

HAKO
and
NGĀI TAI KI TĀMAKI
and
NGĀTI HEI
and
NGĀTI MARU
and
NGĀTI PAOA
and
NGĀTI POROU KI HAURAKI
and
NGĀTI PŪKENGA
and
NGĀTI RĀHIRI TUMUTUMU
and
NGĀTI TAMATERĀ
and
NGĀTI TARA TOKANUI
and
NGAATI WHANAUNGA
and
TE PATUKIRIKIRI

and

THE CROWN

**PARE HAURAKI COLLECTIVE REDRESS DEED
SCHEDULE: GENERAL MATTERS**

2/21

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1 TAX

INDEMNITY

- 1.1 The provision of Crown redress, or an indemnity payment, to a recipient entity is not intended to be –
- 1.1.1 a taxable supply for GST purposes; or
 - 1.1.2 assessable income for income tax purposes.
- 1.2 The Crown must, therefore, indemnify each recipient entity for –
- 1.2.1 any GST payable by the entity in respect of the provision of Crown redress or an indemnity payment; and
 - 1.2.2 any income tax payable by the entity as a result of any Crown redress, or an indemnity payment, being treated as assessable income of the entity; and
 - 1.2.3 any reasonable cost or liability incurred by the entity in taking, at the Crown's direction, action –
 - (a) relating to an indemnity demand; or
 - (b) under paragraph 1.13 or paragraph 1.14.1(b).

LIMITS

- 1.3 The tax indemnity under this deed –
- 1.3.1 does not apply to the following (which are subject to normal tax treatment):
 - (a) any amounts paid or distributed by the Crown Forestry Rental Trust in relation to the licensed land, including rental proceeds and interest on rental proceeds;
 - (b) the transfer of licensed land and of a deferred selection property;
 - (c) the transfer of RFR land under the deed documentation;
 - (d) a recipient entity's –
 - (i) use of Crown redress or an indemnity payment; or
 - (ii) payment of costs, or any other amounts, in relation to Crown redress;

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- 1.3.2 does however apply to the transfer of each early release commercial property under clause 14.7, but only if the transfer –
- (a) occurs in the timeframe set out in clause 14.7; and
 - (b) without consideration from the transferee.

ACKNOWLEDGEMENTS

- 1.4 To avoid doubt, the parties acknowledge –
- 1.4.1 the Crown redress is provided with no other consideration being provided; and
- 1.4.2 in particular, the following are not consideration for the Crown redress:
- (a) an agreement under this deed to –
 - (i) enter into an encumbrance, or other obligation, in relation to Crown redress; or
 - (ii) pay costs (such as rates, or other outgoings, or maintenance costs) in relation to Crown redress:
 - (b) the performance of that agreement; and
- 1.4.3 nothing in this part is intended to imply that the provision of Crown redress, or an indemnity payment, is –
- (a) a taxable supply for GST purposes; or
 - (b) assessable income for income tax purposes; and
- 1.4.4 the transfer of a deferred selection property or RFR land under the deed documentation is a taxable supply for GST purposes; and
- 1.4.5 the Pare Hauraki collective entities are the only entities that this deed contemplates performing a function described in section HF 2(2)(d)(i) or section HF 2(3)(e)(i) of the Income Tax Act 2007.

CONSISTENT ACTIONS

- 1.5 None of the Pare Hauraki collective entities, a person associated with it, or the Crown will act in a manner that is inconsistent with this part 1.
- 1.6 In particular, each Pare Hauraki collective entity agrees that –
- 1.6.1 from the settlement date, it will be a registered person for GST purposes, unless it is not carrying on a taxable activity; and

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1.6.2 neither it, nor any person associated with it, will claim with respect to the provision of Crown redress, or an indemnity payment, –

- (a) an input credit for GST purposes; or
- (b) a deduction for income tax purposes.

