** means the person who is authorised by the chief executive of the transferor agency (as defined in clause 11.1 of the deed of settlement).

### **119 Application of other enactments**

- (1) Nothing in section 11 or Part 10 of the Resource Management Act 1991 applies to—
  - (a) the transfer to the governance entity of a commercial redress property in accordance with this Act; or
  - (b) any matter incidental to, or required for the purpose of, that transfer.
- (2) The transfer of a commercial redress property in accordance with this Act does not—
  - (a) limit sections 10 or 11 of the Crown Minerals Act 1991; or
  - (b) affect private rights to subsurface minerals.
- (3) The transfer of a commercial redress property in accordance with this Act is a disposition for the purposes of Part 4A of the Conservation Act 1987, but sections 24(2A), 24A, and 24AA of that Act do not apply to the disposition.

### **120 Roadways and rights of way**

The permission of a council under section 348 of the Local Government Act 1974 is not required for laying out, forming, granting, or reserving a private road, private way, or right of way required by clauses 6.3 or 6.4.6 of the deed of settlement.

#### *Redress licensed land*

### **121 Meaning of redress licensed land**

In this section, and sections 122 to 127,—

**redress licensed land**—

- (a) means the land described in Schedule 6.2 of the deed of settlement and shown on SO 306594, South Auckland Land District; but
- (b) excludes—
  - (i) all trees growing or standing or, in the case of windthrow, lying on those areas of land; and
  - (ii) all improvements that have been acquired by any purchaser of the trees on those areas of land or made by the purchaser or the licensee

**redress licensed land settlement date** means the date on which settlement of the transfer of the redress licensed land under paragraph 1 of Schedule 6.7 of the deed of settlement occurs.

**122 Redress licensed land ceases to be Crown forest land**

The redress licensed land ceases to be Crown forest land immediately on registration of the fee simple estate in the governance entity.

**123 Governance entity confirmed beneficiary in respect of redress licensed land**

- (1) On and from the redress licensed land settlement date, the governance entity is, in relation to the redressed licensed land,—
  - (a) the confirmed beneficiary under clause 11.1 of the Crown forestry rental trust deed; and
  - (b) the representative referred to in clause 11.5(c) of that deed.
- (2) On the redress licensed land settlement date, the Crown must give notice under section 17(4)(b) of the Crown Forest Assets Act 1989 in respect of the redress licensed land as if that section applies to the redress licensed land, even though the Waitangi Tribunal has not made a recommendation under section 8HB(1)(a) of the Treaty of Waitangi Act 1975 for the return of the redress licensed land.
- (3) Notice given by the Crown under subsection (2) has effect as if the Waitangi Tribunal had made a recommendation under section 8HB(1)(a) of the Treaty of Waitangi Act 1975 for the return of the redress licensed land and that recommendation had become final on the redress licensed land settlement date.
- (4) In this section, **Crown forestry rental trust deed** means the trust deed made on 30 April 1990 establishing the Crown forestry rental trust under section 34 of the Crown Forest Assets Act 1989.

**124 Effect of Crown forestry licences on redress licensed land**

- (1) On and from the redress licensed land settlement date, the governance entity is the licensor under any Crown forestry licences in relation to the redress licensed land as if that land had been returned to Maori ownership under section 36 of the Crown Forest Assets Act 1989.
- (2) To the extent that the Crown has not completed the process described in clause 17.4 of the Crown forestry licences in relation to the redress licensed land before the redress licensed land settlement date, it must continue the process after that date until its completion.
- (3) For the period from the redress licensed land settlement date until the completion by the Crown of the process referred to in subsection (2), the licence fee payable under the Crown forestry licence in respect of the redress licensed land is the amount described in clause 6.3.5(a) of the deed of settlement.

- (4) To avoid doubt, section 36(1)(b) of the Crown Forest Assets Act 1989 does not apply to the redress licensed land.

*Rights of access over redress licensed land*

**125 Access to protected sites over redress licensed land**

- (1) On and from the redress licensed land settlement date, the owner of the redress licensed land, or any person holding an interest or occupancy right from the owner, must allow Māori for whom a protected site is of special spiritual, cultural, or historical significance to have access over the redress licensed land to that site.
- (2) The right of access under subsection (1) may be exercised by vehicle over any existing reasonably convenient routes or on foot over any reasonably convenient route specified, in each case, by the owner subject to the following conditions:
- (a) a person intending to exercise the right of access must give the owner reasonable notice in writing of his or her intention to exercise the right; and
  - (b) the right of access may be exercised only at reasonable times and during daylight hours; and
  - (c) a person exercising the right must observe any reasonable conditions imposed by the owner—
    - (i) that relate to the time, location, or manner of access; and
    - (ii) that are reasonably required for public safety or for the protection of land, improvements, flora and fauna, plant, equipment, and livestock, or for operational reasons.
- (3) In this section, **protected site** means any area of land situated in the redress licensed land that—
- (a) becomes a registered place within the meaning of the Heritage New Zealand Pouhere Taonga Act 2014; and
  - (b) is wāhi tapu or a wāhi tapu area within the meaning of that Act.

