

**AHURIRI HAPŪ**  
**and**  
**THE TRUSTEES OF THE MANA AHURIRI TRUST**  
**and**  
**THE CROWN**

---

**DEED OF SETTLEMENT SCHEDULE:**  
**PROPERTY REDRESS**

---

**TABLE OF CONTENTS**

**1 DISCLOSURE INFORMATION AND WARRANTY .....1**

**2 VESTING OF CULTURAL REDRESS PROPERTIES .....4**

**3 COMMERCIAL REDRESS PROPERTIES .....5**

**3A EARLY RELEASE COMMERCIAL PROPERTY .....8**

**4 DEFERRED SELECTION PROPERTIES .....9**

**5 DEFERRED PURCHASE .....13**

**6 TERMS OF TRANSFER FOR COMMERCIAL REDRESS AND  
PURCHASED DEFERRED SELECTION PROPERTIES.....42**

**7 NOTICE IN RELATION TO REDRESS AND DEFERRED  
SELECTION PROPERTIES, THE EARLY RELEASE COMMERCIAL  
PROPERTY, AND HAWKE’S BAY AIRPORT SHARES.....54**

**8 DEFINITIONS .....56**

## 1 DISCLOSURE INFORMATION AND WARRANTY

### DISCLOSURE INFORMATION

- 1.1 The Crown –
- 1.1.1 has provided information to Ahuriri Hapū about the redress properties and the early release commercial property (Office of Treaty Settlements to Mana Ahuriri Incorporated) between 20 March 2014 and 15 June 2015;
  - 1.1.2 must under paragraph 5.2.1 provide information to the governance entity about a deferred selection property if the governance entity has, in accordance with part 5, given the Crown notice of interest in purchasing the property; and
  - 1.1.3 must under paragraph 5.27.1 provide information to the governance entity about the Hawke's Bay Airport shares if the governance entity has, in accordance with part 5, given the Crown notice of interest in purchasing the shares.

### WARRANTY

- 1.2 In this deed, unless the context otherwise requires, –
- 1.2.1 **acquired property** means –
    - (a) each redress property; and
    - (b) each purchased deferred selection property; and
    - (c) the early release commercial property; and
  - 1.2.2 **disclosure information**, in relation to an acquired property or the Hawke's Bay Airport shares, means the information given by the Crown about the property or the shares referred to in paragraph 1.1; and
  - 1.2.3 for the purposes of this part, part 5 and part 7 of this schedule, **Crown representative**, in relation to the Hawke's Bay Airport shares, means The Treasury.
- 1.3 The Crown warrants to the governance entity that the Crown has given to Ahuriri Hapū or the governance entity in its disclosure information about an acquired property or the Hawke's Bay Airport shares, all material information that, to the best of the land holding agency's or Crown representative's knowledge, is in the agency's or Crown representative's records about the property (including its encumbrances) or the shares, at the date of providing that information, –
- 1.3.1 having inspected the agency's or Crown representative's records; but

## PROPERTY REDRESS

---

### 1: DISCLOSURE INFORMATION AND WARRANTY

1.3.2 not having made enquiries beyond the agency's or Crown representative's records; and

1.3.3 in particular, not having undertaken a physical inspection of the property.

### WARRANTY LIMITS

1.4 Other than under paragraph 1.3, the Crown does not give any representation or warranty, whether express or implied, and does not accept any responsibility, with respect to –

1.4.1 an acquired property, including in relation to –

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

(b) its compliance with –

(i) legislation, including bylaws; or

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

1.4.2 the Hawke's Bay Airport shares; or

1.4.3 the disclosure information about an acquired property or the Hawke's Bay Airport shares, including in relation to its completeness or accuracy.

1.5 The Crown has no liability under this part in relation to the state or condition of an acquired property or the Hawke's Bay Airport shares, except for any liability arising as a result of a breach of paragraph 1.3.

### INSPECTION

1.6 In paragraph 1.7, **relevant date** means, –

1.6.1 in relation to an acquired property that is –

(a) a redress property, the date of this deed; and

(b) a purchased deferred selection property, the day on which the governance entity gives an election notice electing to purchase the property; and

(c) the early release commercial property, the date of this deed; and

1.6.2 in relation to the Hawke's Bay Airport shares, the day on which the governance entity gives an election notice electing to purchase the shares.