INDEMNITY DEMANDS

1.7 A Pare Hauraki collective entity and the Crown must give notice to the other, as soon as reasonably possible after becoming aware that the Pare Hauraki collective entity may be entitled to an indemnity payment.

1.8 An indemnity demand –

1.8.1 may be made at any time after the settlement date; but

1.8.2 must not be made more than 20 working days before the due date for payment of the tax, whether that date is –

- (a) specified in an assessment; or
- (b) a date for the payment of provisional tax; or
- (c) otherwise determined; and

1.8.3 must be accompanied by –

- (a) evidence of the tax, and of any other amount sought, which is reasonably satisfactory to the Crown; and
- (b) if the demand relates to GST and the Crown requires, a GST tax invoice.

INDEMNITY PAYMENTS

1.9 If a Pare Hauraki collective entity is entitled to an indemnity payment, the Crown may make the payment to –

1.9.1 the Pare Hauraki collective entity; or

1.9.2 the Commissioner of Inland Revenue, on behalf of, and for the account of, the Pare Hauraki collective entity.

1.10 Each Pare Hauraki collective entity must pay an indemnity payment received by it to the Commissioner of Inland Revenue, by the later of –

1.10.1 the due date for payment of the tax; or

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1.10.2 the next working day after receiving the indemnity payment.

REPAYMENT

1.11 If it is determined that some or all of the tax to which an indemnity payment relates is not payable, the relevant Pare Hauraki collective entity must promptly repay to the Crown any amount that –

1.11.1 the Commissioner of Inland Revenue refunds or credits to the Pare Hauraki collective entity; or

1.11.2 the Pare Hauraki collective entity has received but has not paid, and is not required to pay, to the Commissioner of Inland Revenue.

1.12 The Pare Hauraki collective entity has no right of set-off or counterclaim in relation to an amount payable by it under paragraph 1.11.

RULINGS

1.13 Each Pare Hauraki collective entity must assist the Crown with an application to the Commissioner of Inland Revenue for a ruling, whether binding or not, in relation to the provision of Crown redress.

CONTROL OF DISPUTES

1.14 If a Pare Hauraki collective entity is entitled to an indemnity payment, the Crown may –

1.14.1 by notice to the Pare Hauraki collective entity, require it to –

(a) exercise a right to defer the payment of tax; and/or

(b) take any action specified by the Crown, and confirmed by expert legal tax advice as appropriate action in the circumstances, to respond to, and/or contest, –

(i) a tax assessment; and/or

(ii) a notice in relation to the tax, including a notice of proposed adjustment; or

1.14.2 nominate and instruct counsel on behalf of the Pare Hauraki collective entity whenever it exercises its rights under paragraph 1.14.1; and

1.14.3 recover from the Commissioner of Inland Revenue any tax paid that is refundable.

DEFINITIONS

1.15 In this part, unless the context requires otherwise, –

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provision, in relation to redress, includes its payment, credit, transfer, vesting, making available, creation, or grant; and

use, in relation to redress or an indemnity payment, includes dealing with, payment, transfer, distribution, or application.

2 NOTICE

APPLICATION

- 2.1 Unless otherwise provided in this deed, or a deed document, this part applies to a notice under this deed or a deed document.
- 2.2 In particular, this part is subject to the provisions of part 9 of the property redress schedule which provides for notice to the Crown in relation to, or in connection with, a redress property or a deferred selection property.

REQUIREMENTS

- 2.3 A notice must be –
- 2.3.1 in writing; and
 - 2.3.2 signed by the person giving it; and
 - 2.3.3 addressed to the recipient at its address or facsimile number as provided –
 - (a) in paragraph 2.6; or
 - (b) if the recipient has given notice of a new address or facsimile number or email address, in the most recent notice of a change of address or facsimile number or email address; and
 - 2.3.4 given by –
 - (a) personal delivery (including by courier) to the recipient's street address; or
 - (b) sending it by pre-paid post addressed to the recipient's postal address; or
 - (c) faxing it to the recipient's facsimile number; or
 - (d) sending it by electronic mail to the recipient's email address.