Section 125(3)(a): amended, on 20 May 2014, by section 107 of the Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26).

**126 Right of access subject to Crown forestry licence**

- (1) The right of access conferred by section 125 is subject to the terms of any Crown forestry licence in relation to the land, except where the licensee has agreed to an exercise of the right.
- (2) An amendment to a Crown forestry licence, or the grant of a new licence, is of no effect to the extent that it purports to—
- (a) delay the date from which a person who has a right of access under section 125 may exercise that right; or

- (b) otherwise adversely affect the right conferred by section 125.

**127 Right of access must be noted on title**

A memorandum of transfer referred to in section 116 in relation to the redress licensed land must include an application to the Registrar-General to note on the computer freehold registers specified in the memorandum of transfer that the land is subject to the right of access conferred by section 125.

## Schedule 1

### Cultural redress properties

ss 12, 27–36

<b>Property</b>	<b>Description</b>	<b>Encumbrances</b>
Te Wahieroa	South Auckland Land District— Whakatāne District 10.0000 hec- tares, more or less, being Section 1 SO 332912. Part <i>Gazette</i> Notice H.024770.	
Te Atua Reretahi	South Auckland Land District— Whakatāne District. 17.5060 hec- tares, more or less, being Section 1 SO 330119. Part <i>Gazette</i> 1920, page 2107.	Subject to the conservation covenant referred to in clause 29(3)
Te Kaukahiwi o Tirotirowhetu	South Auckland Land District— Kawerau District. 10.3657 hec- tares, more or less, being Section 1 SO 330677. Part <i>Gazette</i> Notice H.257899.	
Otitapu Lookout	South Auckland Land District— Whakatāne District. 7.6690 hec- tares, more or less, being Section 2 SO 330676. Part <i>Gazette</i> 1939, page 311.	Subject to the protected pri- vate land agreement referred to in clause 31(2)
Whakapaukorero	South Auckland Land District— Whakatāne District. 32.9230 hec- tares, more or less, being Section 2 SO 330120. Part <i>Gazette</i> Notice H.011708 and All Transfer H.652435.	

## Schedule 2

### Nohoanga site

s 71

Waterway	Nohoanga site	Description	Special requirements
Tarawera River	Te Awa a Te Atua	South Auckland Land District— Whakatāne District. 1 hectare as shown marked “A” on SO 331011.	No dogs No open fires

**Schedule 3**  
**Statutory acknowledgements and deeds of recognition**

s 37

**Part 1**  
**Statutory areas for which statutory acknowledgements and deeds of  
recognition provided**

*South Auckland Land District*

<b>Area</b>	<b>Location</b>
Lake Rotoma Scenic Reserve	As shown on SO 61726
Lake Tamarenuī Wildlife Management Reserve	As shown on SO 61727
Rangitaiki River	As shown on SO 61728
Rotoma Forest Conservation Area	As shown on SO 61717
Tarawera River	As shown on SO 61729.

**Part 2**  
**Statutory area for which geothermal statutory acknowledgement  
provided**

<b>Area</b>	<b>Location</b>
Kawerau Geothermal system	As shown on SO 61730.

## Schedule 4

### Statutory acknowledgement for Rotoma Forest Conservation Area

s 37

#### *Statutory area*

The area to which this statutory acknowledgement applies is the area known as the Rotoma Forest Conservation Area, as shown on SO 61717, South Auckland Land District.

#### *Preamble*

Under section 37, the Crown acknowledges the statement by Ngāti Tuwharetoa (Bay of Plenty) of the cultural, spiritual, historical, and traditional association of Ngāti Tuwharetoa (Bay of Plenty) with the Rotoma Forest Conservation Area as set out below.

#### *Cultural, spiritual, historical, and traditional association of Ngāti Tuwharetoa (Bay of Plenty) with statutory area*

For Ngāti Tuwharetoa (Bay of Plenty) whānui, Te Atua Reretahi, which is within the Rotoma Forest Conservation Area, is a very sacred urupā (burial place). This is because our eponymous ancestor Tuwharetoa is buried there. The caves that extend beyond Te Atua Reretahi into the adjacent Apurangi and Tautara basins are also the resting places of many of the descendants of Tuwharetoa.

Te Ngako o te Rangī (a descendant of Tuwharetoa) prepared a special cave at Te Atua Reretahi as the burial place for Tuwharetoa. Other ancestors were also taken there. It is for this reason that Ngāti Tuwharetoa (Bay of Plenty)—whānau, hapū, and iwi—acknowledge the whakatauki: neke neke atu, ko te Waha o te Pārata, aue ko Te Atua Reretahi, ko Mawake Taupo, ko Hine-te-Ariki, ko Hāhuru, ko ngā kāhui Ariki, moe mai i te moenga roa ee ee.

