

**MORIORI**  
**and**  
**THE CROWN**

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**AGREEMENT IN PRINCIPLE**  
**TO SETTLE**  
**HISTORICAL CLAIMS**

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**16 August 2017**

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## 1 BACKGROUND

### **Mandate and terms of negotiation**

- 1.1 Moriori in March and April 2003, by undertaking consultation and hui, gave the Hokotehi Moriori Trust a mandate to negotiate with the Crown a deed of settlement settling the historical claims of the settling group.
- 1.2 The Crown recognised this mandate on 19 November 2003.
- 1.3 The mandated negotiators and the Crown agreed the scope, objectives, and general procedures for the negotiations by terms of negotiation dated 26 July 2004.
- 1.4 After a pause in negotiations, Hokotehi Moriori Trust reconfirmed their mandate on 22 March 2016 following hui-ā-Moriori and a public submissions process.

### **Nature and scope of deed of settlement agreed**

- 1.5 The mandated negotiators and the Crown have agreed, in principle, the nature and scope of the deed of settlement.
- 1.6 This agreement in principle records that agreement and concludes substantive negotiations of the redress contemplated in this agreement in principle.

### **Approval and signing of this agreement in principle**

- 1.7 The mandated body has –
  - 1.7.1 approved this agreement in principle; and
  - 1.7.2 authorised the mandated negotiators to sign it on their behalf.

## 2 AGREEMENT IN PRINCIPLE

2.1 Moriori and the Crown agree –

- 2.1.1 that, in principle, the nature and scope of the deed of settlement is to be as provided in this agreement in principle; and
- 2.1.2 to work together in good faith to develop, as soon as reasonably practicable, a deed of settlement based on this agreement in principle. In particular, parties will work together to resolve any matters in relation to clause 3.5 of this agreement in principle, and agree or determine (where applicable) those matters under clauses 3.8 and 9.2; and
- 2.1.3 the deed of settlement is to be signed by or on behalf of Moriori, the Moriori governance entity, and the Crown.

### **3 SETTLEMENT**

#### **Settlement of historical claims**

- 3.1 The deed of settlement is to provide that, on and from the Moriori settlement date, -
- 3.1.1 the historical claims of Moriori are settled; and
  - 3.1.2 the Crown is released and discharged from all obligations and liabilities in respect of the historical claims; and
  - 3.1.3 the settlement is final.
- 3.2 The definitions of the historical claims, and of Moriori, are to be based on the definitions of those terms in schedule 1.

#### **Terms of settlement**

- 3.3 The terms of the settlement provided in the deed of settlement are to be:
- 3.3.1 those in schedule 2; and
  - 3.3.2 any additional terms agreed by the parties.

#### **Redress**

- 3.4 The deed of settlement is to provide for redress in accordance with this agreement in principle.
- 3.5 However, the deed of settlement will include –
- 3.5.1 redress contemplated by this agreement in principle only if any overlapping interests in relation to that redress have been addressed to the satisfaction of the Crown; and
  - 3.5.2 a property that this agreement in principle specifies as a potential cultural redress property, or a potential commercial redress property, or a potential deferred selection property, subject to final written confirmation from the Crown that each of those properties is available. If any such potential property is not available, the Crown is under no obligation to substitute that property with another property.

- 3.6 If the Crown is unable to confirm any redress contemplated by this agreement in principle due to overlapping interests, the parties may discuss alternative redress so that the nature of the redress contemplated by this agreement in principle is maintained so far as that is possible, in the deed of settlement.
- 3.7 If any new redress is offered by the Crown in accordance with clause 3.6, Moriori acknowledge that clauses 3.5.1 and 3.5.2 apply to that redress.

### **Transfer or vesting of settlement properties**

- 3.8 The settlement documentation is to provide that the vesting or transfer of:
- 3.8.1 a redress property or a purchased deferred selection property will be subject to –
- (a) any further identification and/or survey required; and
  - (b) Part 4A of the Conservation Act 1987 (unless the settlement documentation provides otherwise); and
  - (c) sections 10 and 11 of the Crown Minerals Act 1991; and
  - (d) any relevant provisions included in the settlement documentation.
- 3.8.2 a redress property, will be subject to any encumbrance or right, in relation to that property that the settlement documentation either –
- (a) describes as existing at the date of the deed of settlement; or
  - (b) requires to be created on or before the Moriori settlement date; and
- 3.8.3 a purchased deferred selection property will be subject to any encumbrance or right, or obligation in relation to that property, that is either:
- (a) described in the disclosure information provided for that deferred selection property (and not varied during the pre-purchase period); or
  - (b) entered into by the Crown during the pre-purchase period; or
  - (c) required to be created under the settlement documentation on or before the Moriori settlement date.

## **4 HISTORICAL ACCOUNT, ACKNOWLEDGEMENT AND APOLOGY**

- 4.1 The deed of settlement is to include –
  - 4.1.1 an agreed account of the historical relationship between Moriori and the Crown to be developed by the parties; and
  - 4.1.2 the Crown's acknowledgement of its acts and omissions which have breached te Tiriti of Waitangi/the Treaty of Waitangi and its principles or caused prejudice to Moriori; and
  - 4.1.3 a Crown apology for those breaches of te Tiriti o Waitangi/the Treaty of Waitangi and its principles.
- 4.2 The Historical Account will be based on the following provisional topics:
  - 4.2.1 background section;
  - 4.2.2 Crown annexation of Rēkohu;
  - 4.2.3 Chatham Islands at 1842;
  - 4.2.4 Moriori and the Crown after 1842;
  - 4.2.5 the Native Land Court;
  - 4.2.6 the removal, collection, and trade of kōimi karāpuna Moriori;
  - 4.2.7 myths of racial inferiority and extinction;
  - 4.2.8 the marginalisation of Moriori: socio-economic and cultural outcomes; and
  - 4.2.9 the population 'collapse' of Moriori.
- 4.3 Provisional Crown Acknowledgements:
  - 4.3.1 the Crown acknowledges Moriori as tchakat henu (tangata whenua) of Rēkohu (the Chatham Islands), and that Moriori had been settled on Rēkohu for many generations before 1842;
  - 4.3.2 the Crown acknowledges that until now it has failed to address the deeply-felt and longstanding grievances of Moriori in an appropriate way;
  - 4.3.3 the Crown acknowledges the deaths of a significant number of Moriori as a consequence of their enslavement, as detailed in an 1862 petition to the Crown. The Crown further acknowledges that its failure to have acted in a more reactive and proactive manner to end the enslavement of the Moriori

people, was a breach of te Tiriti o Waitangi/the Treaty of Waitangi and its principles;

4.3.4 the Crown acknowledges that:

- a. it did not consult Moriori about the introduction of the native land laws, which provided for the land awarded to Moriori by the Native Land Court to be held on the basis of individual title, rather than traditional collective tenure;
- b. in 1870 the Native Land Court awarded titles for seven reserves to Moriori, each in the names of nine or fewer individuals;
- c. the individualisation of Moriori land tenure made the small amount of land remaining in Moriori ownership more susceptible to fragmentation, partition, and alienation, and further eroded Moriori tribal structures; and
- d. its failure to take steps to adequately protect the traditional tribal structures of Moriori, which were based on collective imi and hapū custodianship of land that had been held in peaceful occupation for many generations, had a prejudicial effect on Moriori and was a breach of te Tiriti o Waitangi/the Treaty of Waitangi and its principles;

4.3.5 the Crown further acknowledges Moriori were virtually landless from 1870, and that its failure to ensure Moriori retained sufficient lands for their present and future needs was a breach of te Tiriti o Waitangi/the Treaty of Waitangi and its principles. This landlessness hindered the cultural, social, and economic development of Moriori, most of whom live outside their rohe today. This compromised the ability of Moriori to manage their taonga and their wāhi t'chap (sacred sites), and to fulfil their t'chieki (guardian) and manawarekatanga (manaakitanga) responsibilities, all of which contributed to the erosion of mana Moriori and Moriori identity;

4.3.6 the Crown acknowledges that its failure to devise a just solution for Moriori in regard to land on the Chatham Islands following the Native Land Court's determination of land title was a breach of te Tiriti o Waitangi/the Treaty of Waitangi and its principles;

4.3.7 the Crown acknowledges that kōimi t'chakat (human remains) are tchap' (sacred), and that the removal from Rēkohu, collection, and trade of kōimi karāpuna Moriori (ancestral remains) violated the tchap' of these taonga and caused Moriori great distress;

4.3.8 the Crown further acknowledges that the collection and trade of kōimi karāpuna Moriori by the Colonial Museum were actions undertaken by or on behalf of the Crown, and was a breach of te Tiriti o Waitangi/the Treaty of Waitangi and its principles;

4.3.9 the Crown acknowledges its contribution, through the dissemination of school journals, to the stigmatisation of Moriori as a racially inferior people who became extinct, and acknowledges the suffering and hardship these myths have caused to generations of Moriori through to the present day; and



4.3.10 the Crown further acknowledges that its role in generations of schoolchildren learning the myth that Moriori were racially inferior contributed to the diminution of Moriori ihi (authority) and rangatiratanga over their identity, and rejection or loss of knowledge of Moriori hokopapa (ancestry), and was a breach of te Tiriti o Waitangi/the Treaty of Waitangi and its principles.

## 5 CULTURAL REDRESS

### General

- 5.1 All items of cultural redress are subject to the following being agreed, determined or resolved before a deed of settlement is signed:
- 5.1.1 the Crown confirming that any residual overlapping interests in relation to any item of cultural redress have been addressed to the satisfaction of the Crown; and
- 5.1.2 any other conditions specified in the cultural redress tables provided below and set out in clauses 3.5, 3.8 and 9.2 of this agreement in principle.

### Potential cultural redress properties

- 5.2 The deed of settlement is to provide that the settlement legislation will vest in the Moriori governance entity those of the properties described in Table 1 below as potential cultural redress properties that the parties agree are to be cultural redress properties.
- 5.3 If the parties agree a potential cultural redress property is to be vested as a cultural redress property, it will be vested in the Moriori governance entity on the basis provided in Table 1 below.

**Table 1** - Potential cultural redress properties

Name of area	General description/location	Conditions of vesting/specific conditions currently known
11882, Owenga	Wellington Land District – Chatham Islands Council 1.6187 hectares, approximately, being Part Awapatiki 1B Block. All Computer Freehold Register 363467. Subject to survey.  2151 Waitangi Wharf Owenga Road, Chatham Island.	Vesting fee simple  Refer <b>Map 1</b> attached
Former Owenga School	Wellington Land District – Chatham Islands Council 1.2882 hectares, more or less, being Section 9 Block III Oropuke Survey District. Part Transfer A032698.  Waitangi Wharf Owenga Road, Chatham Island.	Vesting fee simple  Refer <b>Map 2</b> attached
Ocean Mail Scenic Reserve	Wellington Land District – Chatham Islands Council 831.1510 hectares, approximately, being part	Vesting fee simple subject to reserve status third party rights will be protected and public access maintained.

Name of area	General description/location	Conditions of vesting/specific conditions currently known
	<p>Wharekauri 1G10B2 Block. All Computer Freehold Register WN547/188. Subject to survey.</p> <p>North Road, Chatham Island.</p>	<p>Refer <b>Map 3</b> attached</p>
Rangiauria Scenic Reserve	<p>Wellington Land District – Chatham Islands Council 41.0000 hectares, approximately, being part Section 1 SO 32598. Part Transfer A016237. Subject to survey.</p> <p>South West Coast, Pitt Island.</p>	<p>Vesting fee simple subject to reserve status; third party rights will be protected and public access maintained.</p> <p>Refer <b>Map 4</b> attached</p>
Te Awatea Scenic Reserve (non-gifted portion)	<p>Wellington Land District – Chatham Islands Council 45.9800 hectares, more or less, being Section 7 Block III Oropuke Survey District. All <i>Gazette</i> notice 774797.1.</p> <p>South Shore of Lake Huro, Chatham Island.</p>	<p>Vesting fee simple subject to reserve status; third party rights will be protected and public access maintained.</p> <p>Refer <b>Map 5</b> attached</p>
Part Waipaua Conservation Area	<p>Wellington Land District – Chatham Islands Council 1.0 hectare, approximately, being Parts Rangiauria 2 Block. Part Transfer A016237. Subject to survey.</p> <p>Northhead Road, South East Coast, Pitt Island.</p>	<p>Vesting fee simple; subject to agreement with the Crown as to the exact location.</p> <p>Refer <b>Map 6</b> attached</p>
Part Waipaua Conservation Area	<p>Wellington Land District – Chatham Islands Council Up to 100.0 hectares, approximately, being Parts Rangiauria 2 and 3 Blocks. Part Transfer A016237. Subject to survey.</p> <p>Northhead Road, South East Coast, Pitt Island.</p>	<p>Vesting fee simple as a reserve; third party rights will be protected and public access maintained; subject to agreement with the Crown as to the exact location, and to provision for the Pitt Island community to camp on the land in perpetuity.</p> <p>Refer <b>Map 6</b> attached</p>
Site 100, ex Wharekauri Station	<p>Wellington Land District – Chatham Islands Council 61.77 hectares, approximately, being part Section 1 SO 36538, part Section 2 SO 36539 and parts Sections 3 &amp; 4 SO 36540. Part Transfer 067039.2. Subject to survey.</p> <p>Cape Young, Mairangi Road,</p>	<p>Vesting fee simple as a reserve; subject to a statutory right for the Department of Conservation to access for oyster catcher monitoring; third party rights will be protected and public access maintained.</p>

Name of area	General description/location	Conditions of vesting/specific conditions currently known
	Chatham Island.	Refer <b>Map 7</b> attached
Site 102, ex Wharekauri Station	Wellington Land District – Chatham Islands Council 192.0 hectares, approximately, being part Section 1 SO 36529 and Sections 1 & 2 SO 34601. Part Transfer 067039.2. Subject to survey.  Wharekauri Road, Chatham Island.	Vesting fee simple as a reserve; subject to a statutory right for the Department of Conservation to access for oyster catcher monitoring; third party rights will be protected and public access maintained.  Refer <b>Map 8</b> attached
Site 107, ex Wharekauri Station	Wellington Land District – Chatham Islands Council 0.4413 hectares, more or less, being Section 6 SO 36539. Part Transfer 067039.2.  Wharekauri Road, Chatham Island.	Vesting fee simple  Refer <b>Map 9</b> attached
Site 108, ex Wharekauri Station	Wellington Land District – Chatham Islands Council 0.3083 hectares, more or less, being Section 7 SO 36540. Part Transfer 067039.2.  Wharekauri Road, Chatham Island.	Vesting fee simple  Refer <b>Map 10</b> attached
Site 109, ex Wharekauri Station	Wellington Land District – Chatham Islands Council 2.0370 hectares, more or less, being Section 1 SO 36805. Part Transfer 067039.2.  Wharekauri Road, Chatham Island.	Vesting fee simple  Refer <b>Map 11</b> attached

### Co-management arrangements

- 5.4 The deed of settlement will provide for a co-management arrangement with the Department of Conservation over Ocean Mail Scenic Reserve (to be vested in Moriori as described in Table 1).
- 5.5 The deed of settlement will provide for a co-management arrangement with the Department of Conservation over the following public conservation land, subject to the agreement of the giftors of those sites:
- 5.5.1 Henga Scenic Reserve; and
- 5.5.2 J M Barker (Hapupu) Historic Reserve.

## Potential shared cultural redress properties

- 5.6 The deed of settlement is to provide that the settlement legislation will vest equal shares in the Moriori governance entity and the Ngāti Mutunga o Wharekauri governance entity as tenants in common for those of the properties described in Table 2 below as potential cultural redress properties that the parties agree are to be cultural redress properties.
- 5.7 The deed of settlement and settlement legislation is to provide for the terms of transfer of the shared cultural redress properties.

**Table 2 - Potential shared cultural redress properties**

Name of area	General description/location	Conditions of vesting/Specific conditions currently known
Te Whanga Lagoon and related sites	<p>Wellington Land District – Chatham Islands Council 476.7196 hectares, approximately, being part Sections 1 and 2 Block VII Rekohu Survey District. No Registration.</p> <p>18,120.00 hectares, approximately, being part bed of Te Whanga Lagoon. No registration. Subject to survey.</p> <p>North Road, Chatham Island.</p>	<p>Bed vesting fee simple and administered by the Te Whanga Lagoon Management Board;</p> <p>the title of the bed of Te Whanga Lagoon will be inalienable and its owners will not be able to mortgage or give a security interest in Te Whanga Lagoon;</p> <p>the administering body for Te Whanga Lagoon will be the Te Whanga Lagoon Management Board;</p> <p>all rights and responsibilities over Te Whanga Lagoon will be held by the Te Whanga Lagoon Management Board;</p> <p>third party rights will be protected and public access maintained;</p> <p>ownership of the airspace above the water, and the space occupied from time to time by the waters at their highest level without overflowing the banks, is subject to ongoing negotiations; and</p> <p>any liabilities transferring with ownership and/or management will be determined prior to reaching deeds of settlement and are subject to ongoing negotiations.</p> <p>Refer <b>Map 12</b> attached</p>
Site 110, ex Wharekauri Station	<p>Wellington Land District – Chatham Islands Council 15.3200 hectares, approximately, being part Section 1 SO 36806. Part Transfer 067039.2. Subject to survey.</p> <p>North Road, Chatham Island.</p>	<p>Vesting fee simple and administered by the Te Whanga Lagoon Management Board;</p> <p>the land will be inalienable and its owners will not be able to mortgage or give a security interest in the land;</p> <p>the administering body will be the Te Whanga Lagoon Management Board;</p> <p>all rights and responsibilities over the land</p>

Name of area	General description/location	Conditions of vesting/Specific conditions currently known
		<p>will be held by the Te Whanga Lagoon Management Board;</p> <p>third party rights will be protected and public access maintained; and</p> <p>any liabilities transferring with ownership and/or management will be determined prior to reaching deeds of settlement and are subject to ongoing negotiations.</p> <p>Refer <b>Map 13</b> attached</p>
Site 111, ex Wharekauri Station	<p>Wellington Land District – Chatham Islands Council 14.9000 hectares, approximately, being part Section 1 SO 36807. Part Transfer 067039.2. Subject to survey.</p> <p>North Road, Chatham Island.</p>	<p>Vesting fee simple and administered by the Te Whanga Lagoon Management Board;</p> <p>the land will be inalienable and its owners will not be able to mortgage or give a security interest in the land;</p> <p>the administering body will be the Te Whanga Lagoon Management Board;</p> <p>all rights and responsibilities over the land will be held by the Te Whanga Lagoon Management Board;</p> <p>third party rights will be protected and public access maintained; and</p> <p>any liabilities transferring with ownership and/or management will be determined prior to reaching deeds of settlement and are subject to ongoing negotiations.</p> <p>Refer <b>Map 14</b> attached</p>
Site 112, ex Wharekauri Station	<p>Wellington Land District – Chatham Islands Council 5.3000 hectares, approximately, being part Section 3 SO 36548. Part Transfer 067039.2. Subject to survey.</p> <p>North Road, Chatham Island.</p>	<p>Vesting fee simple and administered by the Te Whanga Lagoon Management Board;</p> <p>the land will be inalienable and its owners will not be able to mortgage or give a security interest in the land;</p> <p>the administering body will be the Te Whanga Lagoon Management Board;</p> <p>all rights and responsibilities over the land will be held by the Te Whanga Lagoon Management Board;</p> <p>third party rights will be protected and public access maintained; and</p> <p>any liabilities transferring with ownership and/or management will be determined prior to reaching deeds of settlement and are subject to ongoing negotiations.</p> <p>Refer <b>Map 15</b> attached</p>

Name of area	General description/location	Conditions of vesting/Specific conditions currently known
Site 113, ex Wharekauri Station	Wellington Land District – Chatham Islands Council 0.2500 hectares, approximately, being part Section 4 SO 36548. Part Transfer 067039.2. Subject to survey.  North Road, Chatham Island.	Vesting fee simple and administered by the Te Whanga Lagoon Management Board; the land will be inalienable and its owners will not be able to mortgage or give a security interest in the land; the administering body will be the Te Whanga Lagoon Management Board; all rights and responsibilities over the land will be held by the Te Whanga Lagoon Management Board; third party rights will be protected and public access maintained; and any liabilities transferring with ownership and/or management will be determined prior to reaching deeds of settlement and are subject to ongoing negotiations.  Refer <b>Map 16</b> attached
Site 114, ex Wharekauri Station	Wellington Land District – Chatham Islands Council 0.7000 hectares, approximately, being part Section 5 SO 36548. Part Transfer 067039.2. Subject to survey.  North Road, Chatham Island.	Vesting fee simple and administered by the Te Whanga Lagoon Management Board; the land will be inalienable and its owners will not be able to mortgage or give a security interest in the land; the administering body will be the Te Whanga Lagoon Management Board; all rights and responsibilities over the land will be held by the Te Whanga Lagoon Management Board; third party rights will be protected and public access maintained; and any liabilities transferring with ownership and/or management will be determined prior to reaching deeds of settlement and are subject to ongoing negotiations.  Refer <b>Map 17</b> attached
Tikitiki Hill Conservation Area – white house (land and buildings)	Wellington Land District – Chatham Islands Council 0.6 hectares, approximately, being Pt Kekerione 1W and 1J Blocks. [Part DI 27/21]. Subject to survey.  Tikitiki Hill Road, Chatham Island.	Vesting fee simple; subject to there being no historic values to be protected.  Refer <b>Map 18</b> attached
Tikitiki Hill Conservation	Wellington Land District – Chatham Islands Council	Vesting fee simple

Name of area	General description/location	Conditions of vesting/Specific conditions currently known
Area – Ministry of Education house (land only)	0.12 hectares, approximately, being Pt Kekerione 1J Block. [Part DI 27/21]. Subject to survey.  Tikitiki Hill Road, Chatham Island.	Refer <b>Map 19</b> attached
Tikitiki Hill Conservation Area – paddocks	Wellington Land District – Chatham Islands Council 1.4 hectares, approximately, being Pt Kekerione 1J Block Pt Kekerione 1W Block. [Part DI 27/21]. Subject to survey.  Tikitiki Hill Road, Chatham Island.	Vesting fee simple  Refer <b>Map 20</b> attached
Tikitiki Hill Conservation Area – conical hill	Wellington Land District – Chatham Islands Council 1.16 hectares, approximately, being Pt Kekerione 1J Block and Pt Kekerione 1W Block. [Part DI 27/21]. Subject to survey.  Tikitiki Hill Road, Chatham Island.	Vesting fee simple as a reserve  Refer <b>Map 21</b> attached

- 5.8 Moriori and the Crown agree that if the shared cultural redress properties cannot be vested as shared cultural redress properties on the Moriori settlement date, further negotiations will be required to determine how the redress will be delivered.