TIMING

- 2.4 A notice is to be treated as having been received:
- 2.4.1 at the time of delivery, if personally delivered; or
 - 2.4.2 on the fourth day after posting, if posted; or
 - 2.4.3 on the day of transmission, if faxed, or sent by electronic mail.

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- 2.5 However, if a notice is treated under paragraph 2.4 as having been received after 5pm on a working day, or on a non-working day, it is to be treated as having been received on the next working day.

ADDRESSES

- 2.6 The address of –

- 2.6.1 Pare Hauraki and the Pare Hauraki collective entities is –

[address]

- 2.6.2 the Crown is –

Level 3
Justice Centre
19 Aitken Street
PO Box 2858
WELLINGTON

Facsimile No. 04 473 3482

Email address: library@crownlaw.govt.nz

3 MISCELLANEOUS

AMENDMENTS

3.1 This deed may be amended only by written agreement signed by all the Pare Hauraki collective entities and the Crown.

ENTIRE AGREEMENT

3.2 This deed, and each of the deed documents, in relation to the matters in it, –

3.2.1 constitutes the entire agreement between the parties; and

3.2.2 supersedes all earlier representations, understandings, and agreements.

NO ASSIGNMENT OR WAIVER

3.3 Paragraph 3.4 applies to rights and obligations under this deed or a deed document.

3.4 Except as provided in this deed or a deed document, a party –

3.4.1 may not transfer or assign its rights or obligations; and

3.4.2 does not waive a right by–

(a) failing to exercise it; or

(b) delaying in exercising it; and

3.4.3 is not precluded by a single or partial exercise of a right from exercising –

(a) that right again; or

(b) another right.

NAMES USED IN PLACE OF GEOGRAPHIC NAMES

3.5 Each of the following is a name used in this deed for a place or feature that is not its official geographic name:

Name used in this deed	Official geographic name
Ttkapa Moana	Hauraki Gulf / Ttkapa Moana

4 DEFINED TERMS

4.1 In this deed –

administering body has the meaning given to it by section 2(1) of the Reserves Act 1977; and

assessable income has the meaning given to it by section YA 1 of the Income Tax Act 2007; and

attachments means the attachments to this deed; and

Board means, for the purposes of part 6, the Moehau Tupuna Maunga Board established under clause 6.6; and

commercial redress means the redress provided by or under –

- (a) parts 14 and 15 of the deed;
- (b) the Pare Hauraki collective redress legislation giving effect to any of those clauses; and

commercial redress property means each property described in part 4 of the property redress schedule; and

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

Commissioner of Inland Revenue includes, where applicable, the Inland Revenue Department; and

consent authority has the meaning given to it by section 2(1) of the Resource Management Act 1991; and

conservation area has the meaning given to it by section 2(1) of the Conservation Act 1987; and

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

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

Crown forest land has the meaning given to it by section 2(1) of the Crown Forest Assets Act 1989; and

Crown forestry licence –

- (a) has the meaning given to it by section 2(1) of the Crown Forest Assets Act 1989; and

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- (b) in relation to licensed land, means the licence described in relation to that land in part 5 of the property redress schedule; and

Crown Forestry Rental Trust means the trust established by the Crown forestry rental trust deed; and

Crown forestry rental trust deed means the trust deed made on 30 April 1990 establishing the Crown Forestry Rental Trust under section 34(1) of the Crown Forest Assets Act 1989; and

Crown redress –

- (a) means redress –

- (i) provided by the Crown to each recipient entity; or
- (ii) vested by the Pare Hauraki collective redress legislation in a recipient entity that was, immediately prior to the vesting, owned by or vested in the Crown; and

- (b) includes the right of the Pare Hauraki collective commercial entity under the deed documentation of first refusal in relation to RFR land and each deferred selection property; and