It is particularly significant to Tuwharetoa people as visiting the urupā is a special occasion for us. Our tupuna have resided over our tribal area since time immemorial.

The spiritual and cultural values of the resting place of our tupuna have been passed down to us, helping our people endure the events of the last 150 years. For the uri (descendants) of Tuwharetoa, Te Atua Reretahi is a place of healing. It is a place that binds all the people from the mountain to the sea.

The resting place of our tupuna is as old as the maunga and as young as the fresh morning dew. It is ageless as time itself, it passes us by every day but will never pass on. Tuwharetoa cannot be separated from Te Atua Reretahi as it is in our hearts, our bodies, and it is the very essence of our soul. We are Tuwharetoa Te Atua Reretahi. Let us remember those who died in the struggle and there have been many.

This area of land was once a stronghold of Ngāti Mawake, ancestors of Tuwharetoa. They were descendants of Ngatoroirangi, the high priest on the Te Arawa waka, and lived from Apurangi to Haehaenga.



In the area of the Rotoma Forest Conservation Area, Ngāti Tuwharetoa (Bay of Plenty) people traditionally hunted birds such as the kererū (native wood pigeon), weka, tūī, kāhu, and kiwi and, after their introduction, animals such as possums, deer, and pigs.

The area supplied Ngāti Tuwharetoa (Bay of Plenty) people with many other sources of food. The berries of tutu, hīnau, tawa, and miro all grew within the area and could be eaten in various forms. The fleshy white leaf of the tāwhara was considered a prized delicacy, and the kiekie plant was a key resource. The tī kōuka (cabbage tree) and mingi mingi (tūmingi) shrub provided food for Tuwharetoa people. The young uncurled shoots of the pikopiko fern were collected for greens. Small berries of several other trees, such as rimu, kahikatea, and mataī, were eaten.

Other significant food sources in this area were the makaika (a species of Māori potato) and the mamaku (giant tree fern). Selected trees, such as rātā, tōtara, and kahikatea, were used for the building of canoes, weapons, and houses and to make tools. The kaponga tree fern was valuable for many different applications: the leaves were used for shelter, the bark for medicine, and the shape for art.

#### *Purposes of statutory acknowledgement*

Under section 38, and without limiting the rest of this schedule, the only purposes of this statutory acknowledgement are—

- (a) to require that relevant consent authorities, Heritage New Zealand Pouhere Taonga, or the Environment Court, as the case may be, have regard to this statutory acknowledgement in relation to the Rotoma Forest Conservation Area, as provided in sections 39 to 41; and
- (b) to require that relevant consent authorities forward summaries of resource consent applications to the governance entity as provided in section 43; and
- (c) to enable the governance entity and any member of Ngāti Tuwharetoa (Bay of Plenty) to cite this statutory acknowledgement as evidence of the association of Ngāti Tuwharetoa (Bay of Plenty) with the Rotoma Forest Conservation Area as provided in section 44.

#### *Limitations on effect of statutory acknowledgement*

Except as expressly provided in sections 39 to 41,—

- (a) this statutory acknowledgement does not affect, and is not to be taken into account in, the exercise of any power, duty, or function by any person or entity under any statute, regulation, or bylaw; and
- (b) without limiting paragraph (a), no person or entity, in considering any matter or making any decision or recommendation under statute, regulation, or bylaw, may give any greater or lesser weight to the association of Ngāti Tuwharetoa (Bay of Plenty) with the Rotoma Forest Conservation Area than that person or entity would give under the relevant statute, regulation, or bylaw, if this statutory acknowledgement had not been made.

Except as expressly provided in subpart 3 of Part 4, this statutory acknowledgement does not affect the lawful rights or interests of any person who is not a party to the deed of settlement.

Except as expressly provided in subpart 3 of Part 4, this statutory acknowledgement does not have the effect of granting, creating, or providing evidence of any estate or interest in, or any rights of any kind whatsoever relating to, the Rotoma Forest Conservation Area.

*No limitation on Crown*

The existence of this statutory acknowledgement does not prevent the Crown from providing a statutory acknowledgement in respect of the Rotoma Forest Conservation Area to persons other than Ngāti Tuwharetoa (Bay of Plenty) or a representative entity.

Schedule 4: amended, on 20 May 2014, by section 107 of the Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26).

## Schedule 5

### Statutory acknowledgement for Lake Tamarenuī Wildlife Management Reserve

s 37

#### *Statutory area*

The area to which this statutory acknowledgement applies is the area known as the Lake Tamarenuī Wildlife Management Reserve, as shown on SO 61727, South Auckland Land District. The area includes the bed and waters of Lake Tamarenuī.

#### *Preamble*

Under section 37, the Crown acknowledges the statement by Ngāti Tuwharetoa (Bay of Plenty) of the cultural, spiritual, historical, and traditional association of Ngāti Tuwharetoa (Bay of Plenty) with the Lake Tamarenuī Wildlife Management Reserve as set out below.