### Overlay classification

- 5.9 The deed of settlement is to provide for the settlement legislation to –
- 5.9.1 declare the areas described in Table 3 below as subject to an overlay classification; and
  - 5.9.2 provide the Crown’s acknowledgement of a statement of Moriori values in relation to the area; and
  - 5.9.3 require the New Zealand Conservation Authority, and relevant conservation boards –
    - (a) when considering a conservation document, in relation to the area, to have particular regard to –
      - (i) the statement of Moriori values; and



- (ii) the protection principles agreed by the parties; and
  - (b) before approving a conservation document, in relation to the area to –
    - (i) consult with the Moriori governance entity; and
    - (ii) have particular regard to its views as to the effect of the document on Moriori values and the protection principles; and
- 5.9.4 require the Director-General of Conservation to take action in relation to the protection principles; and
- 5.9.5 enable the making of regulations by the Governor General on the recommendation of the Minister of Conservation and bylaws made by the Minister of Conservation, in relation to the area.

**Table 3 - Overlay classification**

<b>Overlay areas to which the overlay classification is to apply</b>	<b>General description/location</b>
Canister Cove Scenic Reserve	Pitt Island (Rangihau/Rangiauria), Chatham Islands
Mangere Island Nature Reserve	Mangere Island, Chatham Islands
Rangatira Nature Reserve	South East Island (Rangitira/Hoko-rere-ora), Chatham Islands
Waipaua Conservation Area (grazing leases)	Pitt Island (Rangihau/Rangiauria), Chatham Islands
Waipaua Scenic Reserve	Pitt Island (Rangiauria/Rangihau), Chatham Islands

### **Statutory acknowledgement**

- 5.10 The deed of settlement is to provide for the settlement legislation to –
- 5.10.1 provide the Crown's acknowledgement of the statements by Moriori of their particular cultural, spiritual, historical, and traditional association with each of the areas described in Table 4 below as statutory areas to the extent that those areas are owned by the Crown; and
  - 5.10.2 require relevant consent authorities, the Environment Court, and the Heritage New Zealand Pouhere Taonga to have regard to the statutory acknowledgement; and
  - 5.10.3 require relevant consent authorities to forward to the Moriori governance entity summaries of resource consent applications affecting a statutory area; and
  - 5.10.4 require relevant consent authorities to forward to the Moriori governance entity a copy of a resource consent application notice under section 145(10) of the Resource Management Act 1991; and

- 5.10.5 enable the Moriori governance entity, and any member of Moriori, to cite the statutory acknowledgement as evidence of the settling group's association with a statutory area.

**Table 4** - Statutory acknowledgements

<b>Statutory areas to which the statutory acknowledgement is to apply</b>	<b>General description/location</b>
Coastal marine area	Coastal marine area around all islands in the Chatham group.  Refer Attachment 3.
Titkitiki Hill Conservation Area – Department of Conservation staff house and land	Titkitiki Hill, Chatham Island
Hanson Bay South Marginal Strips	Hanson Bay, Chatham Island
Lake Huro Marginal Strips	Lake Huro, Chatham Island
Owenga Marginal Strips	Owenga, Chatham Island
Pacific Ocean Marginal Strip	Point Durham, Chatham Island
Petre Bay Marginal Strip	Petre Bay, Chatham Island
Pitt Strait Marginal Strip	Pitt Strait, Chatham Island
Waitangi Marginal Strip	Waitangi, Chatham Island

### **Deeds of recognition**

- 5.11 The deed of settlement is to require that the Crown provide the Moriori governance entity with the deeds of recognition in relation to the statutory areas referred to in Table 5 below to the extent that those areas are owned and managed by the Crown.
- 5.12 A deed of recognition will require the Minister of Conservation and the Director-General of Conservation or the Commissioner of Crown Lands as the case may be, when undertaking certain activities within a statutory area, to –
- 5.12.1 consult the Moriori governance entity; and
- 5.12.2 have regard to its views concerning Moriori association with the statutory area as described in a statement of association.

**Table 5** - Deeds of recognition, issued by the Minister of Conservation and the Director-General of Conservation

<b>Statutory areas to which the deed of recognition is to apply</b>	<b>General description/location</b>
Hanson Bay South Marginal Strips	Hanson Bay, Chatham Island
Lake Huro Marginal Strips	Lake Huro, Chatham Island
Owenga Marginal Strips	Owenga, Chatham Island
Pacific Ocean Marginal Strip	Point Durham, Chatham Island
Petre Bay Marginal Strip	Petre Bay, Chatham Island
Pitt Strait Marginal Strip	Pitt Strait, Chatham Island
Waitangi Marginal Strip	Waitangi, Chatham Island

### **Commitments to explore further redress**

- 5.13 The Crown offers the opportunity to explore redress with Moriori between agreement in principle and deed of settlement in relation to:
- 5.13.1 Taia Bush Historic Reserve and the marginal strips adjoining Taia Bush Historic Reserve and Taia Historic Reserve;
  - 5.13.2 options for the development of a future cultural harvest regime of tīfī for Moriori; and
  - 5.13.3 the protection of wāhi tchap' (wāhi tapu) on Crown land on Pitt Island that will continue to be administered by the Department of Conservation post-settlement.
- 5.14 If, between signing the agreement in principle and initialling the deed of settlement, it is established the Crown owns any part of either Motuhinahina or Rangimata Islands (located in Te Whānga Lagoon), the Crown will offer the opportunity to explore redress. Any agreed redress would be included in the initialled deed of settlement.
- 5.15 The parties agree:
- 5.15.1 to work together reasonably and in good faith to explore further potential cultural redress recorded in clauses 5.13 and 5.14; and
  - 5.15.2 the opportunity to explore further potential cultural redress may not result in any agreed redress.

### **Memorial on the Auckland Islands**

- 5.16 The deed of settlement will provide for the ability for Moriori to erect a memorial marker on the Auckland Islands, subject to addressing overlapping interests with Ngāi Tahu.

### **Potential official geographic names**

- 5.17 The Crown invites Moriori to submit new and altered place name proposals for geographic features within the Moriori area of interest to the New Zealand Geographic Board Ngā Pou Taunaha o Aotearoa, as soon as practicable after the signing of this agreement in principle and before the deed of settlement is initialled, to be processed under the standard Treaty name processes followed by the Board.

### **Protocols**

- 5.18 The deed of settlement is to require that the responsible Minister issue the Moriori governance entity with the protocols referred to in Table 6 below.
- 5.19 A protocol will provide for the Crown's interaction with the Moriori governance entity in relation to specified matters.

**Table 6 - Protocols**

<b>Responsible Minister</b>	<b>Protocol</b>
Minister of Energy and Resources	Crown Minerals protocol
Minister for Culture and Heritage	Taonga Tūturu protocol
Minister for Primary Industries	Primary Industries protocol

### **Relationship Instruments**

- 5.20 The deed of settlement is to require that the agencies referred to in Table 7 below will enter into a relationship instrument with the Moriori governance entity.

**Table 7 - Relationship instruments**

<b>Agency</b>	<b>Relationship instrument</b>
Ministry for the Environment	Relationship agreement
Department of Conservation	Relationship agreement
Department of Internal Affairs	Letter of commitment
Museum of New Zealand Te Papa Tongarewa	Letter of commitment

### **Letters of introduction to agencies**

- 5.21 The deed of settlement will provide for the Minister for Treaty of Waitangi Negotiations to write letters of introduction to organisations that are to be identified and agreed prior to initialling a deed of settlement.

### **Relationship agreement with Ministry of Culture and Heritage, Department of Internal Affairs, Heritage New Zealand, and Museum of New Zealand Te Papa Tongarewa**

- 5.22 The Crown commits to explore a relationship agreement between Ministry of Culture and Heritage, Department of Internal Affairs, Heritage New Zealand, and Museum of New Zealand Te Papa Tongarewa, and Moriori.
- 5.23 The parties agree the offer to explore a potential joint relationship agreement may not result in any agreed redress.

### **Natural resources sector: annual joint meeting**

- 5.24 The Crown commits to explore an arrangement for the natural resources sector agencies (Ministry for the Environment, Te Puni Kōkiri, Department of Conservation, Land Information New Zealand, Ministry for Primary Industries, Department of Internal Affairs, and Ministry for Business Innovation and Employment) to hold an annual joint meeting with Moriori and Ngāti Mutunga o Wharekauri where all parties could discuss issues, upcoming agency consultation and other matters any party wishes to raise.
- 5.25 The parties agree:

- 5.25.1 to work together reasonably and in good faith to explore a potential arrangement to hold an annual joint meeting with Moriori and Ngāti Mutunga o Wharekauri as recorded in clause 5.24; and
- 5.25.2 the opportunity to explore a potential arrangement to hold an annual joint meeting with Moriori and Ngāti Mutunga o Wharekauri may not result in any agreed redress.

## **Customary fisheries**

### *Regulations*

- 5.26 The settlement legislation will provide that within 80 business days of the Moriori settlement date, the Moriori governance entity, Ngāti Mutunga o Wharekauri,<sup>1</sup> and the Ministry for Primary Industries will agree a work programme to develop customary non-commercial fishing regulations for the Rēkohu/Wharekauri fisheries area (the whole of the Chatham Islands to 320 kilometres offshore) that will apply to the management of fisheries subject to the Fisheries Act 1996. The regulations will:
  - 5.26.1 make provision for the Moriori governance entity and Ngāti Mutunga o Wharekauri to appoint t'chieki/kaitiaki who can authorise the taking of fish for customary purposes over the whole of the Rēkohu/Wharekauri fisheries area;
  - 5.26.2 require people fishing under customary authorisations to provide information to t'chieki/kaitiaki on location of fishing activities and on the species, quantity and size of fish taken and for this information to be collated and reported to the Ministry for Primary Industries;
  - 5.26.3 revoke regulation 5B of the Fisheries (South-East Area Commercial Fishing) Regulations 1986 under which 15 areas are closed to commercial fishing (rāhui areas) on Rēkohu/Wharekauri, and make provision to re-establish them;
  - 5.26.4 make provision for the Moriori governance entity and Ngāti Mutunga o Wharekauri to recommend to the Minister for Primary Industries bylaws restricting or prohibiting fishing in the 15 rāhui areas that would apply to all fishers; and
  - 5.26.5 make provision for tools to enable the active management of the rāhui areas through the application of the regulations or through any bylaws created under the regulations.

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<sup>1</sup> For the purposes of clauses 5.26 and 5.27 Ngāti Mutunga o Wharekauri means the Ngāti Mutunga o Wharekauri post settlement governance entity if it exists 80 business days after the Moriori settlement date, and if not, the mandated iwi organisation for Ngāti Mutunga o Wharekauri under the Māori Fisheries Act 2004.

### *Rāhui areas*

- 5.27 The Crown, Moriori,<sup>2</sup> and Ngāti Mutunga o Wharekauri will together explore whether the current location of rāhui areas established under regulation 5B of the Fisheries (South-East Area Commercial Fishing) Regulations 1986 is consistent with the requirements of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 to provide for the special relationship between tchakat henu/tangata whenua and those places that are of customary food gathering importance.
- 5.28 The boundaries of the rāhui areas could be altered and/or new areas created so long as any alterations or new areas do not prevent fishers taking their legal entitlements (as per the requirement for mataitai reserves in the Fisheries (Kaimoana Customary Fishing) Regulations 1998).

### **Joint Planning Committee**

- 5.29 The deed of settlement is to provide that the settlement legislation will establish a planning committee comprising the Moriori governance entity and the Ngāti Mutunga o Wharekauri governance entity, and the Chatham Islands Council. The committee will be deemed to be a committee under schedule 7 of the Local Government Act 2002. Its role will relate to natural resource planning processes that affect the Chatham Islands as shown in the Moriori area of interest. It is intended:
- 5.29.1 the committee comprise four Chatham Islands Council representatives, two Moriori governance entity representatives and two Ngāti Mutunga o Wharekauri governance entity representatives;
  - 5.29.2 the committee's role will relate to resource management planning processes that affect the Chatham Islands and include recommending to the Chatham Islands Council, plan and policy changes that affect the sustainable management of natural and physical resources on the Chatham Islands;
  - 5.29.3 the committee will oversee development of the single resource management document as required by the Chatham Islands Council Act 1995;
  - 5.29.4 the Chatham Islands Council retains final decision making powers; and
  - 5.29.5 settlement legislation will be used to ensure the committee is permanent and to define its role and procedures.
- 5.30 The detail of the committee, including its terms of reference, roles and membership, will be determined before Moriori settlement date.
- 5.31 It is expected that the terms of reference will be agreed to at the first meeting of the Joint Planning Committee.
- 5.32 The Crown commits to explore establishment funding for the committee in line with Cabinet guidelines.

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<sup>2</sup> For the purposes of clause 5.27 Moriori means either the Moriori governance entity (if it exists) or the mandated body for Moriori.

### **Te Whanga Lagoon Management Board**

- 5.33 The deed of settlement is to provide that the settlement legislation will establish a permanent statutory management board whose purpose is to coordinate and oversee the delivery of management for Te Whanga Lagoon.
- 5.34 The functions of the board are to:
- 5.34.1 fulfil the functions of owner of the bed of Te Whanga Lagoon;
  - 5.34.2 implement natural resources policies and plans set by the Joint Planning Committee of the Chatham Islands Council as they relate to Te Whanga Lagoon;
  - 5.34.3 seek opportunities to raise funds and support for the ongoing health and wellbeing of Te Whanga Lagoon;
  - 5.34.4 prepare, approve and implement a natural resources management plan for Te Whanga Lagoon which integrates with conservation and fisheries management; and
  - 5.34.5 take any other action that is considered by the board to be appropriate to achieve its purpose.
- 5.35 The Te Whanga Lagoon Management Board will adopt terms of reference at its first meeting that will set out the procedures within which it must operate. This will be the subject of further negotiations.
- 5.36 The membership of the Te Whanga Lagoon Management Board will be as follows:
- 5.36.1 two members appointed by the Moriori governance entity;
  - 5.36.2 two members appointed by the Ngāti Mutunga o Wharekauri governance entity;
  - 5.36.3 one member appointed by the Chatham Islands Council; and
  - 5.36.4 one member appointed by the Minister of Conservation and/or the Director General of Conservation.

### **Cultural redress non-exclusive and delivery of shared redress**

- 5.37 The Crown may do anything that is consistent with the cultural redress contemplated by this agreement in principle, including entering into, and giving effect to, another settlement that provides for the same or similar cultural redress.
- 5.38 Moriori and the Crown agree that if the potential redress recorded at clause 5.22 and clause 5.24, and clauses 5.26 to 5.36 cannot be delivered on the Moriori settlement date, further negotiations will be required to determine how the redress will be delivered.

## 6 FINANCIAL AND COMMERCIAL REDRESS

### General

- 6.1 All items of commercial redress are subject to the following being agreed, determined or resolved before a deed of settlement is signed:
- 6.1.1 the Crown confirming that any residual overlapping interests in relation to any item of commercial redress have been addressed to the satisfaction of the Crown; and
  - 6.1.2 any other conditions specified in the commercial redress tables provided below and set out in clauses 3.5, 3.8 and 9.2 of this agreement in principle.

### Financial and commercial redress amount

- 6.2 Consistent with paragraphs 2.2 and 2.3 of schedule 2, and without derogating from clause 3.1 of this agreement in principle, the Crown and Moriori acknowledge that:
- 6.2.1 financial and commercial redress does not provide full compensation based on a calculation of total losses or damages experienced by a claimant group; and
  - 6.2.2 no amount of financial and commercial redress can compensate for the unprecedented loss of life and suffering endured by Moriori as a consequence of the Crown's failure to take adequate steps to end the enslavement of Moriori after 1842.
- 6.3 The deed of settlement is to provide that the Crown will pay the Moriori governance entity on the Moriori settlement date the financial and commercial redress amount of \$18 million less –
- 6.3.1 the on-account payment of \$3.6 million; and
  - 6.3.2 the total of the transfer values (determined in accordance with the valuation process in schedule 3) of any properties that the deed of settlement provides are commercial redress properties to be transferred to the Moriori governance entity on the Moriori settlement date.

### On-account payment

- 6.4 Within 10 working days of the conditions set out in clause 6.5 below being satisfied, the Crown agrees to make available an on-account payment of \$3.6 million to the Moriori governance entity.
- 6.5 The on-account payment will be subject to the following conditions –



- 6.5.1 approval of the Moriori governance entity by the Crown as a suitable entity to receive settlement redress on behalf of Moriori as detailed in clause 10.1.2(a); and
- 6.5.2 ratification by the members of Moriori of the Moriori governance entity to the satisfaction of the Crown; and
- 6.5.3 establishment of the Moriori governance entity (including provision of a signed and dated constitution); and
- 6.5.4 ratification by the members of Moriori of the on-account payment; and
- 6.5.5 the signing of a deed of on-account by the Moriori governance entity; and
- 6.5.6 approval by the Moriori governance entity, according to the Moriori governance entity's constitution, of the on-account payment (including provision of written evidence of such approval); and
- 6.5.7 provision by the Moriori governance entity of evidence of the Moriori governance entity's bank account into which the on-account payment is to be paid.

**Potential commercial redress/deferred selection properties**

- 6.6 The deed of settlement is to provide that the Crown must, either –
  - 6.6.1 transfer to the Moriori governance entity on the Moriori settlement date **one** of those of the properties described in Table 8 below as a potential commercial redress property that the parties agree is to be a commercial redress property; or
  - 6.6.2 provide that the Moriori governance entity may, for two years after the settlement date, provide a written notice of interest to the Crown to purchase one of the properties described in Table 8 below as a potential deferred selection properties that the parties agree is to be a deferred selection property. The deed of settlement will provide for the effect of the written notice and will set out a process where the property is valued and may be acquired by the Moriori governance entity.
- 6.7 If a commercial redress property or a deferred selection property that is to be transferred to the Moriori governance entity is a leaseback commercial redress property or a leaseback deferred selection property, the deed of settlement is to provide that the property is to be leased back by the Moriori governance entity to the Crown, from the Moriori settlement date, –
  - 6.7.1 on the terms and conditions provided by a registrable ground lease for that property (ownership of the improvements remaining unaffected by the purchase) incorporated in the deed; and
  - 6.7.2 in the case of a Crown leaseback of a school site, at an initial annual rent based on an agreed rental percentage of the agreed transfer value, determined in accordance with the Crown leaseback (plus GST, if any, on the amount so determined).