- (c) includes any part of the Crown redress; and

- (d) does not include –

- (i) an obligation of the Crown under the deed documentation to transfer RFR land or a deferred selection property; or
- (ii) RFR land or a deferred selection property; or
- (iii) any on-account payment made to entities other than a Pare Hauraki collective entity; and

cultural redress means the redress provided by or under –

- (a) parts 5 to 13 of the deed; or

- (b) the settlement legislation giving effect to any of those clauses; and

cultural redress property means each property described in Part 1 of Schedule 2 of the draft collective bill, being Moehau Tupuna Maunga and Te Aroha Tupuna Maunga; and

date of this deed means the date this deed is signed by the parties; and

deed means the main body of this deed, the schedules, and the attachments; and

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deed document means a document entered into to give effect to this deed; and

deed documentation means this deed and the settlement legislation; and

deed plan means a deed plan in the attachments; and

deferred selection period means the period of 5 years commencing on the settlement date; and

deferred selection property means each property described in part 6 of the property redress schedule; and

Director-General of Conservation has the same meaning as Director-General in section 2(1) of the Conservation Act 1987; and

documents schedule means the documents schedule to this deed; and

draft collective bill means the draft collective bill in part 12 of the attachments; and

early release commercial redress property means each property described as an early release commercial redress property in part 3 of the property redress schedule; and

early release commercial redress property transfer terms means the agreement for sale and purchase in relation to the early release commercial redress properties entered into by the Pare Hauraki collective commercial entity and:

- (a) the Chief Executive of LINZ, for the properties described in table 1 of part 3 of the property redress schedule; and
- (b) the Commissioner of Crown Lands, for the properties described in table 2 of part 3 of the property redress schedule; and

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

Environment Court means the court referred to in section 247 of the Resource Management Act 1991; and

Fisheries RFR deed over quota means the form of deed set out in part 4 of the documents schedule; and

general matters schedule means this schedule; and

governance entity means, in respect of each Iwi of the Iwi of Hauraki, the entity which receives the redress under the collective redress deed of historical Treaty of Waitangi claims between that Iwi and the Crown; and

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GST –

- (a) means goods and services tax chargeable under the Goods and Services Tax Act 1985; and
- (b) includes, for the purposes of part 1 of this schedule, any interest or penalty payable in respect of, or on account of, the late or non-payment of GST; and

harbours means the harbours of Tīkapa Moana – Te Tai Tamahine / Te Tai Tamawahine as identified in the maps in the attachments; and

Hauraki Athenree Forest means the licensed land described by that name in part 5 of the property redress schedule; and

Hauraki Gulf Marine Park means the park established under section 33 of the Hauraki Gulf Marine Park Act 2000; and

Hauraki Waihou Forest means the licensed land described by that name in part 5 of the property redress schedule; and

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

historical Treaty claims has the meaning given to it by section 2 of the Treaty of Waitangi Act 1975; and

Housing New Zealand RFR land means that land listed as Housing New Zealand RFR land in table 6 of part 5 of the attachments; and

income tax means income tax imposed under the Income Tax Act 2007 and includes, for the purposes of part 1 of this schedule, any interest or penalty payable in respect of, or on account of, the late or non-payment of income tax; and

indemnity demand means a demand made by a Pare Hauraki collective entity to the Crown under part 1 of this schedule for an indemnity payment; and

indemnity payment means a payment made by the Crown under part 1 of this schedule; and

Iwi of Hauraki has the meaning given to it in clause 22.2; and

King Family RFR property means the property listed in the attachments as King Family RFR property; and

land holding agency, in relation to, –

- (a) a cultural redress property, means the Department of Conservation; and

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- (b) the licensed land, a commercial redress property or a deferred selection property, means the department specified opposite that property in parts [4] to [6] of the property redress schedule; and

licensed land –

- (a) means the land described in part 5 of the property redress schedule; but
- (b) excludes –
- (i) all trees growing, standing, or lying on the land; and
 - (ii) 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