## PROPERTY REDRESS

---

### 1: DISCLOSURE INFORMATION AND WARRANTY

- 1.7 Although the Crown is not giving any representation or warranty in relation to an acquired property, or the Hawke's Bay Airport shares, other than under paragraph 1.3, the governance entity acknowledges that it could, before the relevant date, –
- 1.7.1 in relation to an acquired property, inspect the property and determine its state and condition; and
  - 1.7.2 in relation to an acquired property or the Hawke's Bay Airport shares, consider the disclosure information in relation to the property or the shares.

### HAWKE'S BAY AIRPORT SHARES

- 1.8 To avoid doubt, the provisions in this part that relate to the Hawke's Bay Airport shares are subject to paragraph 5.27.2 to 5.27.4.

## **2 VESTING OF CULTURAL REDRESS PROPERTIES**

### **SAME MANAGEMENT REGIME AND CONDITION**

- 2.1 Until the settlement date, the Crown must –
  - 2.1.1 continue to manage and administer each cultural redress property in accordance with its existing practices for the property; and
  - 2.1.2 maintain each cultural redress property in substantially the same condition that it is in at the date of this deed.
- 2.2 Paragraph 2.1 does not –
  - 2.2.1 apply to a cultural redress property that is not managed and administered by the Crown; or
  - 2.2.2 require the Crown to restore or repair a cultural redress property damaged by an event beyond the Crown's control.

### **ACCESS**

- 2.3 The Crown is not required to enable access to a cultural redress property for the governance entity or members of Ahuriri Hapū, except under paragraph 1.7.1.

### **COMPLETION OF REQUIRED DOCUMENTATION**

- 2.4 Any documentation, required by the settlement documentation to be signed by the governance entity in relation to the vesting of a cultural redress property, must, on or before the settlement date, be –
  - 2.4.1 provided by the Crown to the governance entity; and
  - 2.4.2 duly signed and returned by the governance entity.

### **SURVEY AND REGISTRATION**

- 2.5 The Crown must arrange, and pay for, –
  - 2.5.1 the preparation, approval, and where applicable the deposit, of a cadastral survey dataset of a cultural redress property to the extent it is required to enable the issue, under the settlement legislation, of a computer freehold register for the property; and
  - 2.5.2 the registration of any document required in relation to the vesting under the settlement legislation of a cultural redress property in the governance entity.

### 3 COMMERCIAL REDRESS PROPERTIES

#### Licensed Land

Property	Description	Encumbrances	Transfer value	Specified share in licensed land entity	Land holding agency
Gwavas	<p><i>Hawke's Bay Land District-Central</i>  <i>Hawke's Bay District and Hastings District</i></p> <p>8425.9508 hectares, more or less, being Lot 1 DP 21614, Lots 1, 2, 3 and 4 DP 21615 and Lot 1 DP 21416.</p>	<p>Subject to a Crown forestry licence held in computer interest register HBP1/1401.</p> <p>Subject to a variation of Crown forestry licence registered as 6626483.2.</p> <p>Subject to a protective covenant (archaeological) created by 623332.1 .</p> <p>Subject to a protective covenant (forest research) created by 623332.1.</p> <p>Subject to protective covenants (conservation) created by 623332.1. (Areas A, B, C and D DP 21615).</p> <p>Subject to a public access easement created by 623332.2 (Area H DP 21614).</p> <p>Subject to an easement in gross for telecommunications purposes created by Transfer 5286323.1 (Areas A, B, C and D DP 26595).</p> <p>Subject to a notice pursuant to section 195(2) of the Climate Change Response Act 2002 registered as instrument 9084747.1</p>	\$2,578,849*	33.34%	Land Information New Zealand

**PROPERTY REDRESS**

**3: COMMERCIAL REDRESS PROPERTIES**

		<p>(Affects Lot 1 DP 21614, Lots 1 and 2 DP 21615 and Lot 1 DP 21416).</p> <p>Together with a right of way easement to be created over areas F and G DP 21614 (as referred to in clause 7.7.2(b))</p> <p>Subject to an unregistered water right (Areas A and B SO 9150).</p>			
Kaweka	<p><i>Hawke's Bay Land District-Hastings District</i></p> <p>7521.7550 hectares, more or less, being Lot 1 DP 21218, Lot 1 DP 21454, Lot 1 DP 21522, Lot 1 DP 21612 and Lot 1 DP 21613.</p>	<p>Subject to a Crown forestry licence held in computer interest register HBP1/1403.</p> <p>Subject to a protective covenant (archaeological) created by 623331.1</p> <p>Subject to a protective covenant (forest research) created by 623331.1</p> <p>Subject to public access easements created by 623331.2 (Area A DP 21612, Areas A, D and E DP 21522 and Area B DP 21613).</p> <p>Subject to a variation of Crown forestry licence registered as 6626483.4.</p> <p>Subject to a notice pursuant to section 195(2) of the Climate Change Response Act 2002 registered as instrument 9084747.1.</p> <p>Subject to a right of way easement created by Transfer 193405 (Area D DP 21612).</p> <p>Subject to a right of way easement in gross to be created over Area A DP 21218 (as referred to in</p>	\$2,122,091*	33.34%	Land Information New Zealand