**Table 8 - Potential commercial redress property/potential deferred selection property**

<b>Landholding Agency</b>	<b>Property Name/Address</b>	<b>General description/location</b>	<b>Conditions of transfer/Specific conditions currently known</b>
Ministry of Education	Kaingaroa School site (land only)  Kaingaroa Road, Waitangi, Chatham Island	1.4762 hectares, more or less, being Part Wharekauri No. 1. All <i>Gazette</i> notice 297977.1.	Leaseback, subject to clauses [6.10-6.12]
Ministry of Education	Pitt Island School site (land only)  Flower Pot-Glory Road, Pitt Island (Rangiauria)	0.8271 hectares, more or less being Part Lot 4 DP 933. All <i>Gazette</i> notice 664018.	Leaseback, subject to clauses [6.10-6.12]

### **School sites**

- 6.8 Transfer and leaseback of school sites will be subject to standard Ministry of Education policies and operational considerations. Transfer and leasebacks of school sites are for land only and are subject to an agreed registrable ground lease for the property with ownership of the improvements remaining unaffected by the transfer. Operational considerations, such as shared school sites or some Board of Trustees house site issues may mean a specific site can be available but would be subject to specific processes in the deed of settlement (or lease).
- 6.9 Availability of transfer and leaseback of Ministry of Education sites is subject to the transfer value (for commercial redress properties) and to the lease (for both commercial redress and deferred selection properties) being agreed one month prior to initialling of the deed of settlement.
- 6.10 A school site will cease to be a transfer and leaseback property if before the Moriori settlement date (in respect of commercial redress properties) or before receipt of an election notice (in respect of deferred selection properties) the Ministry of Education notifies the mandated body or the Moriori governance entity as the case may be, that the site has become surplus to its requirements.

### **Right of First Refusal**

- 6.11 The settlement documentation is to provide that –
- 6.11.1 the Moriori governance entity and Ngāti Mutunga o Wharekauri have a shared right of first refusal (**RFR**) in relation to:
- (a) a disposal by the Crown of any RFR land that, on the date the RFR first becomes operative is owned by the Crown; and
  - (b) a disposal by the Canterbury District Health Board of any of the land described in attachment 2 that, on the date the RFR first becomes operative, is owned by the Canterbury District Health Board;

- 6.11.2 the RFR will apply for the number of years from 1840 until the date the RFR first becomes operative;
- 6.11.3 RFR land is all Crown-owned land within the area shown in attachment 2;
- 6.11.4 The RFR becomes operative for the Moriori governance entity either:
- (a) on the Moriori settlement date if it is the same as the Ngāti Mutunga o Wharekauri settlement date; or
  - (b) 36 months after the Moriori settlement date if that is earlier than the Ngāti Mutunga o Wharekauri settlement date; or
  - (c) on the Ngāti Mutunga o Wharekauri settlement date if that occurs within 36 months of the Moriori settlement date;
- 6.11.5 The RFR becomes operative for the Ngāti Mutunga o Wharekauri governance entity either:
- (a) on the Ngāti Mutunga o Wharekauri settlement date if it is the same as the Moriori settlement date; or
  - (b) 36 months after the Ngāti Mutunga o Wharekauri settlement date if that is earlier than the Moriori settlement date; or
  - (c) on the Moriori settlement date if that occurs within 36 months of the Ngāti Mutunga o Wharekauri settlement date;
- 6.11.6 If the RFR becomes operative for the Moriori governance entity under clause 6.11.4(b):
- (a) any RFR offer will only be made to the Moriori governance entity until the Ngāti Mutunga o Wharekauri settlement date after which time any RFR offer will be made to both the Moriori governance entity and the Ngāti Mutunga o Wharekauri governance entity; and
  - (b) the Crown may withdraw any RFR land to use as Treaty settlement redress for Ngāti Mutunga o Wharekauri;
- 6.11.7 If the RFR becomes operative for the Ngāti Mutunga o Wharekauri governance entity under clause 6.11.5(b):
- (a) any RFR offer will only be made to the Ngāti Mutunga o Wharekauri governance entity until the Moriori settlement date after which time any RFR offer will be made to both the Ngāti Mutunga o Wharekauri governance entity and the Moriori governance entity; and
  - (b) the Crown may withdraw any RFR land to use as Treaty settlement redress for Moriori;

6.11.8 the Canterbury District Health Board may dispose of the land described in Table 9 to any person if the Minister of Health has given notice to the governance entities for whom the RFR is operative (the Moriori governance entity and/or the Ngāti Mutunga o Wharekauri governance entity) that, in the Minister's opinion, the disposal will achieve, or assist in achieving, the Canterbury District Health Board's objectives.

**Table 9 - CDHB RFR land**

<b>Landholding Agency</b>	<b>Property Name/ Address</b>	<b>General description/ location</b>	<b>Conditions of transfer/Specific conditions currently known</b>
Canterbury District Health Board	Chatham Islands Nurses Accommodation  6 Hospital Road, Waitangi, Chatham Island	2.8836 hectares, more or less, being Part Kekerione 1 Subdivision 62 Block. Balance computer freehold register WN370/115.	Subject to Ministerial approval under the New Zealand Public Health and Disability Act.  Canterbury DHB legal being consulted on the draft settlement deed and Bill, and approving the wording of the RFR to be recorded by memorial on the affected certificates of title.
Canterbury District Health Board	Chatham Island Hospital  6 Cornflat Road, Waitangi, Chatham Island	0.0846 hectares, more or less being Lot 11 DP 74262. All computer freehold register WN41B/635.	Subject to Ministerial approval under the New Zealand Public Health and Disability Act.  Canterbury DHB legal being consulted on the draft settlement deed and Bill, and approving the wording of the RFR to be recorded by memorial on the affected certificates of title.

\*The legal descriptions of the properties in this table are indicative only and subject to confirmation by the Crown

### **Fisheries quota right of first refusal**

6.12 The deed of settlement is to provide that by or on the Moriori settlement date, the Minister for Primary Industries will provide the Moriori governance entity with a right of first refusal within the Moriori area of interest over species that are managed under the Fisheries Act 1996 and are introduced into the quota management system after the Moriori settlement date. The details of the right of first refusal will be outlined in the deed of settlement.

## 7 OVERLAPPING INTERESTS PROCESS

### Process for resolving overlapping interests

- 7.1 The Crown is ultimately responsible and accountable for the overall overlapping interests process and it must act in accordance with its Treaty obligations. The Crown –
- 7.1.1 has a duty to act in good faith to other claimant groups who have interests in the Moriori area of interest (refer attachment 1); and
  - 7.1.2 must ensure it actively protects the interests of other claimant groups (whether already mandated or not); and
  - 7.1.3 must avoid unreasonably prejudicing its ability to reach a fair settlement with other claimant groups in the future, while not unduly devaluing the settlement of other settled groups and with Moriori.
- 7.2 Following the signing of this agreement in principle, parties will work together with overlapping claimant and settled groups to address any remaining overlapping interests. If after working together the overlapping interests remain unresolved, the Crown may have to make a final decision. In reaching any decisions on overlapping interests, the Crown is guided by two general principles:
- 7.2.1 the Crown's wish to reach a fair and appropriate settlement with Moriori without compromising the existing settlements of settled groups; and
  - 7.2.2 the Crown's wish to maintain, as far as possible, its capability to provide appropriate redress to other claimant groups and achieve a fair settlement of their historical claims.
- 7.3 The process for addressing remaining overlapping interests is set out in Table 10 below.

**Table 10 - Next steps in overlapping interests process for Moriori**

<b>Next steps</b>	<b>Timeframe</b>
Minister for Treaty of Waitangi Negotiations advise Ngāti Mutunga o Wharekauri of AIP once agreement with Moriori reached but prior to signing.	14 August 2017
OTS advise Te Rūnanga o Ngāi Tahu about proposed Auckland Islands redress once agreement with Moriori reached but prior to signing.	14 August 2017
AIP uploaded to the Office of Treaty Settlements website.	Within one week of AIP signing
OTS meet with Ngāti Mutunga o Wharekauri to discuss overlapping interests process and next steps, and invite written submissions on the Crown's offer to Moriori	Within one month of AIP signing
<p>Ngāti Mutunga o Wharekauri provide written submissions to the Office of Treaty Settlements.</p> <p>Moriori to report back on any engagement with Ngāti Mutunga o Wharekauri and advise of any agreements reached.</p>	Within two months of AIP signing
OTS, Moriori and Ngāti Mutunga o Wharekauri agree a process to resolve outstanding issues.	Within three months of AIP signing
Facilitated meetings between Moriori and Ngāti Mutunga o Wharekauri (Crown to attend if requested) with a view to imi/iwi agreeing on a solution. If no agreement is reached, then OTS will seek a preliminary decision from Minister for Treaty of Waitangi Negotiations.	Date to be confirmed
Minister for Treaty of Waitangi Negotiations to advise Ngāti Mutunga o Wharekauri of preliminary decisions on any unresolved issues. OTS will be available to discuss decisions.	Date to be confirmed
Response from Ngāti Mutunga o Wharekauri to the Minister for Treaty of Waitangi Negotiations' decisions.	Date to be confirmed
OTS reports to the Minister for Treaty of Waitangi Negotiations on final decisions on overlapping interests and the Moriori settlement package.	Date to be confirmed
Cabinet consideration of Moriori settlement package.	Date to be confirmed
Parties initial deed of settlement.	Date to be confirmed

## 8 INTEREST AND TAX

### Interest

- 8.1 The deed of settlement is to provide for the Crown to pay the Moriori governance entity, on the Moriori settlement date, interest on the financial and commercial redress amount, less any on-account payment specified in clause(s) 6.3.1 and 6.4, –
- 8.1.1 for the period –
- (a) beginning on the date of this agreement in principle; and
  - (b) ending on the day before the Moriori settlement date; and
  - (c) at the rate from time to time set as the official cash rate by the Reserve Bank, calculated on a daily basis but not compounding.
- 8.2 The interest is to be –
- 8.2.1 subject to any tax payable; and
- 8.2.2 payable after withholding any tax required by legislation to be withheld.

### Tax

- 8.3 Subject to the Minister of Finance's consent, the deed of settlement is to provide that the Crown must indemnify the Moriori governance entity for any GST or income tax payable in respect of the provision of Crown redress.
- 8.4 The Moriori governance entity agrees that neither it, nor any other person, will claim with respect to the provision of Crown redress -
- 8.4.1 an input credit for GST purposes; or
- 8.4.2 a deduction for income tax purposes.

## 9 NEXT STEPS

### Disclosure information

- 9.1 The Crown will, as soon as reasonably practicable, prepare and provide to Moriori disclosure information in relation to –
- 9.1.1 each potential cultural redress property; and
  - 9.1.2 each potential commercial redress property.

### Resolution of final matters

- 9.2 The parties will work together to agree, as soon as reasonably practicable, all matters necessary to complete the deed of settlement, including agreeing on or determining as the case may be –
- 9.2.1 the terms of the –
    - (a) historical account; and
    - (b) Crown's acknowledgements and apology; and
  - 9.2.2 the cultural redress properties, the commercial redress properties, the deferred selection properties, the RFR land from the potential properties or land provided in the relevant table, and if applicable, any conditions that will apply; and
  - 9.2.3 the transfer values of the commercial redress properties (in accordance with the valuation process in schedule 3, or by another valuation process as agreed in writing between the landholding agency and Moriori); and
  - 9.2.4 the terms of a registrable ground lease for any leaseback property; and
  - 9.2.5 the official geographic names from the potential official geographic names in the redress table; and
  - 9.2.6 the terms of the following (which will, where appropriate, be based on the terms provided in recent settlement documentation):
    - (a) the cultural redress; and
    - (b) the transfer of the commercial redress properties; and
    - (c) the right to purchase a deferred selection property, including the process for determining its market value and if it is a leaseback property that is not a school site, its initial annual rent; and



- (d) the RFR, including the circumstances in which RFR land may be disposed of without the RFR applying; and
- (e) the tax indemnity; and

9.2.7 the following documents:

- (a) the statement of Moriori values and the protection principles in relation to the overlay classification area; and
- (b) Moriori statements of association for each of the statutory areas; and
- (c) the deeds of recognition; and
- (d) the protocols; and
- (e) the conservation relationship agreement; and
- (f) the Ministry for the Environment relationship agreement; and
- (g) the settlement legislation; and

9.2.8 all other necessary matters.

#### **Development of Moriori governance entity and ratification process**

9.3 Moriori will, as soon as reasonably practicable after the date of this agreement, and before the signing of a deed of settlement –

- 9.3.1 form a single Moriori governance entity that the Crown is satisfied meets the requirements of clause 10.1.2(a); and
- 9.3.2 develop a ratification process referred to clause 10.1.2(b) that is approved by the Crown.

## 10 CONDITIONS

### Entry into deed of settlement conditional

10.1 The Crown's entry into the deed of settlement is subject to –

10.1.1 Cabinet agreeing to the settlement and the redress; and

10.1.2 the Crown being satisfied Moriori have –

(a) established a governance entity that –

(i) is appropriate to receive the redress; and

(ii) provides, for Moriori, –

(I) appropriate representation; and

(II) transparent decision-making and dispute resolution processes; and

(III) full accountability; and

(b) approved, by a ratification process approved by the Crown, –

(i) the governance entity to receive the redress; and

(ii) the settlement on the terms provided in the deed of settlement; and

(iii) signatories to sign the deed of settlement on Moriori behalf.

### Settlement legislation

10.2 The deed of settlement is to provide that following the signing of the deed of settlement the Crown will propose a draft settlement bill for introduction to the House of Representatives.

10.3 This draft settlement bill will provide for all matters for which legislation is required to give effect to the deed of settlement.

10.4 The draft settlement bill must:

10.4.1 comply with the drafting standards and conventions of the Parliamentary Counsel Office for Governments Bills, as well as the requirements of the Legislature under Standing Orders, Speakers' Rulings, and conventions; and

10.4.2 be in a form that is satisfactory to Moriori and the Crown.

- 10.5 The deed of settlement is to provide that Moriori and the Moriori governance entity must support the passage of the draft settlement bill through Parliament.

**Settlement conditional on settlement legislation**

- 10.6 The deed of settlement is to provide that the settlement is conditional on settlement legislation coming into force although some provisions may be binding on and from the date the deed of settlement is signed.

## 11 GENERAL

### **Nature of this agreement in principle**

11.1 This agreement in principle –

11.1.1 is entered into on a without prejudice basis; and

11.1.2 in particular, may not be used as evidence in proceedings before, or presented to, the Waitangi Tribunal, any court, or any other judicial body or tribunal; and

11.1.3 is non-binding; and

11.1.4 does not create legal relations.

### **Termination of this agreement in principle**

11.2 The Crown or the mandated negotiators, on behalf of Moriori, may terminate this agreement in principle by notice to the other.

11.3 Before terminating this agreement in principle, the Crown or the mandated negotiators, as the case may be, must give the other at least **20** business days notice of an intention to terminate.

11.4 This agreement in principle remains without prejudice even if it is terminated.

### **Definitions**

11.5 In this agreement in principle –

11.5.1 the terms defined in the definitions schedule have the meanings given to them by that schedule; and

11.5.2 all parts of speech, and grammatical forms, of a defined term have a corresponding meaning.

### **Interpretation**

11.6 In this agreement in principle –

11.6.1 headings are not to affect its interpretation; and

11.6.2 the singular includes the plural and vice versa.

11.7 Provisions in –

- 11.7.1 the schedules to this agreement in principle are referred to as paragraphs;  
and
- 11.7.2 other parts of this agreement are referred to as clauses.

**AGREEMENT IN PRINCIPLE**

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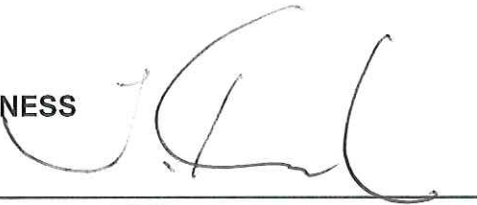
**SIGNED** on the 16th day of August 2017

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

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

  
Hon Christopher Finlayson

**WITNESS**

  
\_\_\_\_\_

Name: Tutehounuku Korako.


Occupation: M.P.

Address: Rapaki o Te Rakihuekapute.  
Lyttelton.

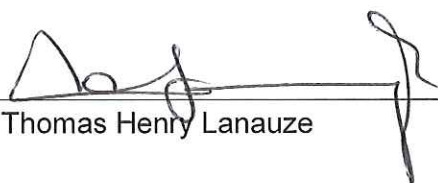
**SIGNED** for and on behalf of Hokotehi Moriori Trust:

  
\_\_\_\_\_

Maui Ashley Solomon

  
\_\_\_\_\_

Paul Te Teira Solomon

  
\_\_\_\_\_

Thomas Henry Lanauze

  
\_\_\_\_\_

Grace Ngaroinata LeGros

AGREEMENT IN PRINCIPLE

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Alf Retting

Blaine Toomey

Rosalie Anderson



**SCHEDULES**



## 1 DEFINITIONS

### HISTORICAL CLAIMS

1.1 In this deed, **historical claims** -

1.1.1 means every claim (whether or not the claim has arisen or been considered, researched, registered, notified, or made by or on the Moriori settlement date) that Moriori, or a representative entity, had at, or at any time before, the Moriori settlement date, or may have at any time after the Moriori settlement date, and that -

- (a) is, or is founded on, a right arising –
  - (i) from the Treaty of Waitangi or its principles; or
  - (ii) under legislation; or
  - (iii) at common law, including aboriginal title or customary law; or
  - (iv) from fiduciary duty; or
  - (v) otherwise; and
- (b) arises from, or relates to, acts or omissions before 21 September 1992 –
  - (i) by, or on behalf of, the Crown; or
  - (ii) by or under legislation; and

1.1.2 includes every claim to the Waitangi Tribunal to which clause 1.1.1 applies that relates exclusively to the settling group or a representative entity, including the following claims:

- (a) Wai 64 – Moriori claim (Maui Solomon);
- (b) Wai 308 – Moriori Tchakat Henu claim (Garry Alister Solomon);
- (c) Wai 417 – Moriori claim (Benjian Solomon); and

1.1.3 includes every other claim to the Waitangi Tribunal to which 1.1.1 applies, so far as it relates to the settling group or a representative entity.

1.2 However, **historical claims** does not include the following claims –

1.2.1 a claim that a member of Moriori, or a hunau, hapū, or group referred to in clause 1.4.2, may have that is, or is founded on, a right arising as a result of being descended from an ancestor who is not referred to in clause 1.4.1:

## AGREEMENT IN PRINCIPLE

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1.2.2 a claim that a representative entity may have to the extent the claim is, or is founded, on a claim referred to in clause 1.2.1.

1.3 To avoid doubt, clause 1.1.1 is not limited by clauses 1.1.2 or 1.1.3.

### **MORIORI**

1.4 In this deed, **Moriori** means –

1.4.1 the collective group composed of individuals who descend from a Moriori karapuna; and

1.4.2 every hunau, hapū, or group to the extent that it is composed of individuals referred to in clause 1.4.1; and

1.4.3 every individual referred to in clause 1.4.1.

1.5 For the purposes of clause 1.4.1 –

1.5.1 a person is **descended** from another person if the first person is descended from the other by –

(a) birth;

(b) legal adoption; or

(c) Moriori customary adoption in accordance with tikane Moriori (Moriori customary values and practices); and

1.5.2 **Moriori karapuna** means an individual who:

(a) exercised customary rights by virtue of being descended from:

(i) Rongomaiwhenua; or

(ii) Rongomaitere; or

(iii) a recognised karapuna of any of the descent groups of Moriori; and

(b) exercised the customary rights in 1.5.2 (a) predominantly in relation to the Moriori Area of Interest after 1 November 1842; and

1.5.3 **customary rights** means rights according to tikane Moriori, including –

(a) rights to occupy land; and

(b) rights in relation to the use of land or other natural or physical resources.