#### *Cultural, spiritual, historical, and traditional association of Ngāti Tuwharetoa (Bay of Plenty) with statutory area*

Tamarenuī means large snapper. The Lake Tamarenuī Wildlife Management Reserve was once part of the large marshlands of the area.

Ngāti Tuwharetoa (Bay of Plenty) believe that a kaitiaki (guardian) called Te Whakakau Ariki lives in Lake Tamarenuī and looks after the lake. The kaitiaki holds the history of the Tuwharetoa people.

It is told by the elders that when a death occurred at Kawerau of a person of rank, Te Whakakau Ariki would dive beneath Lake Tamarenuī, and journey through the mythical waters of Papatūānuku to reappear in Lake Taupo. If a leading person of rank died at Taupo, Te Whakakau Ariki would journey back and appear again at Lake Tamarenuī. Te Whakakau Ariki was last seen by one of the elders in 1950, while he was setting a hīnaki (eel trap).

Ngāti Tuwharetoa (Bay of Plenty) people, who lived at ancient pā sites nearby, used the area for eeling, hunting pūkeko, and gathering kākahi (freshwater mussels). The area also provided resources such as morihana (carp) and raupō. Ngāti Tuwharetoa (Bay of Plenty) people used raupō for many different purposes, including making poi and for food. Pollen was collected and made into porridge or parāoa (bread) and the peeled roots were also eaten. Although pūkeko was eaten, it was particularly prized for its plumage to be made into korowai (cloak) decorations.

Morihana was traditionally caught at Lake Tamarenuī from the beginning of the rainy season until late spring. Kaiherehere and matamoe eels were caught at the outlet of the lake every year. The eels were diverted into hīnaki traps with a pā tuna, a wing-type funnel made from wood and bags. The best time to catch the eels was at the beginning of autumn, when the eels begin their migratory journey to the sea.

*Purposes of statutory acknowledgement*

Under section 38, and without limiting the rest of this schedule, the only purposes of this statutory acknowledgement are—

- (a) to require that relevant consent authorities, Heritage New Zealand Pouhere Taonga, or the Environment Court, as the case may be, have regard to this statutory acknowledgement in relation to Lake Tamarenuī Wildlife Management Reserve, as provided in sections 39 to 41; and
- (b) to require that relevant consent authorities forward summaries of resource consent applications to the governance entity as provided in section 43; and
- (c) to enable the governance entity and any member of Ngāti Tuwharetoa (Bay of Plenty) to cite this statutory acknowledgement as evidence of the association of Ngāti Tuwharetoa (Bay of Plenty) with the Lake Tamarenuī Wildlife Management Reserve as provided in section 44.

*Limitations on effect of statutory acknowledgement*

Except as expressly provided in sections 39 to 41,—

- (a) this statutory acknowledgement does not affect, and is not to be taken into account in, the exercise of any power, duty, or function by any person or entity under any statute, regulation, or bylaw; and
- (b) without limiting paragraph (a), no person or entity, in considering any matter or making any decision or recommendation under statute, regulation, or bylaw, may give any greater or lesser weight to the association of Ngāti Tuwharetoa (Bay of Plenty) with the Lake Tamarenuī Wildlife Management Reserve than that person or entity would give under the relevant statute, regulation, or bylaw if this statutory acknowledgement had not been made.

Except as expressly provided in subpart 3 of Part 4, this statutory acknowledgement does not affect the lawful rights or interests of any person who is not a party to the deed of settlement.

Except as expressly provided in subpart 3 of Part 4, this statutory acknowledgement does not have the effect of granting, creating, or providing evidence of any estate or interest in, or any rights of any kind whatsoever relating to, the Lake Tamarenuī Wildlife Management Reserve.

*No limitation on Crown*

The existence of this statutory acknowledgement does not prevent the Crown from providing a statutory acknowledgement in respect of the Lake Tamarenuī Wildlife Management Reserve to persons other than Ngāti Tuwharetoa (Bay of Plenty) or a representative entity.

Schedule 5: amended, on 20 May 2014, by section 107 of the Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26).

## Schedule 6

### Statutory acknowledgement for Lake Rotoma Scenic Reserve

s 37

#### *Statutory area*

The area to which this statutory acknowledgement applies is the area known as the Lake Rotoma Scenic Reserve, as shown on SO 61726, South Auckland Land District. The area includes the bed and waters of the lagoon near Otumarokura Point.

#### *Preamble*

Under section 37, the Crown acknowledges the statement by Ngāti Tuwharetoa (Bay of Plenty) of the cultural, spiritual, historical, and traditional association of Ngāti Tuwharetoa (Bay of Plenty) with the Lake Rotoma Scenic Reserve as set out below.