LINZ means Land Information New Zealand; and

main body of this deed means all of this deed, other than the schedules and attachments; and

Minister means a Minister of the Crown; and

month means a calendar month; and

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

New Zealand unit has the meaning given to it by section 4(1) of the Climate Change Response Act 2002; and

notice means a notice given under part 2 of this schedule, or any other applicable provisions of this deed, and **notify** has a corresponding meaning; and

party means each of the following:

- (a) the Iwi of Hauraki;
- (b) each Pare Hauraki collective entity;
- (c) the Crown; and

Pare Hauraki collective CFL land entity means the limited partnership to be named Pare Hauraki [Forests] Limited Partnership and established and registered under clauses 15.6.1 and 15.6.2; and

Pare Hauraki collective commercial entity means the limited partnership to be named Pare Hauraki [RFR] Limited Partnership and established and registered under clauses 15.6.1 and 15.6.2; and

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4: DEFINED TERMS

Pare Hauraki collective entity means each of –

- (a) the Pare Hauraki collective CFL land entity; and
- (b) the Pare Hauraki collective commercial entity; and
- (c) the Pare Hauraki collective cultural entity; and

Pare Hauraki collective cultural entity means the trustee for the time being of a trust to be called the Pare Hauraki Cultural Redress Trust, and to be established under clause 15.6.3, acting in its capacity as trustee of that trust; and

Pare Hauraki collective redress legislation means, if the bill proposed by the Crown for introduction to the House of Representatives under clause 16.1 is passed, the resulting Act; and

Pare Hauraki redress area means the area identified as the Pare Hauraki redress area in part 1 of the attachments; and

Pare Hauraki redress area map means the map identifying the Pare Hauraki negotiation area in the attachments; and

person includes an individual, a corporation sole, a body corporate, and an unincorporated body; and

property redress schedule means the property redress schedule to this deed; and

purchased deferred selection property means each deferred selection property in relation to which the Pare Hauraki collective commercial entity and the Crown are to be treated under paragraph 7.4 of the property redress schedule as having entered into an agreement for its sale and purchase; and

recipient entity means, in respect of each property to be vested or transferred under this deed or the Pare Hauraki collective redress legislation, the collective governance entity the property is to be vested in or transferred to; and

redress property means a cultural redress property or a commercial redress property; and

rental proceeds has the meaning given to it by the Crown forestry rental trust deed; and

Reserve means, for the purposes of part 6, the Moehau Tupuna Maunga Reserve created under clause 6.3; and

resource consent has the meaning given to it by section 2(1) of the Resource Management Act 1991; and

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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;
- (b) 211 of the Education Act 1989;
- (c) 38 of the New Zealand Railways Corporation Restructuring Act 1990; and

RFR area means the area shown on the plan in part 4 of the attachments; and

RFR land has the meaning given to it in section 160 of the draft collective bill; and

RFR landowner has the meaning given to it in section 159 of the draft collective bill; and

schedules means the schedules to this deed, being the general matters schedule, the property redress schedule, and the documents schedule; and

second right of refusal land means that land listed as second right of refusal land in the attachments; and

settlement date means the date that is 60 working days after the date on which the Pare Hauraki collective redress legislation comes into force; and

Statement of Pare Hauraki World View and Programme for a Culture of Natural Resource Partnership means that statement set out under clause 3; and

statutory acknowledgement has the meaning given to it by section 48 of the draft collective bill; and

tax includes income tax and GST; and

taxable activity has the meaning given to it by section 6 of the Goods and Services Tax Act 1985; and

taxable supply has the meaning given to it by section 2 of the Goods and Services Tax Act 1985; and

tax indemnity means an indemnity given by the Crown under part 1 of this schedule; and

transfer value, in relation to –

- (a) the licensed land or a commercial redress property, means the transfer value provided in parts 4 and 5 of the property redress schedule (as is appropriate) in relation to that property; and