**Other definitions**

**1.6 IN THIS AGREEMENT IN PRINCIPLE –**

**arbitration commencement date**, in relation to the determination of the market value and/or market rental of a valuation property means:

- (a) in relation to a referral under paragraph 3.12.2 the date of that referral; and
- (b) in relation to an appointment under paragraph 3.12.3 or 3.12.4, a date specified by the valuation arbitrator; and

**arbitration meeting**, in relation to the determination of the market value and/or market rental of a valuation property, means the meeting notified by the valuation arbitrator under paragraph 3.13.1; and

**area of interest** means the area identified as the area of interest in attachment 1; and

**business day** means a day that is not –

- (a) a Saturday or Sunday; or
- (b) Waitangi Day, Good Friday, Easter Monday, ANZAC Day, the Sovereign's Birthday, or Labour Day; or
- (c) if Waitangi Day or ANZAC Day falls on a Saturday or Sunday, the following Monday; or
- (d) a day in the period commencing with 25 December in any year and ending with 15 January in the following year; or
- (e) a day that is observed as the anniversary of the province of –
  - (i) Wellington; or
  - (ii) Chatham Islands; and

**commercial redress property** means each property described as a commercial redress property in the deed of settlement; and

**conservation document** means a national park management plan, conservation management strategy, or conservation management plan; and

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

**Crown leaseback**, in relation to a leaseback commercial redress property or a leaseback deferred selection property, means the lease the deed of settlement will provide to be entered into by the Moriori governance entity and the Crown as described in clause 6.7; and

## AGREEMENT IN PRINCIPLE

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### **Crown redress –**

- (a) means redress –
  - (i) provided by the Crown to the Moriori governance entity; or
  - (ii) vested by the settlement legislation in the Moriori governance entity that was, immediately prior to the vesting, owned by or vested in the Crown; and
- (b) includes any right of the Moriori governance entity under the settlement documentation –
  - (i) to acquire a deferred selection property; or
  - (ii) of first refusal in relation to RFR land; but
- (c) does not include
  - (i) an obligation of the Crown under the settlement documentation to transfer a deferred selection property or RFR land; or
  - (ii) a deferred selection property or RFR land; or
  - (iii) any on-account payment made before the date of the deed or to entities other than the Moriori governance entity; and

**cultural redress** means the redress to be provided under the settlement documentation referred to in part 5; and

**cultural redress property** means each property described as a cultural redress property in the deed of settlement; and

**deed of settlement** means the deed of settlement to be developed under clause 2.1.2; and

**deferred selection property** means each property described as a deferred selection property in the deed of settlement; and

**disclosure information** means –

- (a) in relation to a redress property, the information provided by the Crown to the Moriori governance entity under clause 9.1; and
- (b) in relation to a purchased deferred selection property, the disclosure information about the property the deed of settlement requires to be provided by the Crown to the Moriori governance entity; and

**encumbrance**, in relation to a property, means a lease, tenancy, licence, easement, covenant, or other right or obligation affecting that property; and

## AGREEMENT IN PRINCIPLE

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**financial and commercial redress** means the redress to be provided under the settlement documentation referred to in part 6; and

**financial and commercial redress amount** means the amount referred to as the financial and commercial redress amount in clause 6.2; and

**initial annual rent**, in relation to a leaseback property, means the rent payable under the Crown leaseback from its commencement determined or agreed in accordance with schedule 3; and

**land holding agency**, in relation to a potential commercial redress property, a potential deferred selection property, or a potential RFR, means the department specified opposite that property in Tables 8 and 9, as the case may be; and

**leaseback commercial redress property** means:

- (a) a potential commercial redress property that Table 8 identifies as a leaseback property; or
- (b) a commercial redress property identified in the deed of settlement as a leaseback property; and

**leaseback deferred selection property** means:

- (a) a potential deferred selection property that Table 8 identifies as a leaseback property; or
- (b) a deferred selection property identified in the deed of settlement as a leaseback property; and

**leaseback property** means each leaseback commercial redress property and each leaseback deferred selection property; and

**licensed land** means a potential commercial redress property that the redress table identifies as licensed land, being Crown forest land that is subject to a Crown forestry licence but excluding –

- (c) all trees growing, standing, or lying on the land; and
- (d) all improvements that have been acquired by a purchaser of trees on the land or made, after the acquisition of the trees by the purchaser, or by the licensee; and

**mandated negotiators** means –

- (a) the following individuals:
  - (i) Maui Ashley Solomon, Manukau, Rēkohu (Chatham Islands), Executive Chair Hokotehi Moriori Trust;
  - (ii) Paul Te Teira Solomon, Mosgiel, Health and Safety Inspector;

## AGREEMENT IN PRINCIPLE

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- (iii) Thomas Henry Lanauze, Te One, Rēkohu (Chatham Islands), farmer and contractor;
  - (iv) Grace Ngaroimata LeGros, Naumai, Northland, CEO Ngāti Rangatahi; or
- (b) if one or more individuals named in paragraph (a) dies, or becomes incapacitated, the remaining individuals; and

**mandated body** means Hokotehi Moriori Trust; and

**market rental**, in relation to a valuation property, has the meaning provided in the valuation instructions in appendix 1 to schedule 3; and

**market value**, in relation to a valuation property, has the meaning provided in the valuation instructions in appendix 1 to schedule 3; and

**Moriori governance entity** means the post settlement governance entity to be formed by the Moriori under clause 9.3.1; and

**Moriori settlement date** means settlement date under approving legislation for a Moriori settlement; and

**Ngāti Mutunga o Wharekauri governance entity** means the post settlement governance entity to be formed by Ngāti Mutunga o Wharekauri; and

**Ngāti Mutunga o Wharekauri settlement date** means settlement date under approving legislation for a Ngāti Mutunga o Wharekauri settlement; and

**on-account payment** means the payment referred to as an on-account payment in clause 6.3.1; and

**party** means each of the settling group and the Crown; and

**potential commercial redress property** means each property described as a potential commercial redress property in the Table 8; and

**potential cultural redress property** means each property described as a potential cultural redress property in Tables 1 and 2; and

**potential deferred selection property** means each property described as a potential deferred selection property in Table 8; and

**potential RFR land** means the land described as potential RFR land in Table 9; and

**protocol** means a protocol referred to in Table 6; and

**purchased deferred selection property** means each deferred selection property in relation to which the Moriori governance entity and the Crown are to be treated under the deed of settlement as having entered into an agreement for its sale and purchase; and

## AGREEMENT IN PRINCIPLE

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**redress** means the following to be provided under the settlement documentation –

- (a) the Crown's acknowledgment and apology referred to in clause 4.1; and
- (b) the financial and commercial redress; and
- (c) the cultural redress; and

**redress property** means –

- (a) each cultural redress property; and
- (b) each commercial redress property; and

**registered valuer** means any valuer for the time being registered under the Valuers Act 1948; and

**representative entity** means a person or persons acting for or on behalf of the settling group; and

**resumptive memorial** means a memorial entered on a certificate of title or computer register under any of the following sections:

- (a) 27A of the State-Owned Enterprises Act 1986; or
- (b) 211 of the Education Act 1989; or
- (c) 38 of the New Zealand Railways Corporation Restructuring Act 1990; and

**RFR** means the right of first refusal referred to in clause 6.11.1; and

**RFR land** means the land referred to as RFR land in the deed of settlement; and

**school site**, means a leaseback property in respect of which the land holding agency is the Ministry of Education; and

**settlement** means the settlement of the historical claims under the settlement documentation; and

**settlement document** means a document to be entered into by the Crown to give effect to the deed of settlement; and

**settlement documentation** means the deed of settlement and the settlement legislation; and

**settlement legislation** means the legislation giving effect to the deed of settlement; and

**settlement property** means –

## AGREEMENT IN PRINCIPLE

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- (a) each cultural redress property; and
- (b) each commercial redress property; and
- (c) each deferred selection property; and
- (d) any RFR land; and

**settling group means** Moriori; and

**statement of association** means each statement of association referred to in clause 5.10.1; and

**statutory acknowledgement** means the acknowledgement to be made by the Crown in the settlement legislation referred to in clause 5.10.1 on the terms to be provided by the settlement legislation; and

**statutory area** means an area referred to in Table 4 as a statutory area; and

**tax indemnity** means the indemnity to be provided in the deed of settlement under clauses 8.3 and 8.4; and

**transfer value**, in relation to a potential commercial redress property, means the amount payable by the Moriori governance entity for the transfer of the property determined or agreed in accordance with schedule 3; and

**te Tiriti o Waitangi/Treaty of Waitangi** means the Treaty of Waitangi as set out in schedule 1 to the Treaty of Waitangi Act 1975; and

**valuation arbitrator**, in relation to a valuation property means the person appointed under paragraphs 3.3.2 or 3.4, in relation to the determination of its market value, and if applicable its market rental; and

**valuation date**, in relation to a valuation property, means the notification date in relation to the property; and

**valuation property** means each potential commercial redress property that is to be valued in accordance with schedule 3.

### GEOGRAPHIC NAMES USED IN AIP

- 1.7 The following is a list of each name used in this agreement for a place or feature that is not its official name as defined in the New Zealand Geographic Board (Ngā Pou Taunaha a Aotearoa) Act 2008:



## AGREEMENT IN PRINCIPLE

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**Table 1** – Geographic names

<b>Te re Miori names in AIP</b>	<b>Official name</b>
Rangihaute	Pitt Island (Rangiauria)
Hoko-rere-ora	South East Island (Rangatira)

## 2 TERMS OF SETTLEMENT

### **Rights unaffected**

- 2.1 The deed of settlement is to provide that, except as provided in the settlement documentation, the rights and obligations of the parties will remain unaffected.

### **Acknowledgments**

- 2.2 Each party to the deed of settlement is to acknowledge in the deed of settlement that –
- 2.2.1 the other party has acted honourably and reasonably in relation to the settlement; but
  - 2.2.2 full compensation of the settling group is not possible; and
  - 2.2.3 the settling group intends their foregoing of full compensation to contribute to New Zealand's development; and
  - 2.2.4 the settlement is intended to enhance the ongoing relationship between the settling group and the Crown (in terms of the Treaty of Waitangi/te Tiriti o Waitangi, its principles, and otherwise).
- 2.3 The settling group is to acknowledge in the deed of settlement that –
- 2.3.1 taking all matters into consideration (some of which are specified in paragraph 2.2), the settlement is fair in the circumstances; and
  - 2.3.2 the redress –
    - (a) is intended to benefit the settling group collectively; but
    - (b) may benefit particular members, or particular groups of members, of the settling group if the Moriori governance entity so determines in accordance with the Moriori governance entity's procedures.

### **Implementation**

- 2.4 The deed of settlement is to provide the settlement legislation will, on terms agreed by the parties (based on the terms in recent settlement legislation), –
- 2.4.1 settle the historical claims; and
  - 2.4.2 exclude the jurisdiction of any court, tribunal, or other judicial body in relation to the historical claims and the settlement; and
  - 2.4.3 provide that certain enactments do not apply –
    - (a) to a redress property, a purchased deferred selection property, or any RFR land; or

## AGREEMENT IN PRINCIPLE

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- (b) for the benefit of the settling group or a representative entity; and
- 2.4.4 require any resumptive memorials to be removed from the certificates of title to, or the computer registers for, a redress property and any purchased deferred selection property; and
- 2.4.5 provide that the rule against perpetuities and the Perpetuities Act 1964 does not apply –
  - (a) where relevant, to any entity that is a common law trust; and
  - (b) to any settlement documentation; and
- 2.4.6 require the Secretary for Justice to make copies of the deed of settlement publicly available.
- 2.5 The deed of settlement is to provide –
  - 2.5.1 the Moriori governance entity must use its best endeavours to ensure every historical claim is discontinued by the Moriori settlement date or as soon as practicable afterwards; and
  - 2.5.2 the Crown may: –
    - (a) cease any land bank arrangement in relation to the settling group, the Moriori governance entity, or any representative entity, except to the extent necessary to comply with its obligations under the deed;
    - (b) after the Moriori settlement date, advise the Waitangi Tribunal (or any other tribunal, court, or judicial body) of the settlement.

### 3 VALUATION PROCESS FOR POTENTIAL COMMERCIAL REDRESS PROPERTIES

*Note: Unless otherwise agreed in writing between the relevant landholding agency and Moriori, the parties will enter into the following valuation process for potential commercial redress properties*

#### A DETERMINING THE TRANSFER VALUE AND INITIAL ANNUAL RENT OF A PROPERTY

##### APPLICATION OF THIS SUBPART

- 3.1 This subpart provides how the following are to be determined in relation to a valuation property:
- 3.1.1 its transfer value; and
  - 3.1.2 if it is a leaseback property that is not a school site, its initial annual rent.
- 3.2 The transfer value, and if applicable the initial annual rent, are to be determined as at a date agreed upon in writing by the parties (the **notification date**).

##### APPOINTMENT OF VALUERS AND VALUATION ARBITRATOR

- 3.3 The parties, in relation to a property, not later than 10 business days after the notification date:
- 3.3.1 must each:
    - (a) instruct a valuer using the form of instructions in appendix 1; and
    - (b) give written notice to the other of the valuer instructed; and
  - 3.3.2 may agree and jointly appoint the person to act as the valuation arbitrator in respect of the property.
- 3.4 If the parties do not agree and do not jointly appoint a person to act as a valuation arbitrator within 15 business days after the notification date, either party may request that the Arbitrators' and Mediators' Institute of New Zealand appoint the valuation arbitrator as soon as is reasonably practicable.
- 3.5 The parties must ensure the terms of appointment of their respective registered valuers require the valuers to participate in the valuation process.

##### QUALIFICATION OF VALUERS AND VALUATION ARBITRATOR

- 3.6 Each valuer must be a registered valuer.
- 3.7 The valuation arbitrator –

## **AGREEMENT IN PRINCIPLE**

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- 3.7.1 must be suitably qualified and experienced in determining disputes about –
- (a) the market value of similar properties; and
  - (b) if applicable, the market rental of similar properties; and
- 3.7.2 is appointed when he or she confirms his or her willingness to act.

### **VALUATION REPORTS FOR A PROPERTY**

- 3.8 Each party must, in relation to a valuation, not later than:
- 3.8.1 50 business days after the notification date, provide a copy of its final valuation report to the other party; and
  - 3.8.2 60 business days after the notification date, provide its valuer's written analysis report to the other party.
- 3.9 Valuation reports must comply with the International Valuation Standards 2012, or explain where they are at variance with those standards.

### **EFFECT OF DELIVERY OF ONE VALUATION REPORT FOR A PROPERTY**

- 3.10 If only one valuation report for a property that is not a school site is delivered by the required date, the transfer value of the property, and if applicable its initial annual rent, is the market value and the market rental, as assessed in the report.
- 3.11 If only one valuation report for a property that is a school site is delivered by the required date, the transfer value of the property is the market value as assessed in the report, (based on highest and best use calculated on the zoning of the property in force at the valuation date, less 20%).

### **NEGOTIATIONS TO AGREE A TRANSFER VALUE AND INITIAL ANNUAL RENT FOR A PROPERTY**

- 3.12 If both valuation reports for a property are delivered by the required date:
- 3.12.1 the parties must endeavour to agree in writing:
    - (a) the transfer value of a property that is not a school site; or
    - (b) if the property is a school site, the transfer value (being the agreed market value based on highest and best use calculated on the zoning of the property in force at the valuation date, less 20%); and
    - (c) if the property is a leaseback property that is not a school site, its initial annual rent;
  - 3.12.2 either party may, if the transfer value of the property, or if applicable, its initial annual rent, is not agreed in writing within 70 business days after the notification date and if a valuation arbitrator has been appointed under paragraph 3.3.2 or paragraph 3.4, refer that matter to the determination of the valuation arbitrator; or

## **AGREEMENT IN PRINCIPLE**

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- 3.12.3 if that agreement has not been reached within the 70 business day period but the valuation arbitrator has not been appointed under paragraph 3.3.2 or paragraph 3.4, the parties must attempt to agree and appoint a person to act as the valuation arbitrator within a further 5 business days; and
- 3.12.4 if paragraph 3.12.3 applies, but the parties do not jointly appoint a person to act as a valuation arbitrator within the further 5 business days, either party may request that the Arbitrators' and Mediators' Institute of New Zealand appoint the valuation arbitrator as soon as is reasonably practicable; and
- 3.12.5 the valuation arbitrator, must promptly on his or her appointment, specify to the parties the arbitration commencement date.

### **VALUATION ARBITRATION**

- 3.13 The valuation arbitrator must, not later than 10 business days after the arbitration commencement date, –
  - 3.13.1 give notice to the parties of the arbitration meeting, which must be held –
    - (a) at a date, time, and venue determined by the valuation arbitrator after consulting with the parties; but
    - (b) not later than 30 business days after the arbitration commencement date; and
  - 3.13.2 establish the procedure for the arbitration meeting, including providing each party with the right to examine and re-examine, or cross-examine, as applicable, –
    - (a) each valuer; and
    - (b) any other person giving evidence.
- 3.14 Each party must –
  - 3.14.1 not later than 5pm on the day that is 5 business days before the arbitration meeting, give to the valuation arbitrator, the other party, and the other party's valuer –
    - (a) its valuation report; and
    - (b) its submission; and
    - (c) any sales, rental, or expert evidence that it will present at the meeting; and
  - 3.14.2 attend the arbitration meeting with its valuer.
- 3.15 The valuation arbitrator must –
  - 3.15.1 have regard to the requirements of natural justice at the arbitration meeting; and

## **AGREEMENT IN PRINCIPLE**

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3.15.2 no later than 50 business days after the arbitration commencement date, give his or her determination –

- (a) of the market value of the property (which in respect of a school site is to be the market value based on highest and best use calculated on the zoning of the property in force at the valuation date, less 20%); and
- (b) if applicable, of its market rental; and
- (c) being no higher than the higher, and no lower than the lower, assessment of market value and/or market rental, as the case may be, contained in the parties' valuation reports.

3.16 An arbitration under this subpart is an arbitration for the purposes of the Arbitration Act 1996.

### **TRANSFER VALUE AND INITIAL ANNUAL RENT FOR ALL PROPERTIES**

3.17 The transfer value of the property, and if applicable its initial annual rent, is:

3.17.1 determined under paragraph 3.10 or 3.11, (as the case may be); or

3.17.2 agreed under paragraph 3.12.1; or

3.17.3 the market value and, if applicable, market rental determined by the valuation arbitrator under paragraph 3.15.2, if the determination is in respect of a property that is not a school site; or

3.17.4 if the property is a school site, the market value determined by the valuation arbitrator under paragraph 3.15.2, (based on highest and best use calculated on the zoning of the property in force at the valuation date, less 20%).

## **B GENERAL PROVISIONS**

### **TIME LIMITS**

3.18 In relation to the time limits each party must use reasonable endeavours to ensure – j

3.18.1 those time limits are met and delays are minimised; and

3.18.2 in particular, if a valuer or a valuation arbitrator appointed under this part is unable to act, a replacement is appointed as soon as is reasonably practicable.

### **DETERMINATION FINAL AND BINDING**

3.19 The valuation arbitrator's determination under subpart A is final and binding.

### **COSTS**

3.20 In relation to the determination of the transfer value, and initial annual rent, of a property, each party must pay –

## AGREEMENT IN PRINCIPLE

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- 3.20.1 its costs; and
- 3.20.2 half the costs of a valuation arbitration; or
- 3.20.3 such other proportion of the costs of a valuation arbitration awarded by the valuation arbitrator as the result of a party's unreasonable conduct.



## AGREEMENT IN PRINCIPLE

### APPENDIX 1

#### PLEASE NOTE

If these instructions apply to-

- a non-leaseback property, references connected with a leaseback (including references to assessing the property's market rental) must be deleted; or
- a leaseback property -
  - that is to be leased back to the Ministry of Education, references to assessing the property's market rental must be deleted; or
  - that is not to be leased back to the Ministry of Education, references to a lease to the Ministry of Education and to the market value of a school site must be deleted.

These instructions may be modified to apply to more than one property.

[Valuer's name]

[Address]

#### Valuation instructions

#### INTRODUCTION

Moriori and the Crown have entered into an agreement in principle to settle the settling group's historical claims dated [date] (the **agreement in principle**).