#### *Cultural, spiritual, historical, and traditional association of Ngāti Tuwharetoa (Bay of Plenty) with statutory area*

Ngāti Tuwharetoa (Bay of Plenty) has always been associated with the area of the Lake Rotoma Scenic Reserve through Rakeimarama, the first-born (matamua) son of Tuwharetoa. Rakeimarama was a highly respected tohunga because of his powerful incantations and sorcery. He could venture anywhere unchallenged. He lived on an island in Lake Rotoma with his iwi; they respected his command and were careful not to threaten the sanctuary of the island.

One fateful day, returning from visiting whanaunga (kindred) in another area, Rakeimarama arrived on the shore of Rotoma at his pā called Ngohiorangi. Feeling hungry after his journey he called to the people of the island to fetch him by canoe, as was the custom. Not receiving any response, he became very angry. Rakeimarama removed some clothing, tied flax around his waist, and ventured into the water. There he began to recite his incantations and summoned considerable powers. The tempest summoned by the karakia lashed the shores of Lake Rotoma with heavy rain and strong winds. The pā and the island slowly disappeared. If one ventures out on Lake Rotoma, sometimes the island can be seen just below the surface of the water.

Ngāti Tuwharetoa (Bay of Plenty) were also associated with the area which is now the Lake Rotoma Scenic Reserve through the hapū Ngāti Tiki, Ngāti Rahikora, and Ngāti Hinewai.

The boundary trees Tau-rangi and Te Wera-a-Tapahi, which were in the area of the Lake Rotoma Scenic Reserve, were significant boundary markers between the neighbouring western tribes and Tuwharetoa (through the hapū of Ngāti Umutahi) on the eastern shore of Lake Rotoma.

Traditionally, Ngāti Tuwharetoa (Bay of Plenty) people who lived at a kainga called Taraki fished at a fishing ground called Purehurehu, and gathered inanga (whitebait) and kōura (fresh water crayfish) in the area of what is now the scenic reserve: piki atu

kei raro ko Te Tuwatawata, haere tika ana ki Maungawhakamana, titaha ana ki Oti-tapu, ko ngā tirohanga, o ngā Tipuna eee.

Otitapu was a lookout post, built high on the Tihetihe range within the Lake Rotoma Scenic Reserve. It served the several pā sites surrounding it, including Okoroiti and Okake to the south and Ōpeke and Waituhi to the east. It also served the Haupanapana track to the south and joined the Tararaika and the Tuwharetoa trails, which were used by Tuwharetoa people to travel to and from the coast.

There are burial caves around Otitapu which are sacred to Tuwharetoa people. Lake Rotoma Scenic Reserve was also the scene of a famous battle, called Rarapahore, in which Tuwharetoa people fought.

#### *Purposes of statutory acknowledgement*

Under section 38, and without limiting the rest of this schedule, the only purposes of this statutory acknowledgement are—

- (a) to require that relevant consent authorities, Heritage New Zealand Pouhere Taonga, or the Environment Court, as the case may be, have regard to this statutory acknowledgement in relation to the Lake Rotoma Scenic Reserve, as provided in sections 39 to 41; and
- (b) to require that relevant consent authorities forward summaries of resource consent applications to the governance entity as provided in section 43; and
- (c) to enable the governance entity and any member of Ngāti Tuwharetoa (Bay of Plenty) to cite this statutory acknowledgement as evidence of the association of Ngāti Tuwharetoa (Bay of Plenty) with the Lake Rotoma Scenic Reserve as provided in section 44.

#### *Limitations on effect of statutory acknowledgement*

Except as expressly provided in sections 39 to 41,—

- (a) this statutory acknowledgement does not affect, and is not to be taken into account in, the exercise of any power, duty, or function by any person or entity under any statute, regulation, or bylaw; and
- (b) without limiting paragraph (a), no person or entity, in considering any matter or making any decision or recommendation under statute, regulation, or bylaw, may give any greater or lesser weight to the association of Ngāti Tuwharetoa (Bay of Plenty) with the Lake Rotoma Scenic Reserve than that person or entity would give under the relevant statute, regulation, or bylaw if this statutory acknowledgement had not been made.

Except as expressly provided in subpart 3 of Part 4, this statutory acknowledgement does not affect the lawful rights or interests of any person who is not a party to the deed of settlement.

Except as expressly provided in subpart 3 of Part 4, this statutory acknowledgement does not have the effect of granting, creating, or providing evidence of any estate or

interest in, or any rights of any kind whatsoever relating to, the Lake Rotoma Scenic Reserve.

*No limitation on Crown*

The existence of this statutory acknowledgement does not prevent the Crown from providing a statutory acknowledgement in respect of the Lake Rotoma Scenic Reserve to persons other than Ngāti Tuwharetoa (Bay of Plenty) or a representative entity.

Schedule 6: amended, on 20 May 2014, by section 107 of the Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26).