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- (b) a deferred selection property, has the meaning given to it in part 10 of the property redress schedule; and

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

TSP settlement date means, in relation to –

- (a) the licensed land or a commercial redress property, the settlement date; and
(b) a purchased deferred selection property, the DSP settlement date (as defined in part 10 of the property redress schedule) for the property; and

vesting, in relation to a cultural redress property, means its vesting under the Pare Hauraki collective redress legislation; and

Waitangi Tribunal means the tribunal established by section 4 of the Treaty of Waitangi Act 1975; and

working day means a day that is not –

- (a) a Saturday or a 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) Auckland; and

writing means representation in a visible form and on a tangible medium (such as print on paper).

5 INTERPRETATION

- 5.1 This part applies to this deed's interpretation, unless the context requires a different interpretation.
- 5.2 Headings do not affect the interpretation.
- 5.3 A term defined by –
- 5.3.1 this deed has the meaning given to it by this deed; and
 - 5.3.2 the draft settlement bill, but not by this deed, has the meaning given to it by that bill, where used in this deed.
- 5.4 All parts of speech, and grammatical forms, of a defined term have corresponding meanings.
- 5.5 The singular includes the plural and vice versa.
- 5.6 One gender includes the other genders.
- 5.7 Any monetary amount is in New Zealand currency.
- 5.8 Time is New Zealand time.
- 5.9 Something, that must or may be done on a day that is not a working day, must or may be done on the next working day.
- 5.10 A period of time specified as –
- 5.10.1 beginning on, at, or with a specified day, act, or event includes that day or the day of the act or event; or
 - 5.10.2 beginning from or after a specified day, act, or event does not include that day or the day of the act or event; or
 - 5.10.3 ending by, on, at, with, or not later than, a specified day, act, or event includes that day or the day of the act or event; or
 - 5.10.4 ending before a specified day, act or event does not include that day or the day of the act or event; or
 - 5.10.5 continuing to or until a specified day, act, or event includes that day or the day of the act or event.
- 5.11 A reference to –

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5: INTERPRETATION

- 5.11.1 an agreement or document, including this deed or a document in the documents schedule, means that agreement or that document as amended, novated, or replaced; and
- 5.11.2 legislation, including the settlement legislation, means that legislation as amended, consolidated, or substituted; and
- 5.11.3 a party includes a permitted successor of that party; and
- 5.11.4 a particular Minister includes any Minister who, under the authority of a warrant or with the authority of the Prime Minister, is responsible for the relevant matter.
- 5.12 An agreement by two or more persons binds them jointly and severally.
- 5.13 If the Crown must endeavour to do something or achieve some result, the Crown –
- 5.13.1 must use reasonable endeavours to do that thing or achieve that result; but
- 5.13.2 is not required to propose for introduction to the House of Representatives any legislation, unless expressly required by this deed.
- 5.14 Provisions in –
- 5.14.1 the main body of this deed are referred to as clauses; and
- 5.14.2 the property redress, and general matters, schedules are referred to as paragraphs; and
- 5.14.3 the documents in the documents schedule are referred to as clauses; and
- 5.14.4 the draft collective bill are referred to as sections.
- 5.15 If there is a conflict between a provision that is –
- 5.15.1 in the main body of this deed and a provision in a schedule or an attachment, the provision in the main body of the deed prevails; and
- 5.15.2 in English and a corresponding provision in Māori, the provision in English prevails.
- 5.16 The deed plans in the attachments that are referred to in the statutory acknowledgement indicate the general locations of the relevant area but not its precise boundaries.
- 5.17 The deed plans in the attachments that show the cultural redress properties indicate the general locations of the relevant properties but are for information purposes only and do not show their precise boundaries. The legal descriptions for the cultural redress properties are shown in Part 1 of Schedule 2 of the draft collective bill.