#### PROPERTY TO BE VALUED

Moriori have given the land holding agency an expression of interest in purchasing -

*[describe the property including its legal description]*

#### [PROPERTY TO BE LEASED BACK

If Moriori purchases the property from the Crown as a commercial redress property under its deed of settlement, the governance entity will lease the property back to the Crown on the terms provided by the attached lease in (the **agreed lease**).

As the agreed lease is a ground lease, the ownership of the improvements on the property (the **Lessee's improvements**), remains unaffected by the transfer.]

#### AGREEMENT IN PRINCIPLE

A copy of the agreement in principle is enclosed.

Your attention is drawn to –

- (a) schedule [4]; and
- (b) the attached agreed lease of the property].

## AGREEMENT IN PRINCIPLE

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All references in this letter to subparts or paragraphs are to subparts or paragraphs of schedule [4].

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

The property is a property for the purposes of part 6. Subpart A of schedule [4] applies to the valuation of properties.

### ASSESSMENT OF MARKET VALUE REQUIRED

You are required to undertake a valuation to assess the market value of the property [that is a school site in accordance with the methodology below] as at [date] (the **valuation date**).

[As the Lessee's improvements will not transfer, the market value of the property is to be the market value of its land (i.e. not including any Lessee's improvements).]

The [land holding agency/Moriori] [~~delete one~~] will require another registered valuer to assess the market value of the property [,and its market rental,] as at the valuation date.

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

- (a) by agreement between the parties; or
- (b) by arbitration.

The market value of the property so determined will be the basis of establishing the "transfer value" at which Moriori may elect to purchase the property as a commercial redress property under part 6, plus GST (if any).

### [MARKET VALUE OF A SCHOOL SITE

For the purposes of these instructions the intention of the parties in respect of a school site is to determine a transfer value to reflect the designation and use of the land for education purposes.

The market value of a school site is to be calculated as the market value of the property, exclusive of improvements, based on highest and best use calculated on the zoning of the property in force at the valuation date, less 20%.

A two step process is required:

- 1) firstly, the assessment of the unencumbered market value (based on highest and best use) by;
  - a) disregarding the designation and the Crown leaseback; and
  - b) considering the zoning in force at the valuation date and
  - c) excluding any improvements on the land; and;
- 2) secondly the application of a 20% discount to the unencumbered market value to determine the market value as a school site (transfer value).]

## **AGREEMENT IN PRINCIPLE**

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[If, in the relevant district or unitary plan, the zoning for the school site is Specialised (as defined below), the zoning for the school site for the purposes of step 1(b) of the two-step process above will be deemed to be the Alternative Zoning (as defined below).

For the purposes of these instructions:

- "Specialised" means specialised for a school site or otherwise specialised to a public or community use or public work (including education purposes).
- "Alternative Zoning" means the most appropriate probable zoning which provides for the highest and best use of the school site as if the school (or any other public or community use or public work, including education purposes) was hypothetically not present. The Alternative Zoning will be determined with reference to (in no particular order):
  - (a) the underlying zoning for the school site (if any);
  - (b) the zoning for the school site immediately prior to its Specialised zoning;
  - (c) the zoning of land adjacent to or in the immediate vicinity of the school site (or both) if there is a uniform neighbouring zone;
  - (d) if the school site is within the area governed by Auckland Council, the underlying zoning applied to the school site in the Draft Auckland Unitary Plan publicly notified 15 March 2013, namely *[insert the zoning from the Draft Auckland Unitary Plan publicly notified 15 March 2013]*; and
  - (e) any other relevant consideration in the reasonable opinion of a registered valuer that would support the most probable zoning which provides for the highest and best use of the school site.

The transfer value is used to determine the initial annual rent based on an agreed rental percentage of the agreed transfer value, determined in accordance with the Crown leaseback (plus GST, if any, on the amount so determined).]

### **[ASSESSMENT OF MARKET RENTAL REQUIRED**

You are also required to assess the market rental (exclusive of GST) for the property, as at the valuation date, being the rental payable from the commencement of the agreed lease.

The market rental for the property is to be the market rental payable under the agreed lease, being a ground lease. So it will be the rent payable for its land (i.e. excluding any Lessee's improvements).]

### **VALUATION OF PROPERTY**

You must, in relation to a property:

- (a) before inspecting the property, determine with the other valuer:
  - (i) the valuation method or methods applicable to the property; and

## **AGREEMENT IN PRINCIPLE**

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- (ii) the comparable sales[, and comparable market rentals if the property is not a school site,] to be used in determining the market value of the property [and its market rental if the property is not a school site]; and
- (b) inspect the property, where practical, together with the valuer appointed by the other party; and
- (c) attempt to resolve any matters or issues arising from your inspections and input assumptions; and
- (d) by not later than [30] business days after the valuation date prepare, and deliver to us, a draft valuation report; and
- (e) by not later than [45] business days after the valuation date:
  - (i) review your draft valuation report, after taking into account any comments made by us or a peer review of the report obtained by us; and
  - (ii) deliver a copy of your final valuation report to us; and
- (f) by not later than [55] business days after the valuation date, prepare and deliver to us a written analysis of both valuation reports to assist in the determination of the market value of the property [and its market rental if the property is not a school site]; and
- (g) by not later than [65] business days after the valuation date, meet with the other valuer and discuss your respective valuation reports and written analysis reports with a view to reaching consensus on the market value [and its market rental if the property is not a school site]; and
- (h) if a consensus on market value [and its market rental if the property is not a school site] is reached, record it in writing signed by you and the other valuer and deliver it to both parties; and
- (i) participate in any meetings, including any peer review process, as required by us and the other party to agree the market value of the property [and its market rental if the property is not a school site]; and
- (j) if a review valuer has been appointed by parties, you must within 5 business days of receipt of the review valuer's report, review your market valuation report, taking into account the findings of the review valuer, and provide us with a written report of your assessment of the market value of the property; and
- (k) participate in any arbitration process required under subpart A to determine the market value of the property [and its market rental if the property is not a school site].

### **REQUIREMENTS OF YOUR VALUATION**

Our requirements for your valuation are as follows.

You are to assume that –

- (a) the property is a current asset and was available for immediate sale as at the valuation date; and

## **AGREEMENT IN PRINCIPLE**

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- (b) all legislative processes that the Crown must meet before disposing of the property have been met.

Your valuation is –

- (a) to assess market value on the basis of market value as defined in the current edition of the Australia and New Zealand Valuation and Property Standards [2009] and International Valuation Standards [2012]; and
- (b) to take into account –
  - (i) any encumbrances, interests, or other matters affecting or benefiting the property that were noted on its title on the valuation date; and
  - (ii) the terms of the agreed lease; and
  - (iii) the attached disclosure information about the property that has been given by the land holding agency to the settling group, including the disclosed encumbrances; and
  - (iv) the attached terms of transfer (that will apply to a purchase of the property by the governance entity); but
- (c) not to take into account a claim in relation to the property by or on behalf of the settling group; and
- (d) in relation to the market rental for the property, to be on the basis of a willing lessor and a willing lessee, in an arm's length transaction, the parties having acted knowledgeably, prudently, and without compulsion].

### **REQUIREMENTS FOR YOUR VALUATION REPORT**

We require a full valuation report in accordance with the current edition of the Australia and New Zealand Valuation and Property Standards [2009] and International Valuation Standards [2012], including –

- (a) an executive summary, containing a summary of –
  - (i) the valuation; and
  - (ii) [the market rental; and]
  - (iii) the key valuation parameters; and
  - (iv) the key variables affecting value; and
- (b) a detailed description, and a clear statement, of the land value; and
- (c) a clear statement as to any impact of –
  - (i) the disclosed encumbrances; and

## AGREEMENT IN PRINCIPLE

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- (ii) the agreed lease]; and
- (d) details of your assessment of the highest and best use of the property; and
- (e) comment on the rationale of likely purchasers[, and tenants,] of the property; and
- (f) a clear identification of the key variables which have a material impact on the valuation; and
- (g) full details of the valuation method or methods; and
- (h) appendices setting out –
  - (i) a statement of the valuation methodology and policies; and
  - (ii) relevant market and sales information.

Your report must comply with the minimum requirements set out in section 5 of the International Valuation Standard 1 Market Value Basis of Valuation, and other relevant standards, insofar as they are consistent with subpart A.

You may, with our prior consent, obtain specialist advice, such as engineering or planning advice.

### ACCEPTANCE OF THESE INSTRUCTIONS

By accepting these instructions, you agree to comply with these instructions and, in particular, not later than:

- (a) [30] business days after the valuation date, to prepare and deliver to us a draft valuation report; and
- (b) [45] business days after the valuation date, to:
  - (i) review your draft valuation report after taking into account any comments made by us or a peer review of the report obtained by us; and
  - (ii) deliver a copy of your final valuation report to us; and
- (c) [55] business days after the valuation date, to prepare and deliver to us a written analysis of both valuation reports; and
- (d) [65] business days after the valuation date, to meet with the other valuer to discuss your respective valuation reports and written analysis reports.

### ACCESS

[You should not enter on to the property without first arranging access through the **[landholding agency] [give contact details].**]

[Where the property is a school site, you should not enter on to **[insert name(s) of school site(s)]** without first arranging access through the Ministry of Education **[give contact details]** and should not contact the school(s) directly.]

## **AGREEMENT IN PRINCIPLE**

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### **OPEN AND TRANSPARENT VALUATION**

The parties intend this valuation to be undertaken in an open and transparent manner, and for all dealings and discussions to be undertaken in good faith.

In particular, you must:

- (a) copy any questions you have or receive with regard to the valuation, together with the responses, to the settling group, the land holding agency, and the other valuer: and
- (b) make all reasonable attempts throughout this valuation process to resolve differences between you and the other valuer before delivering a copy of your final valuation report to us.

Yours faithfully

**[Name of signatory]**

**[Position]**

**[Settling group/Land holding agency][delete one]**

## ATTACHMENTS



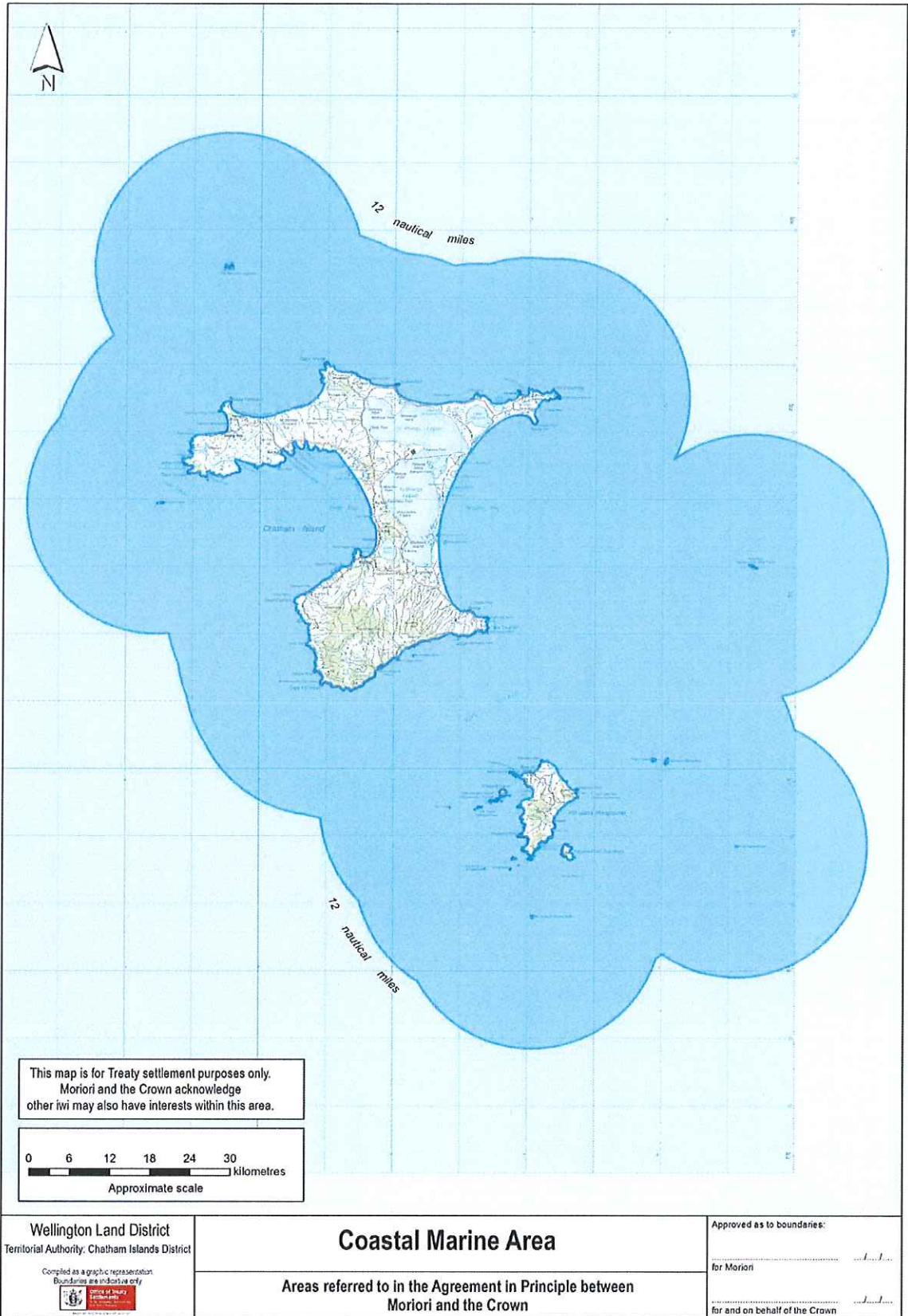
# 1 AREA OF INTEREST



## 2 RIGHT OF FIRST REFUSAL MAP



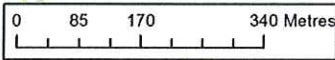
### 3 COASTAL MARINE AREA



## 4 CULTURAL REDRESS PROPERTIES

11882 Owenga

Map 1



Lake Huro



Section 9 Blk III  
Oropuke SD

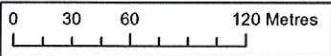


Waitangi Wharf Owenga Road

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# Former Owenga School

# Map 2



Hanson Bay

Part Awapatiki  
1B Block

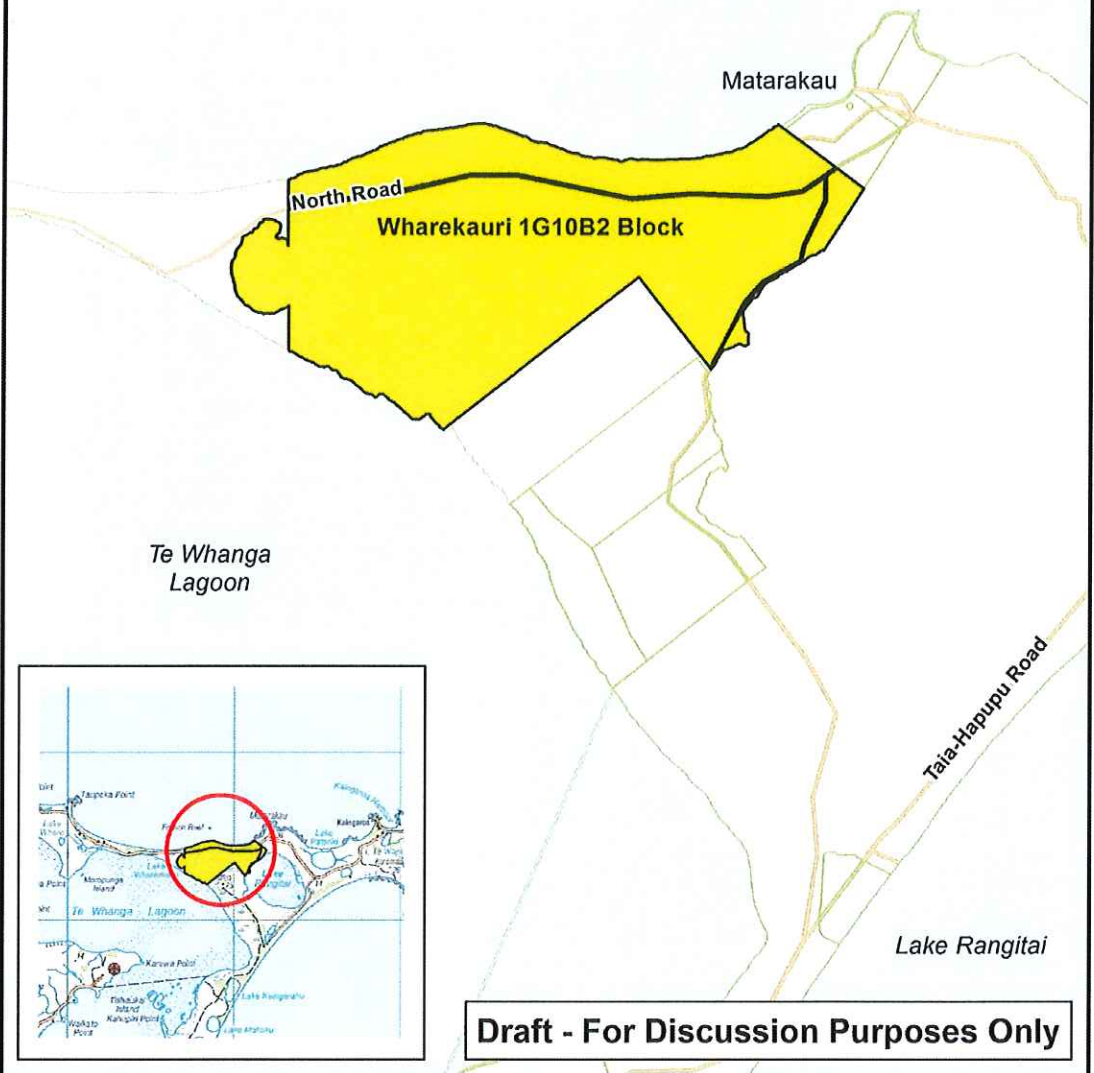
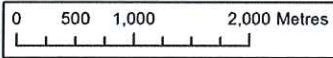
Waitangi Wharf Owenga Road



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Ocean Mail Scenic Reserve

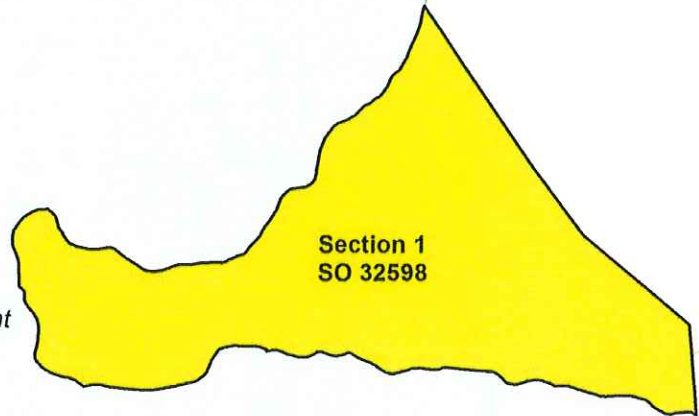
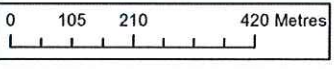
Map 3