## Schedule 7

### Statutory acknowledgement for Rangitaiki River

s 37

#### *Statutory area*

The area to which this statutory acknowledgement applies is the area known as the Rangitaiki River, as shown on SO 61728, South Auckland Land District.

#### *Preamble*

Under section 37, the Crown acknowledges the statement by Ngāti Tuwharetoa (Bay of Plenty) of the cultural, spiritual, historical, and traditional association of Ngāti Tuwharetoa (Bay of Plenty) with the Rangitaiki River as set out below.

#### *Cultural, spiritual, historical, and traditional association of Ngāti Tuwharetoa (Bay of Plenty) with statutory area*

A great river, like a full tide.

The Rangitaiki River was the traditional eastern boundary of Ngāti Tuwharetoa (Bay of Plenty). The river has changed course a number of times. At one time it flowed through the great swamps that formerly existed in the area. Vegetation along the river was raupō, flax, and rushes with mānuka and tī kōuka (cabbage trees) on the higher ground.

Ngāti Tuwharetoa (Bay of Plenty) people relied on the Rangitaiki River for food, in particular eels, fish, and birds. The higher ground along the river banks provided places for cultivating kūmara (sweet potato) and rīwai (potato). They also gathered many resources from the river. Raupō, which was plentiful, was gathered for the thatching of houses. Flax was used for weaving and making ropes. There was also a specific area on the riverbank that was set aside for the dyeing of flax. Tī whanake (cabbage tree) leaves were used for cooking baskets as they did not deteriorate in the boiling water pools that the people used for cooking.

Along the river, Ngāti Tuwharetoa (Bay of Plenty) people made use of the geothermal resources. Sulphur was burned for long periods in sleeping houses to control mites and bugs. A small amount combined with wild honey was taken as rongoā (medicine). It was also rubbed into hakihaki (sores). Children with hakihaki were made to sit or lie covered in warm mud for half an hour or more as a cure. Hot pools along the river were used for bathing and general hygiene.

When Mātāriki (the Pleiades constellation) was first seen, usually before sunrise in the middle of winter, the people would set kūmara in beds in the warm earth and for 2 to 3 weeks tubers would sprout. This was the nursery from which the main crops would be planted. These were the resources that provided sustenance for the many hapū who lived up and down the banks of the Rangitaiki River.



The people travelled along the river by canoe, often to visit relatives, to the upper reaches and downstream to the sea where mullet, herring, and whitebait were caught. Specially made canoes were used for reclamation work.

*Purposes of statutory acknowledgement*

Under section 38, and without limiting the rest of this schedule, the only purposes of this statutory acknowledgement are—

- (a) to require that relevant consent authorities, Heritage New Zealand Pouhere Taonga, or the Environment Court, as the case may be, have regard to this statutory acknowledgement in relation to the Rangitaiki River, as provided in sections 39 to 41; and
- (b) to require that relevant consent authorities forward summaries of resource consent applications to the governance entity as provided in section 43; and
- (c) to enable the governance entity and any member of Ngāti Tuwharetoa (Bay of Plenty) to cite this statutory acknowledgement as evidence of the association of Ngāti Tuwharetoa (Bay of Plenty) with the Rangitaiki River as provided in section 44.

In this statutory acknowledgement **river**—

- (a) means—
  - (i) a continuously or intermittently flowing body of fresh water including a stream and modified watercourse; and
  - (ii) the bed of the river; but
- (b) does not include—
  - (i) any artificial watercourse; or
  - (ii) any part of the bed of the river which is not owned by the Crown; or
  - (iii) any land which the waters of the river do not cover at its fullest flow without overlapping its banks; or
  - (iv) any tributary flowing into the river.

*Limitations on effect of statutory acknowledgement*

Except as expressly provided in sections 39 to 41,—

- (a) this statutory acknowledgement does not affect, and is not to be taken into account in, the exercise of any power, duty, or function by any person or entity under any statute, regulation, or bylaw; and
- (b) without limiting paragraph (a), no person or entity, in considering any matter or making any decision or recommendation under statute, regulation, or bylaw, may give any greater or lesser weight to the association of Ngāti Tuwharetoa (Bay of Plenty) with the Rangitaiki River than that person or entity would give under the relevant statute, regulation, or bylaw if this statutory acknowledgement had not been made.

Except as expressly provided in subpart 3 of Part 4, this statutory acknowledgement does not affect the lawful rights or interests of any person who is not a party to the deed of settlement.

Except as expressly provided in subpart 3 of Part 4, this statutory acknowledgement does not have the effect of granting, creating, or providing evidence of any estate or interest in, or any rights of any kind whatsoever relating to, the Rangitaiki River.

*No limitation on Crown*

The existence of this statutory acknowledgement does not prevent the Crown from providing a statutory acknowledgement in respect of the Rangitaiki River to persons other than Ngāti Tuwharetoa (Bay of Plenty) or a representative entity.

Schedule 7: amended, on 20 May 2014, by section 107 of the Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26).

## Schedule 8

### Statutory acknowledgement for Tarawera River

s 37

#### *Statutory area*

The area to which this statutory acknowledgement applies is the river known as the Tarawera River, as shown on SO 61729, South Auckland Land District.

#### *Preamble*

Under section 37, the Crown acknowledges the statement by Ngāti Tuwharetoa (Bay of Plenty) of the cultural, spiritual, historical, and traditional association of Ngāti Tuwharetoa (Bay of Plenty) with the Tarawera River as set out below.

#### *Cultural, spiritual, historical, and traditional association of Ngāti Tuwharetoa (Bay of Plenty) with statutory area*

Ko Pūtauaki te Maunga, ko Te Takanga i ō Apa te Awa, ko Te Aotahi te Tāngata, ko Ngāti Tuwharetoa (Bay of Plenty) te iwi.

Before the 1886 Mount Tarawera eruption the Tarawera River flowed down the valley through what is now Kawerau. The area was once marshlands; a number of streams flowed through the swamps to join the Tarawera River. After the eruption, the Tarawera River changed course several times. This occurred as a result of flooding and through the efforts of settlers to prevent the river encroaching on surrounding land. Near the coast the Tarawera River merged with other rivers and flowed into the sea at Te Awa a Te Atua.

The traditional name of Ngāti Tuwharetoa (Bay of Plenty) for the Tarawera River was Takanga-i-ō-Apa, which means “the falling of Apa”. Apa was an original inhabitant of the area who lived south of Pūtauaki. Once he encountered a moa—a pet of the local Tuwharetoa people. The bird was resting on one leg with its mouth open facing the southern wind. Upon seeing the bird, Apa crept slowly towards the resting bird and struck at the exposed leg. Immediately the bird struck out with the leg that was drawn up and knocked Apa over the cliff. The injury Apa received was a broken leg and subsequently he became known as Apa-Koke (which means “Apa limping”).

The Tarawera River was a key resource for Ngāti Tuwharetoa (Bay of Plenty). The iwi living along the banks of the Tarawera River were spiritually and emotionally bound to and physically sustained by its waters. Healing ceremonies were held by and in the river. All the families grew up around the river and played together in and along the river. Along the riverbanks hot springs and baths were dug and used communally. It was a very special way of life.

Canoes were the only mode of transport used on the river, because it flowed through a huge swamp area. Many hapū had secret canals linked to the river where they could quickly escape from invading tribes. The people used large canoes for reclamation work to supply building materials and shifting dirt. The reclamation work was done to

enlarge islands for smaller canoes for everyday use. Ngāti Tuwharetoa (Bay of Plenty) people used the river for travelling long distances to tangi and other events; sometimes journeys could last well into the night as the travellers negotiated the many well-known waterways.

The Tarawera River was a very important source of food and raw materials for the Ngāti Tuwharetoa (Bay of Plenty) people who lived along its banks. The river provided the people with plentiful supplies of fish, watercress, kōura (freshwater crayfish), and kākahi (freshwater mussels), which were considered a delicacy. Eels were caught in the river, particularly matamoe (a black migratory eel) and rino (an eel with a silver belly). The great paewai eel also lived in the river. It is said that if one catches this type of eel it is a bad omen. Along the river banks the people gathered toetoe and tī whanake (cabbage tree) leaves (for use in cooking baskets), harakeke (flax—for food, medicine, and weaving), and raupō (for thatching of houses).

The Tarawera River ran like a thread through every family living along its banks.

#### *Purposes of statutory acknowledgement*

Under section 38, and without limiting the rest of this schedule, the only purposes of this statutory acknowledgement are—

- (a) to require that relevant consent authorities, Heritage New Zealand Pouhere Taonga, or the Environment Court, as the case may be, have regard to this statutory acknowledgement in relation to the Tarawera River, as provided in sections 39 to 41; and
- (b) to require that relevant consent authorities forward summaries of resource consent applications to the governance entity as provided in section 43; and
- (c) to enable the governance entity and any member of Ngāti Tuwharetoa (Bay of Plenty) to cite this statutory acknowledgement as evidence of the association of Ngāti Tuwharetoa (Bay of Plenty) with the Tarawera River as provided in section 44.

In this statutory acknowledgement **river**—

- (a) means—
  - (i) a continuously or intermittently flowing body of fresh water including a stream and modified watercourse; and
  - (ii) the bed of the river; but
- (b) does not include—
  - (i) any artificial watercourse; or
  - (ii) any part of the bed of the river which is not owned by the Crown; or
  - (iii) any land which the waters of the river do not cover at its fullest flow without overlapping its banks; or
  - (iv) any tributary flowing into the river.