**Draft - For Discussion Purposes Only**

# Rangiauria Scenic Reserve

Map 4



Rangiauria Point

Section 1  
SO 32598

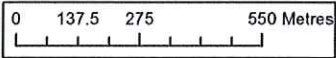


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# Te Awatea Scenic Reserve

Map 5



Lake Huro

**Section 7 Block III  
Oropuke Survey District**

Te Matare Road

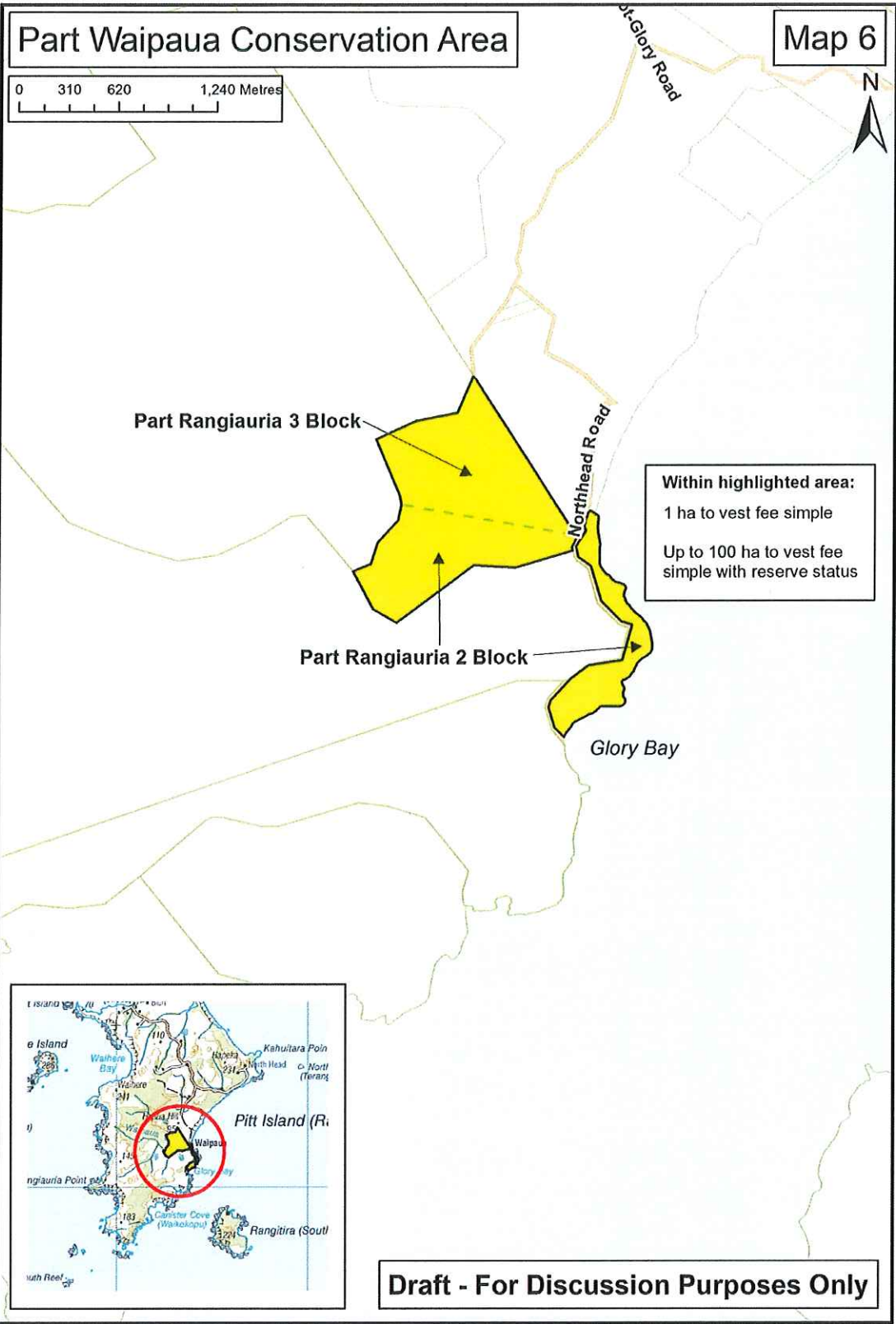
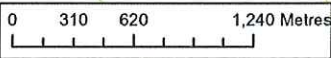
Waitangi Wharf Owenga Road



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# Part Waipaua Conservation Area

Map 6



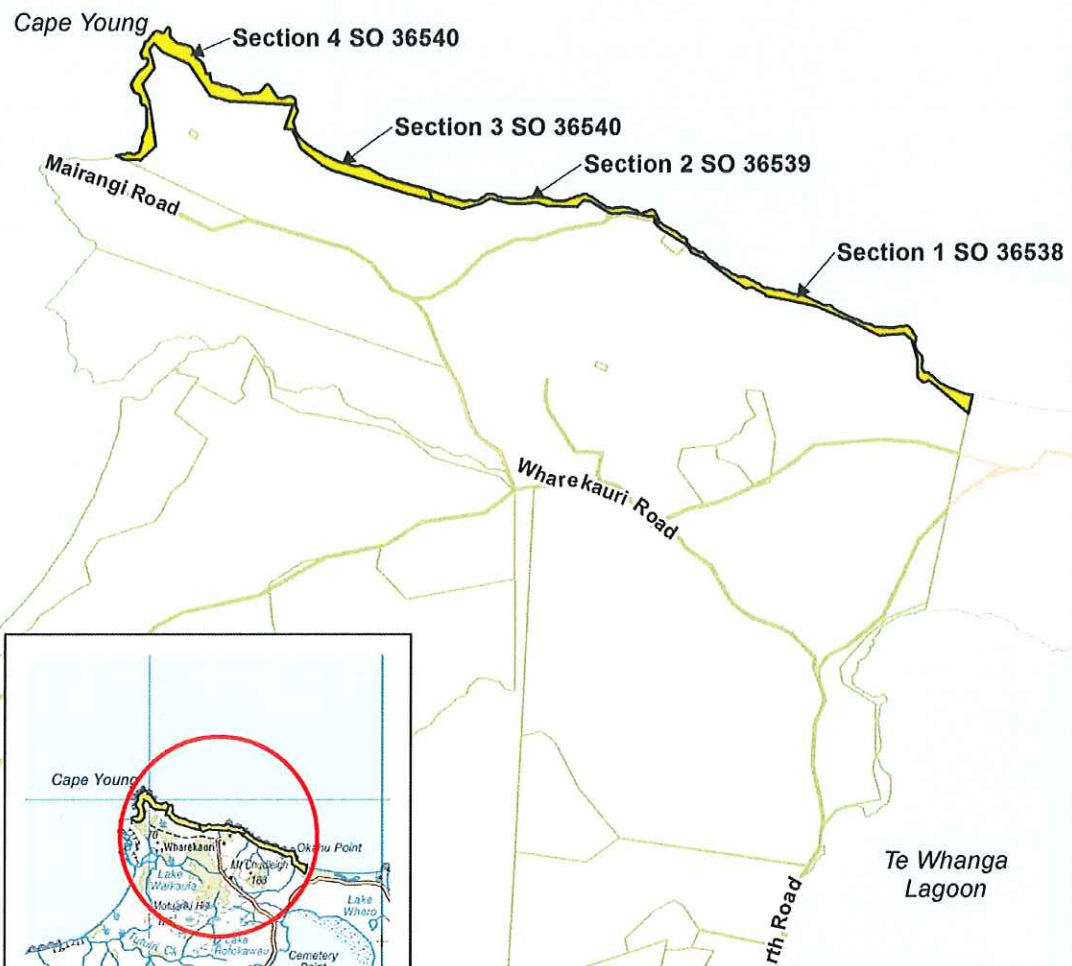
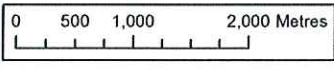
Within highlighted area:  
1 ha to vest fee simple  
Up to 100 ha to vest fee simple with reserve status



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Site 100, ex Wharekauri Station

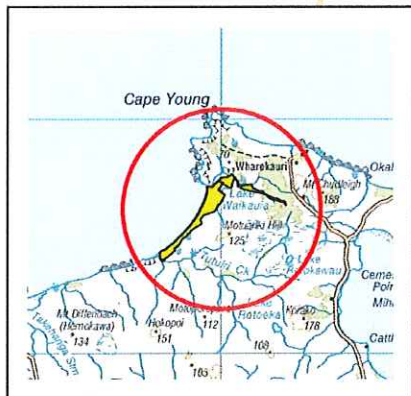
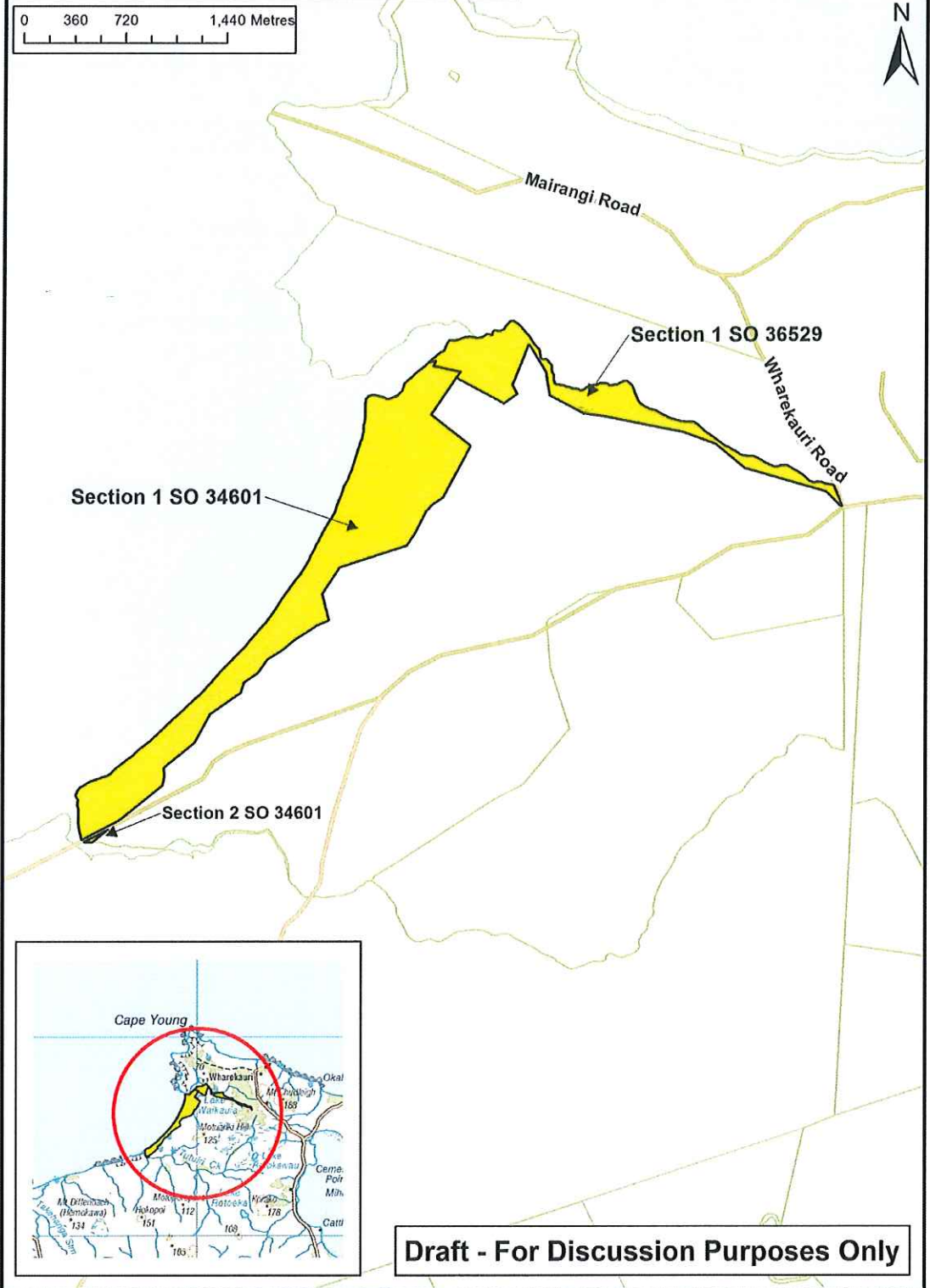
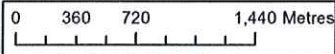
Map 7



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Site 102, ex Wharekauri Station

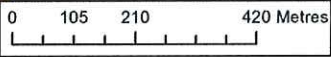
Map 8



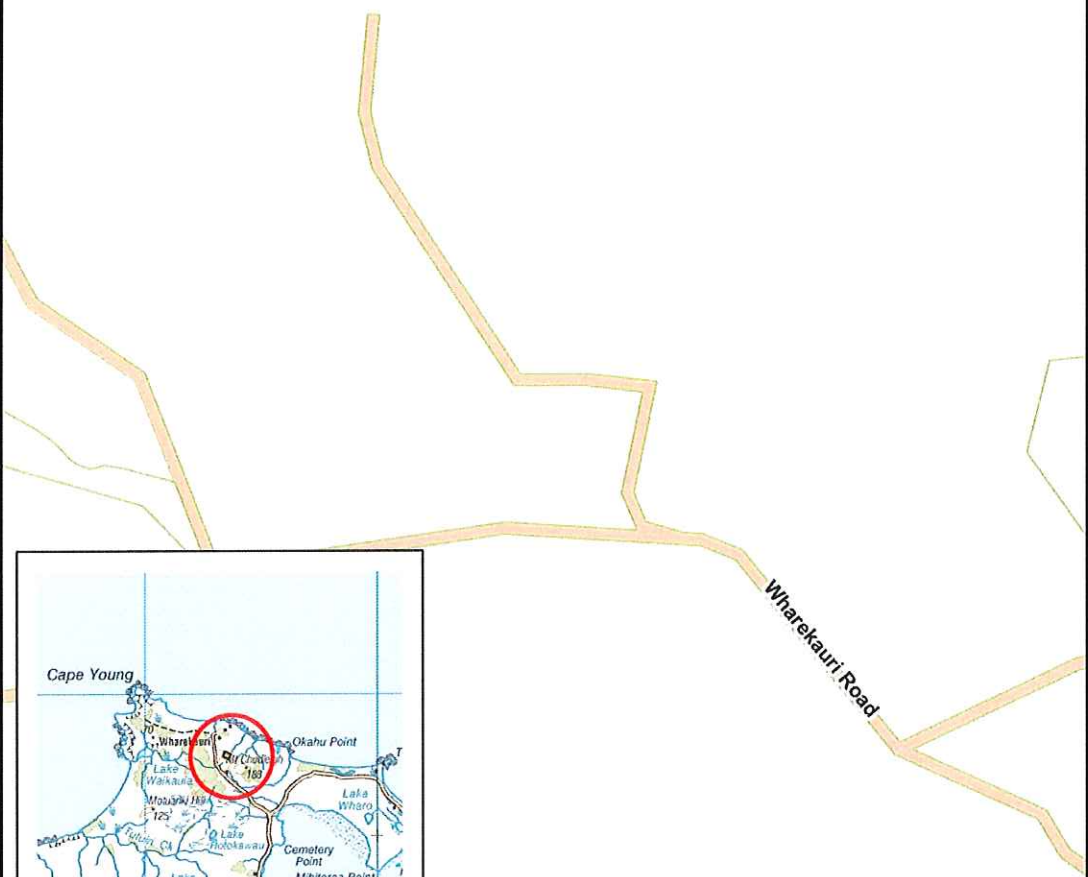

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Site 107, ex Wharekauri Station

Map 9



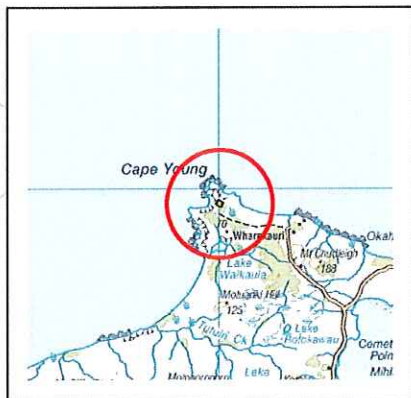
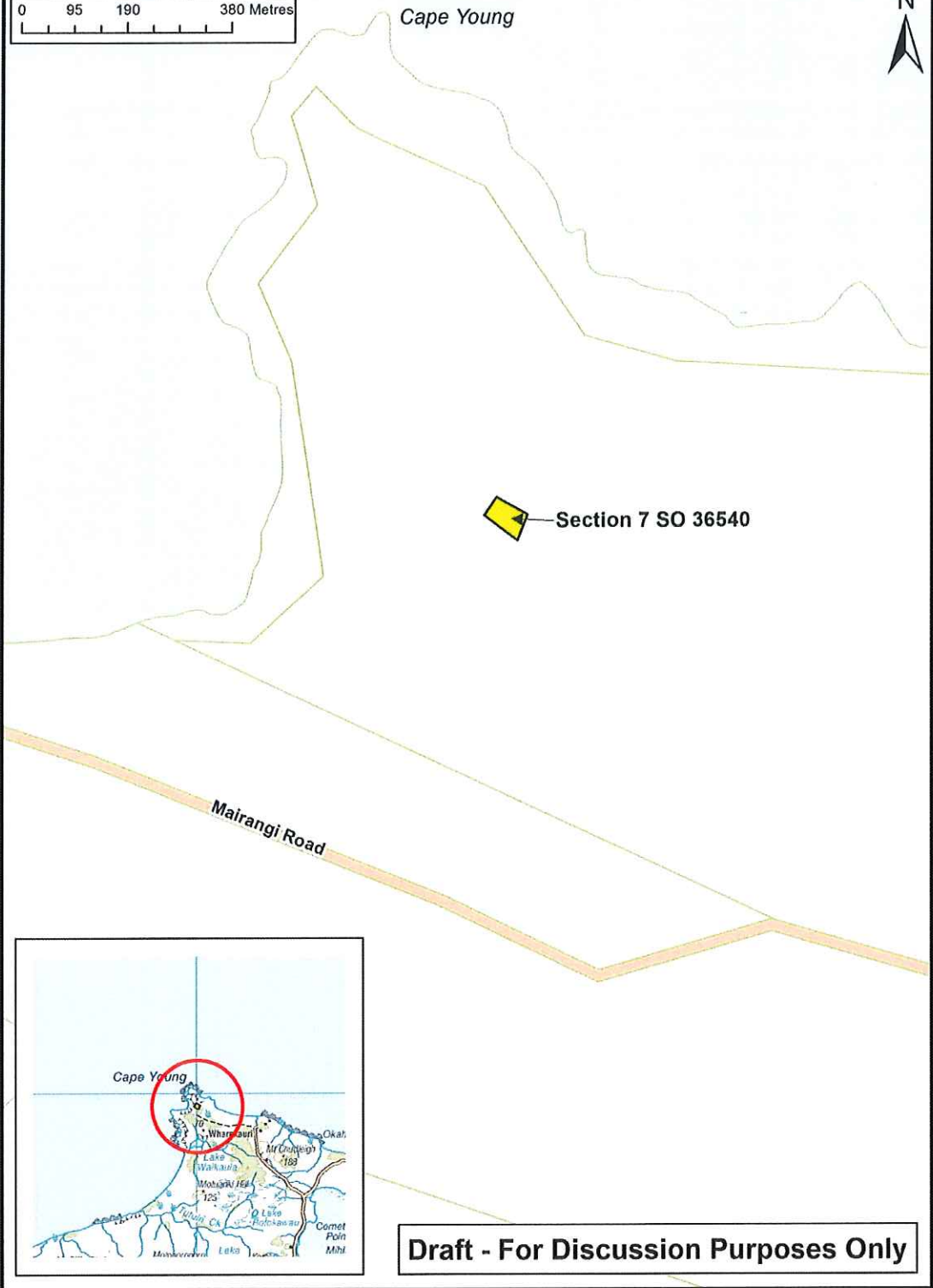
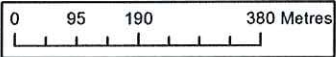
Section 6 SO 36539



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Site 108, ex Wharekauri Station

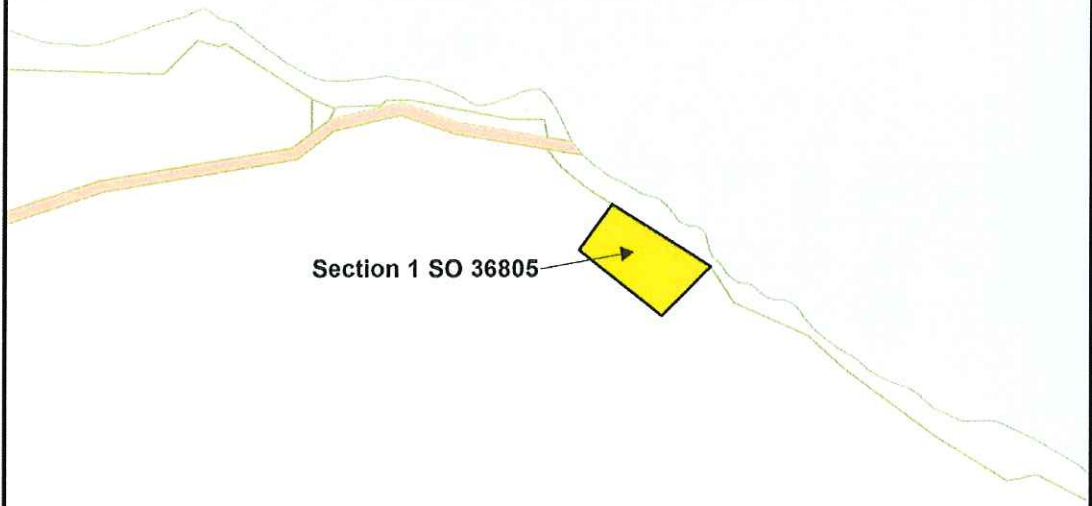
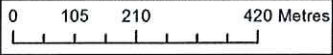
Map 10



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Site 109, ex Wharekauri Station

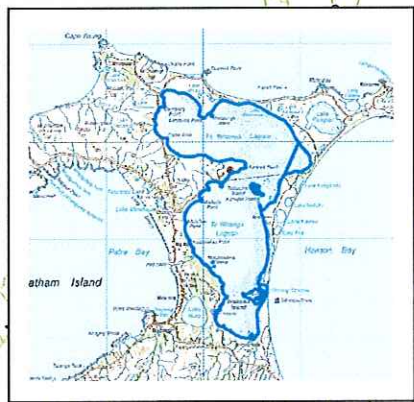
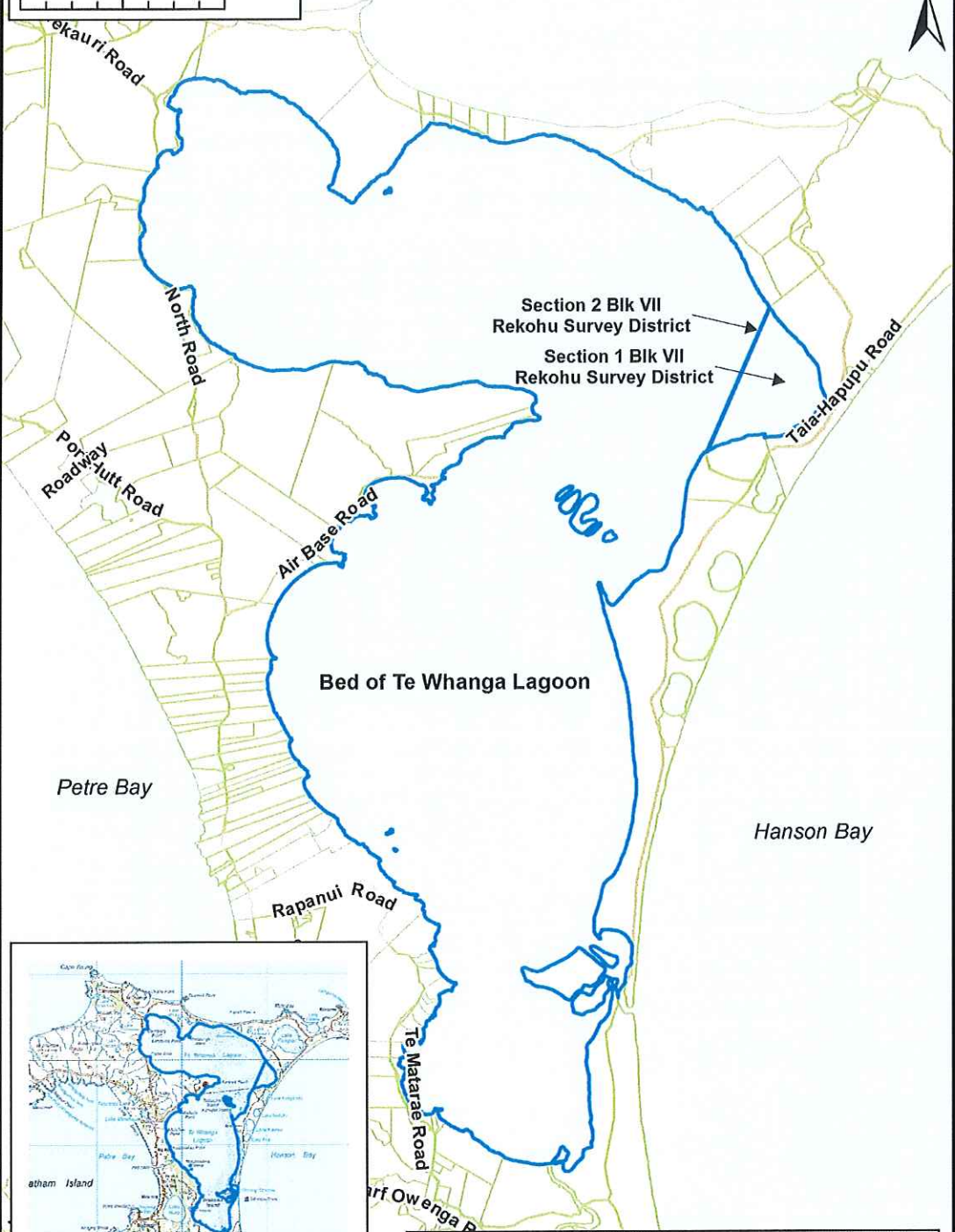
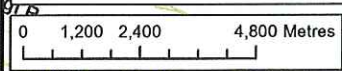
Map 11



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# Te Whanga Lagoon

# Map 12

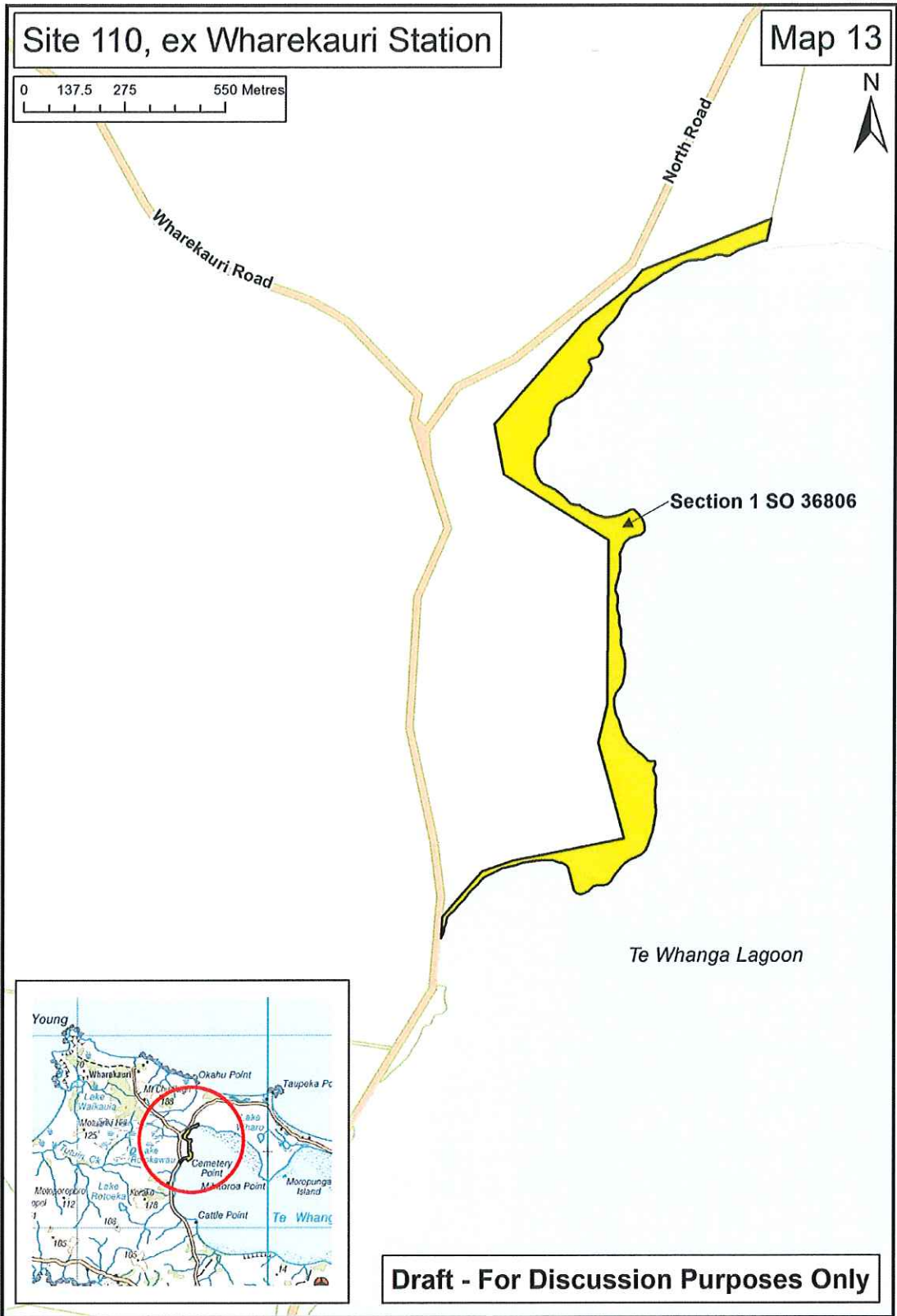
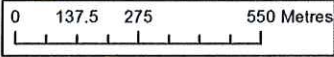


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Site 110, ex Wharekauri Station

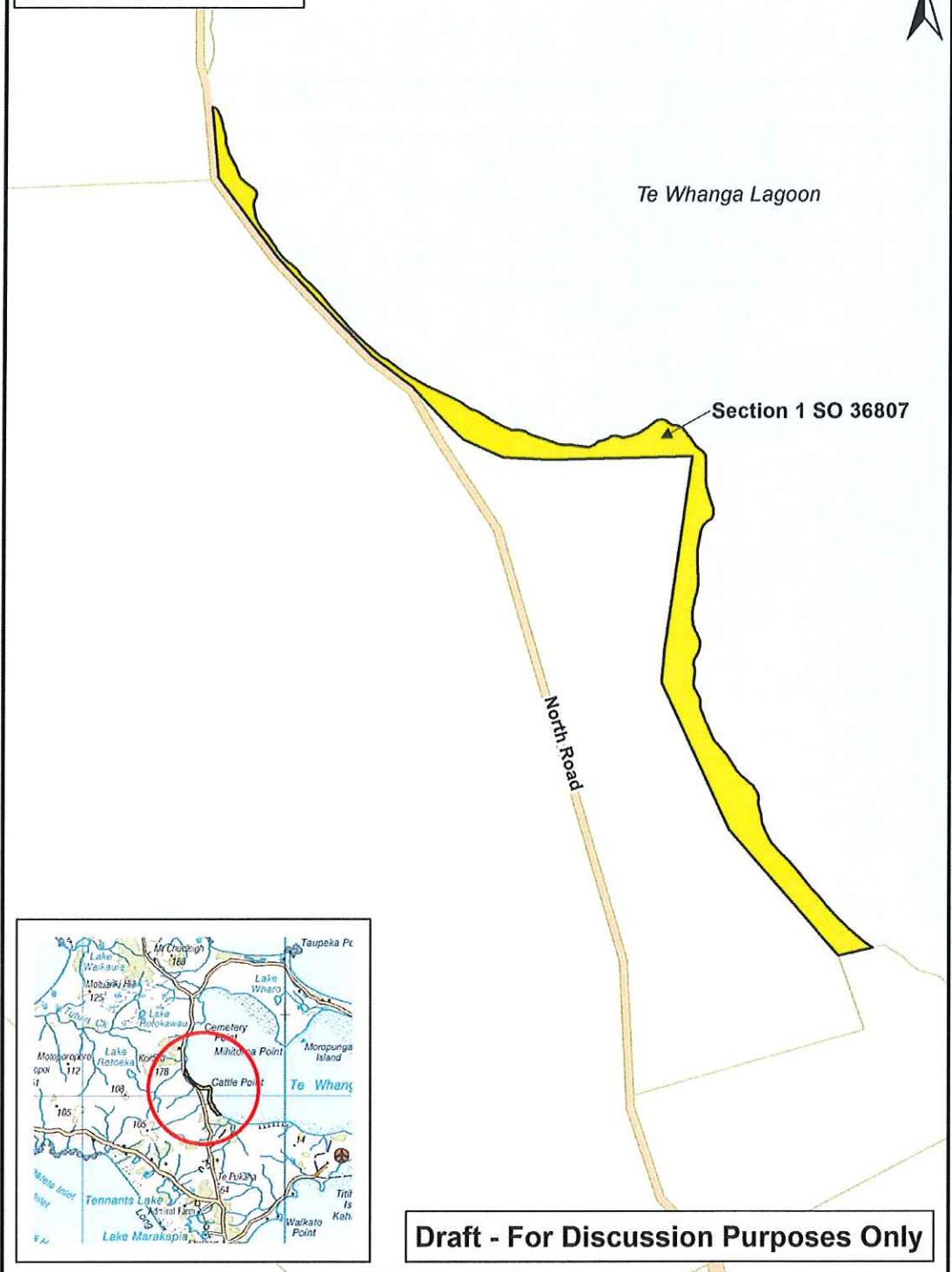
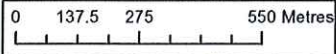
Map 13



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Site 111, ex Wharekauri Station

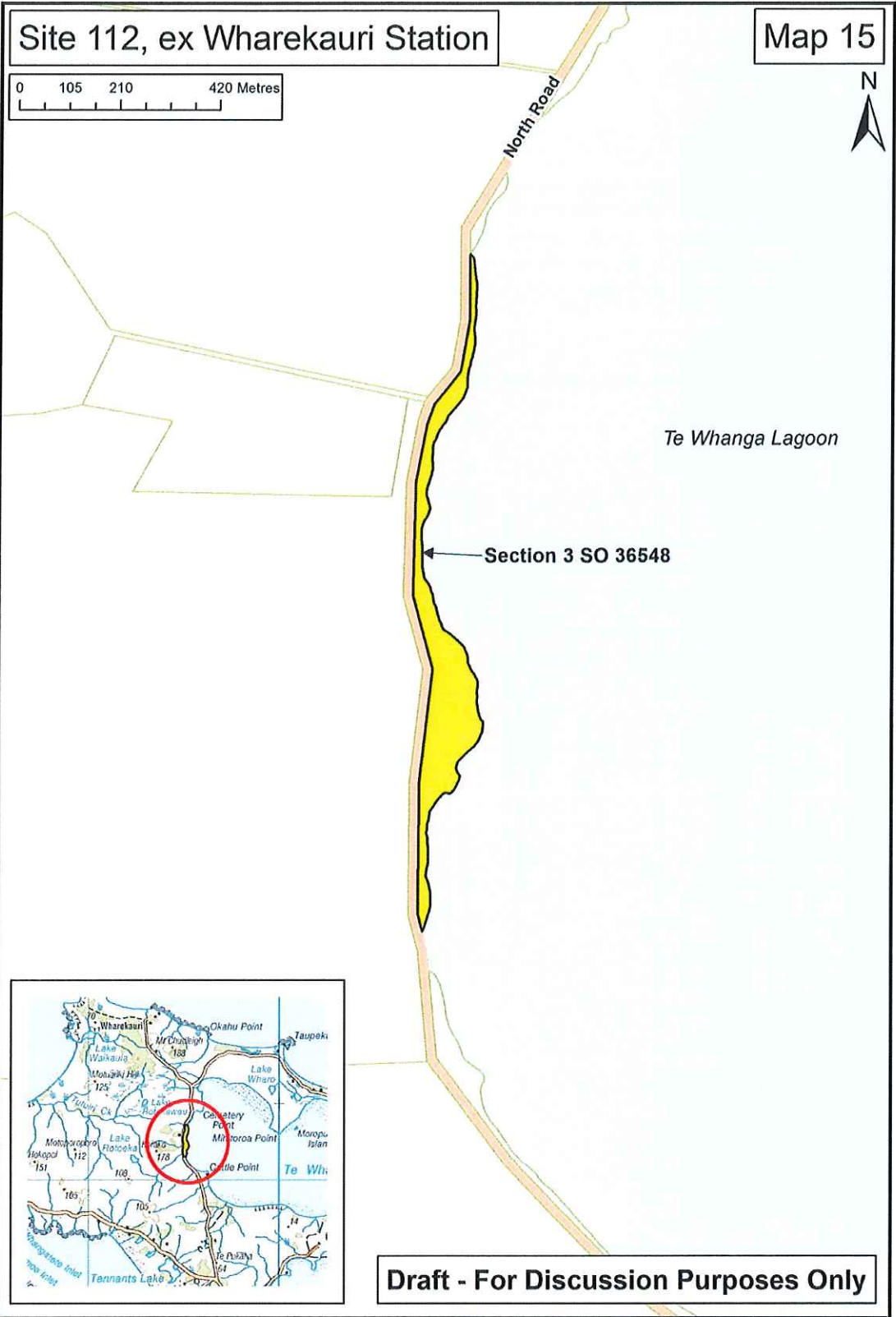
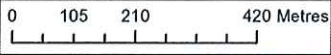
Map 14



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Site 112, ex Wharekauri Station

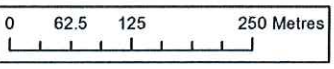
Map 15



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Site 113, ex Wharekauri Station

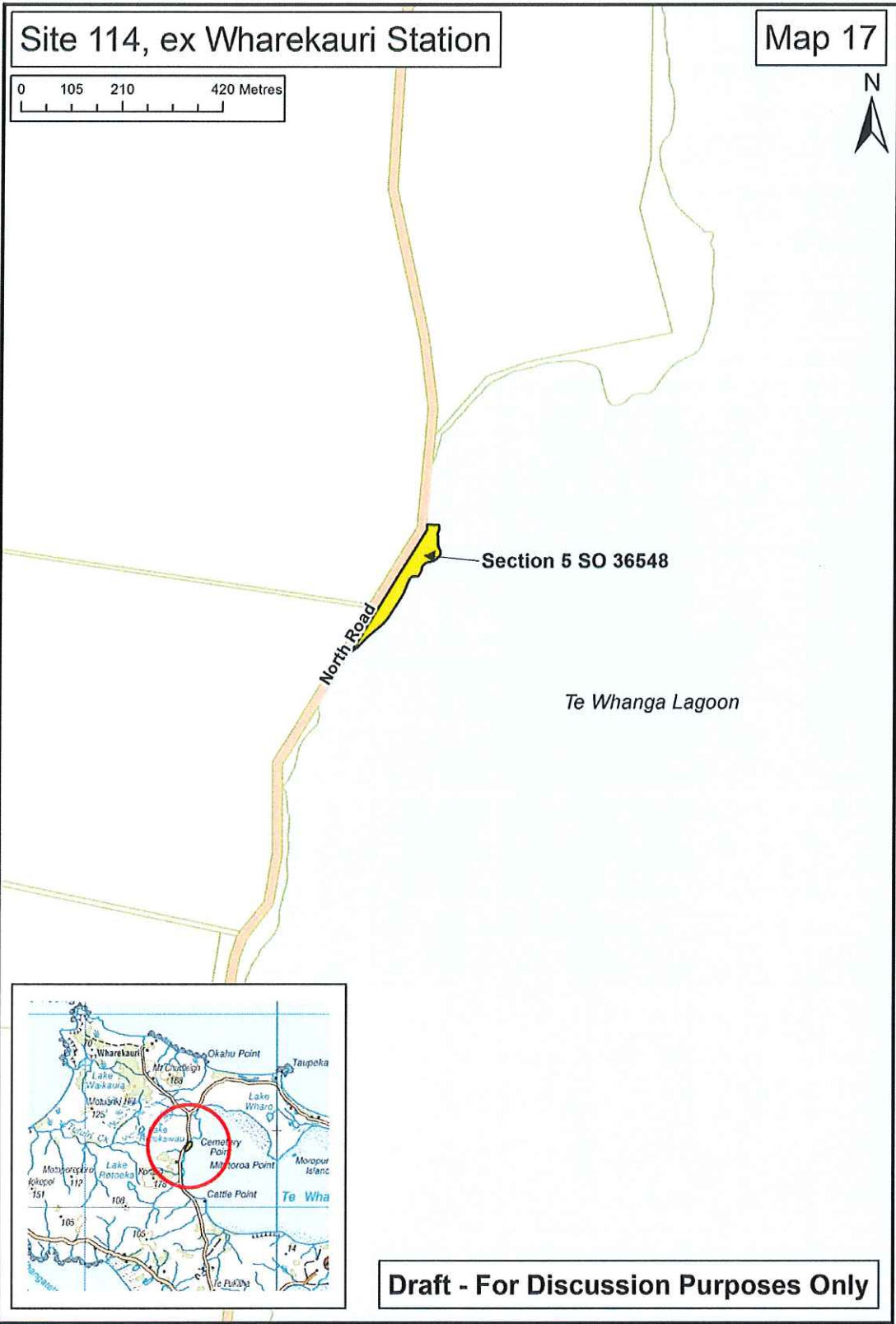
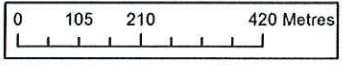
Map 16