*Limitations on effect of statutory acknowledgement*

Except as expressly provided in sections 39 to 41,—

- (a) this statutory acknowledgement does not affect, and is not to be taken into account in, the exercise of any power, duty, or function by any person or entity under any statute, regulation, or bylaw; and
- (b) without limiting paragraph (a), no person or entity, in considering any matter or making any decision or recommendation under statute, regulation, or bylaw, may give any greater or lesser weight to the association of Ngāti Tuwharetoa (Bay of Plenty) with the Tarawera River than that person or entity would give under the relevant statute, regulation, or bylaw if this statutory acknowledgement had not been made.

Except as expressly provided in subpart 3 of Part 4, this statutory acknowledgement does not affect the lawful rights or interests of any person who is not a party to the deed of settlement.

Except as expressly provided in subpart 3 of Part 4, this statutory acknowledgement does not have the effect of granting, creating, or providing evidence of any estate or interest in, or any rights of any kind whatsoever relating to, the Tarawera River.

*No limitation on Crown*

The existence of this statutory acknowledgement does not prevent the Crown from providing a statutory acknowledgement in respect of the Tarawera River to persons other than Ngāti Tuwharetoa (Bay of Plenty) or a representative entity.

Schedule 8: amended, on 20 May 2014, by section 107 of the Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26).

## Schedule 9 Owhakatihi

ss 98–100

### *Description of Owhakatihi*

South Auckland Land District—Kawerau District. 39.7943 hectares, more or less, being Sections 2 and 3 SO 330677. Balance *Gazette* Notice H.257899.

### *Preamble*

Under section 100, the Crown acknowledges the statement of Ngāti Tuwharetoa (Bay of Plenty) of their cultural, spiritual, historical, and traditional values relating to Parimahana Scenic Reserve, as set out below.

### *Statement of Ngāti Tuwharetoa (Bay of Plenty) values relating to Parimahana Scenic Reserve*

Parimahana Scenic Reserve is the name of the reserve which is situated west of the Ruruanga Stream that flows into the Tarawera River; the reserve also includes part of the slopes of the Tirotirowhetu Mountain.

Parimahana Scenic Reserve was named because of the spiritual significance it had in relation to the ngāwhā (geothermal) resources that were placed and left there so many years ago by the fire gods Pupu and Hoata, who were sent to Aotearoa by Hauhangaroa and Kuiwai from Hawaiiki, to assist their brother Ngatoroirangi who was overcome with extreme cold.

The ariki status of the people who lived in the area was nurtured by the rich resources it provided.

### *Hine-te-Ariki*

Grandmother of Tuwharetoa, Hine-te-Ariki, was an ancestress and puhi who lived in the area of the Parimahana Scenic Reserve. She built a pā on Tirotirowhetu Mountain because it was part of her duties to the iwi to climb this mountain to check the position of the stars, so as to accurately gauge the correct time to plant the kūmara which was a substantial crop in those times.

### *Ngā Kohatu o Hine-te-Ariki*

The stones of Hine-te-Ariki are significant to Ngāti Tuwharetoa (Bay of Plenty) and the Parimahana Scenic Reserve because these stones were placed for protection in the nearby Ruruanga Stream. They were placed by Hine-te-Ariki in such a way as to provide an inviting crossing for the unwary and a slippery wet end for the unfortunate, thereby being an effective security system.

At the same time that Hine-te-Ariki travelled to different kainga (homes) within her tribal rohe, Waitaha-Ariki-Kore, her future husband, was preparing to come to Aotearoa from Hawaiiki.

*Tohia-o-te-Rangi*

Tohia-o-te-Rangi was a leading chief of Ngāti Tuwharetoa (Bay of Plenty) who lived in the Parimahana area. His pā was called Te Rewha which was situated on the southern ridge of Tirotirowhetu Mountain.

Tohia-o-te-Rangi often used explicit means to win battles and he is commemorated on one of the veranda poles of Ōniao Marae at Te Awa-a-te-Atua, Matatā, in one of these explicit positions.

To the people of Ngāti Tuwharetoa (Bay of Plenty) these names have the following meanings:

Parimahana	abundance of warmth
Hine-te-Ariki	a high-ranking puhi
Tirotirowhetu	star gazing
Ngāwhā	geothermal sulphur
Tohia-o-te-Rangi	heavenly binding
Te Rewha	named after Tohia-o-te-Rangi's father who had very bad eyesight
Ruruanga	moving together in one direction.

## Reprints notes

### 1 *General*

This is a reprint of the Ngāti Tuwharetoa (Bay of Plenty) Claims Settlement Act 2005 that incorporates all the amendments to that Act as at the date of the last amendment to it.

### 2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

### 3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

### 4 *Amendments incorporated in this reprint*

Education and Training Act 2020 (2020 No 38): section 668

Trusts Act 2019 (2019 No 38): section 161

Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26): section 107

Holidays (Full Recognition of Waitangi Day and ANZAC Day) Amendment Act 2013 (2013 No 19): section 8

Treaty of Waitangi Amendment Act 2008 (2008 No 34): section 7

Protected Objects Amendment Act 2006 (2006 No 37): section 35