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Site 114, ex Wharekauri Station

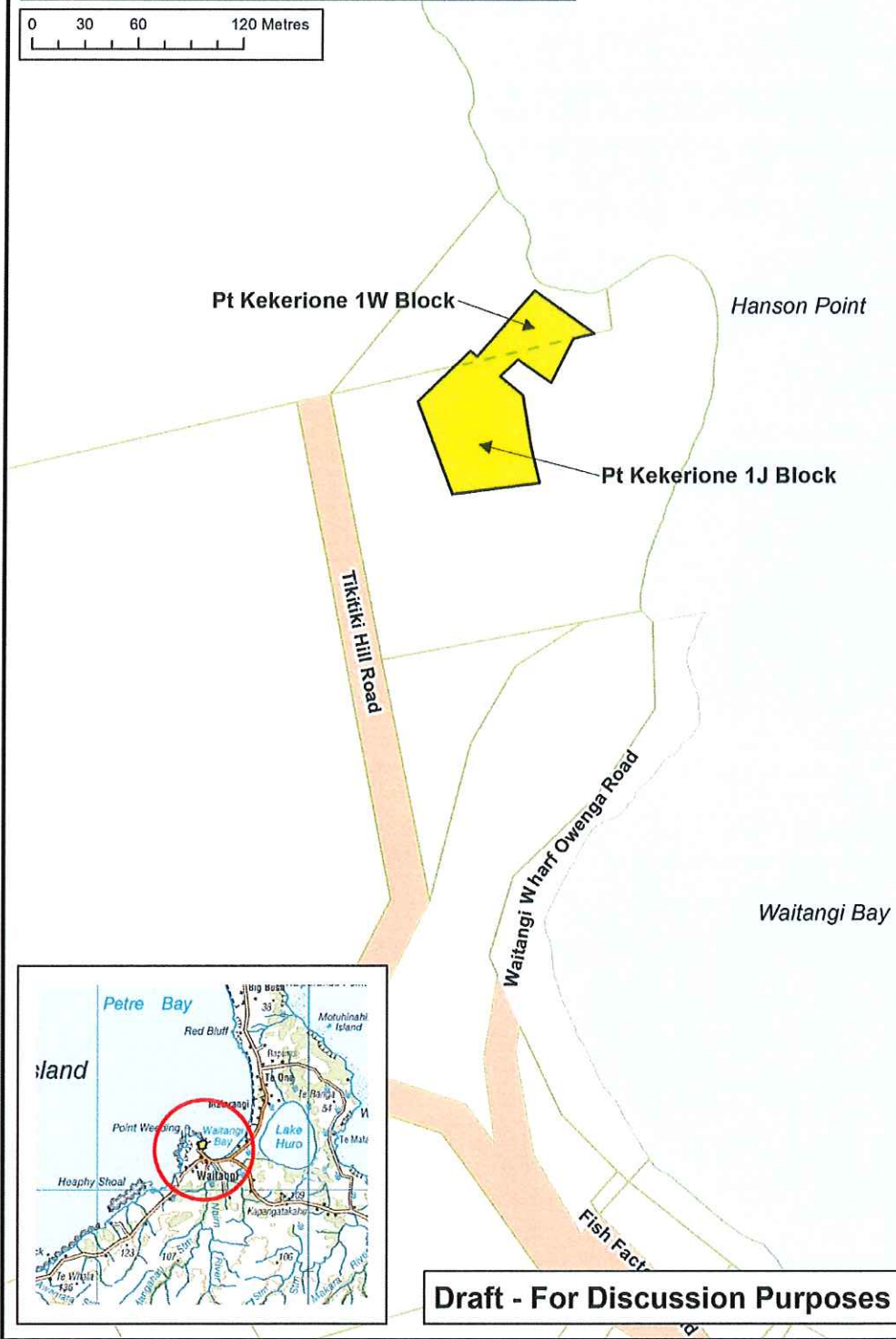
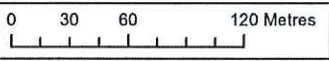
Map 17



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Tikitiki Hill Conservation Area –  
white house (land and buildings)

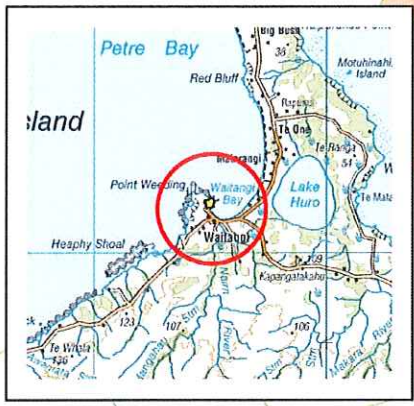
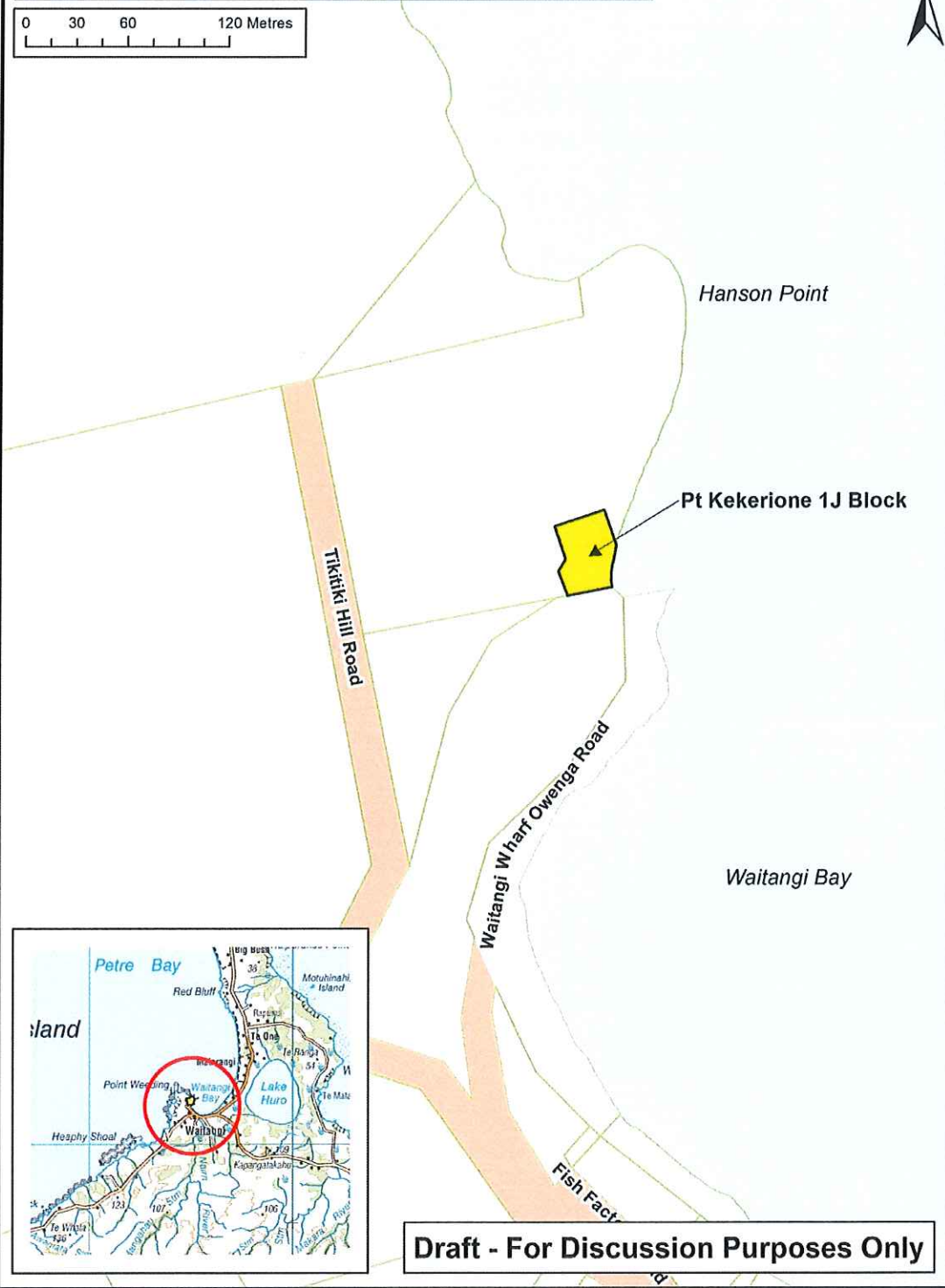
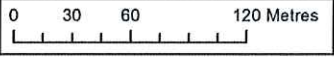
Map 18



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Tikitiki Hill Conservation Area –  
Ministry of Education house (land only)

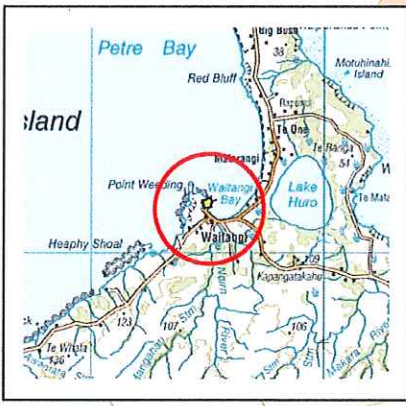
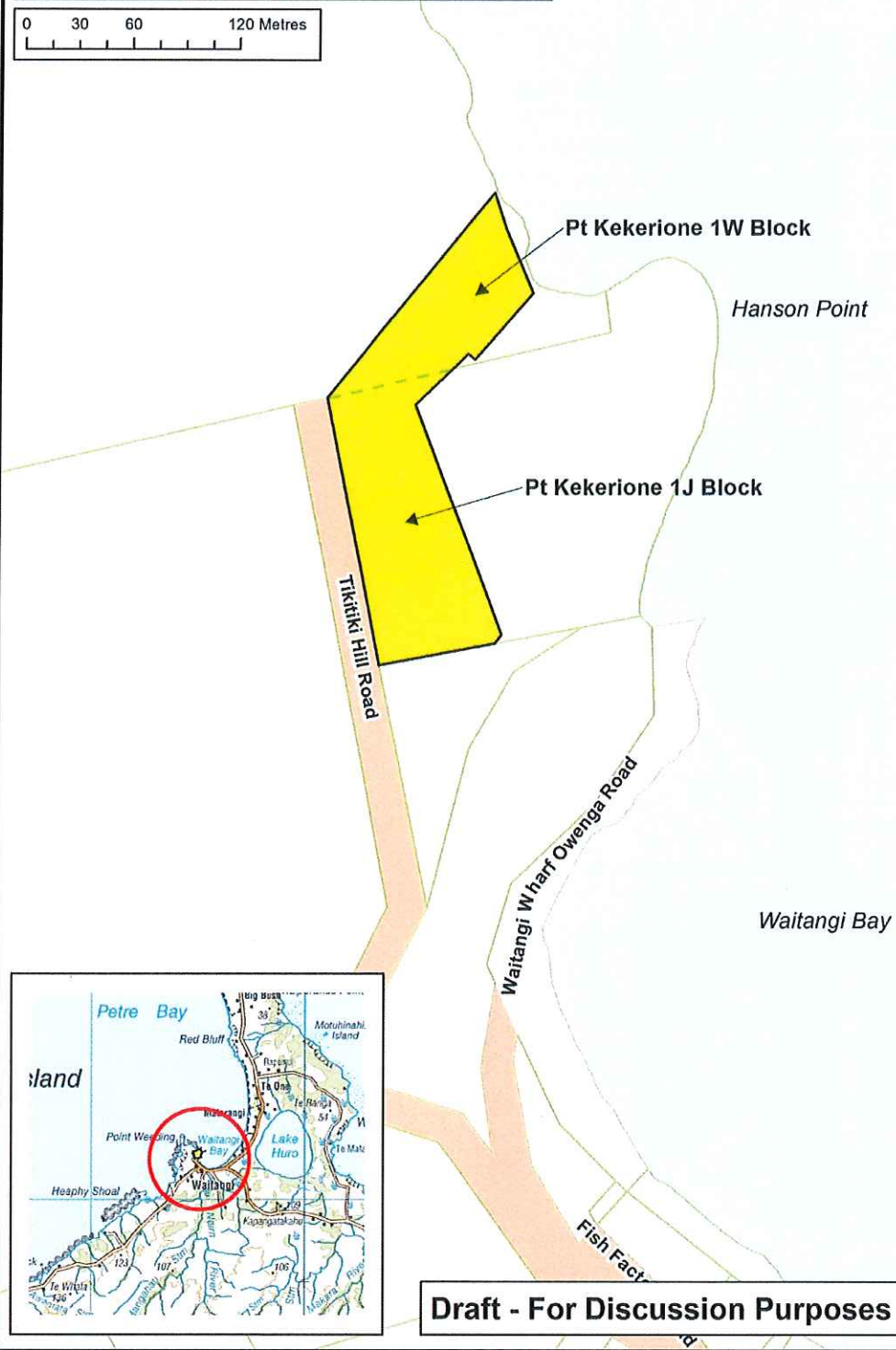
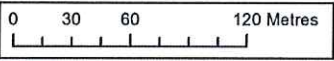
Map 19



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Tikitiki Hill Conservation Area – paddocks

Map 20

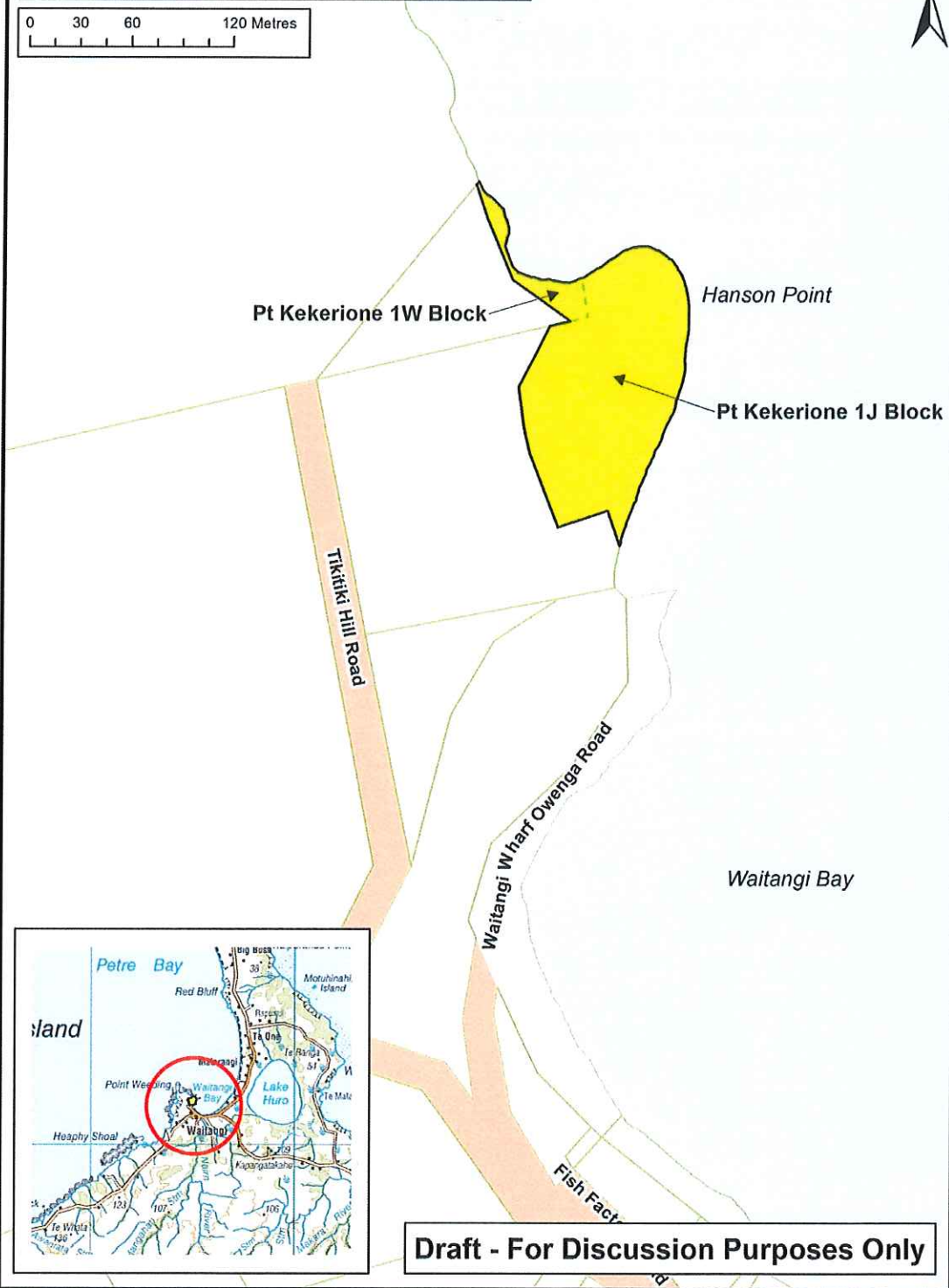
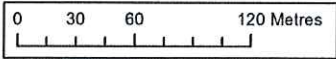


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Tikitiki Hill Conservation Area – conical hill

Map 21



Draft - For Discussion Purposes Only

## 5 CROWN AND MORIORI PROCESS FOR ADDRESSING OVERLAPPING CLAIMS

Ngāti Mutunga o Wharekauri have interests in the Moriori area of interest.

Ngāi Tahu have interests in the Auckland Islands (not part of the Moriori area of interest).

**Table 2** - Process for addressing overlapping interests within the Moriori area of interest

Process Timeframe	Activities
<b>Sign terms of negotiation</b>	<ul style="list-style-type: none"> <li>• Overlapping claims strategy agreed between the Crown and Moriori. The Crown began negotiations with Ngāti Mutunga o Wharekauri at the same time and discussed the overlapping claims process at first meetings.</li> <li>• Both imi/iwi agreed to meet early to discuss shared interests.</li> </ul>
<b>Overlapping claims discussions</b>	<ul style="list-style-type: none"> <li>• Moriori and Ngāti Mutunga o Wharekauri held hui to discuss their shared interests.</li> <li>• Crown provided details to Moriori and Ngāti Mutunga o Wharekauri of what cultural redress instruments it was prepared to offer over which sites to assist overlapping claims discussions.</li> <li>• Agreement reached between Moriori and Ngāti Mutunga o Wharekauri on an approach to Te Whanga Lagoon, resource management, customary fisheries commercial redress properties and a right of first refusal.</li> <li>• Shared redress agreed between Moriori, Ngāti Mutunga o Wharekauri and the Crown on Te Whanga Lagoon, resource management, customary fisheries commercial redress properties and a right of first refusal.</li> </ul>
<b>Crown offers to imi/iwi</b>	<ul style="list-style-type: none"> <li>• Crown made a comprehensive offer to Moriori on 27 April 2017 and Ngāti Mutunga o Wharekauri on 28 April 2017.</li> <li>• The Crown advised Ngāi Tahu the Moriori Crown offer would include the ability to erect a memorial on the Auckland Islands.</li> <li>• Crown offer letters stated that if the offer was accepted, the redress would be recorded in an agreement in principle that would remain subject to the resolution of overlapping claims.</li> <li>• The Crown encouraged both groups to continue engaging on unresolved overlapping claims and offered the services of an independent facilitator.</li> </ul>
<b>Draft agreement in principle</b>	<ul style="list-style-type: none"> <li>• The Crown advised Ngāti Mutunga o Wharekauri that Moriori had accepted their Crown offer and would be proceeding to an agreement in principle.</li> <li>• The Minister for Treaty of Waitangi Negotiations wrote to Ngāti Mutunga o Wharekauri advising them of the redress included in the Moriori agreement in principle in which they have an interest.</li> <li>• The Crown advised Ngāi Tahu of the Moriori agreement in principle signing.</li> </ul>
<b>SIGN AGREEMENT IN PRINCIPLE</b>	