**PROPERTY REDRESS**

**3: COMMERCIAL REDRESS PROPERTIES**

		<p>clause 7.7.2(a)).</p> <p>Subject to a right of way easement in gross to be created over Area A DP 21613 (as referred to in clause 7.7.2(a)).</p> <p>Together with a right of way easement to be created over Area B DP 21612 (as referred to in clause 7.7.2(b)).</p> <p>Together with a right of way easement to be created over Area C DP 21613 (as referred to in clause 7.7.2(b)).</p>			
			<b>Total transfer values</b>		
			\$4,700,940		

\* The transfer value is the transfer value of the share of the licensed land attributed to Ahuriri Hapū, being 33.34% of the total transfer value of the licensed land.

PROPERTY REDRESS

---

**3A EARLY RELEASE COMMERCIAL PROPERTY**

Property	Description	Encumbrances	Land holding agency
170a Waghorne Street	<i>Hawke's Bay Land District – Napier City</i>  0.0792 hectares, more or less, being Lot 1 DP 11145. All computer freehold register 700548.	Subject to definition of the middle line of the Wellington-Napier Railway contained in Proclamation 128007.  Subject to an unregistered lease to Mana Ahuriri Incorporated.	Land Information New Zealand

PROPERTY REDRESS

## 4 DEFERRED SELECTION PROPERTIES

Property	Description	Valuation process	Land holding agency	Deferred selection period
58 Severn Street (LIPS 11493)	<p><i>Hawke's Bay Land District – Napier City</i></p> <p>29.76 hectares, approximately, being Part Lot 1 DP 13036, Part Lot 1 DP 6313 and Part Lot 1 DP 13731. Part <i>Gazette</i> notice 319682.3. Subject to survey.</p> <p>0.7 hectares, approximately, being Part Ahuriri Lagoon. Part Proclamation 1093. Subject to survey.</p> <p>2.03 hectares, approximately, being Part Section 4 SO 9956 and Part Lot 1 DP 26579. Part computer freehold register HBW2/221. Subject to survey.</p>	to be separately valued	Land Information New Zealand	3 years
25 Munroe Street (LIPS 11503)	<p><i>Hawke's Bay Land District – Napier City</i></p> <p>2.7311 hectares, more or less, being Lot 1 and Part Lot 2 DP 24997. Balance computer freehold register HBV3/852.</p>	to be separately valued	Land Information New Zealand	3 years
190 Station Street (LIPS 11507)	<p><i>Hawke's Bay Land District – Napier City</i></p> <p>0.2964 hectares, more or less, being Lot 1 DP 24086. All computer freehold register HBV1/1355.</p>	to be separately valued	Land Information New Zealand	3 years
50 Mersey Street (LIPS 11467)	<p><i>Hawke's Bay Land District – Napier City</i></p> <p>5.2713 hectares, more or less, being Lot 1 DP 26621. All computer freehold register HBW2/445.</p>	to be separately valued	Land Information New Zealand	3 years

**PROPERTY REDRESS**

**4: DEFERRED SELECTION PROPERTIES**

51 Severn Street (LIPS 11492)	<i>Hawke's Bay Land District – Napier City</i>  5.3009 hectares, more or less, being Lot 1 DP 25011. All computer freehold register HBV3/883.	to be separately valued	Land Information New Zealand	3 years
65 Munroe Street (LIPS 11489)	<i>Hawke's Bay Land District – Napier City</i>  1.2800 hectares, more or less, being Lot 1 DP 23666. All computer freehold register HBV1/135.	to be separately valued	Land Information New Zealand	3 years
90 Prebensen Drive (PF 1000)	<i>Hawke's Bay Land District – Napier City</i>  3.0215 hectares, more or less, being Lot 2 DP 23085 and Lot 3 DP 23874. All computer freehold register HBV1/657.	to be separately valued	Ministry of Justice (Office of Treaty Settlements)	1 year
79 Napier Terrace (Hinepare Hostel) (PF 809)	<i>Hawke's Bay Land District – Napier City</i>  0.4 hectares, approximately, being Lots 1 and 2 and Part Lot 3 Deeds Plan 715, Lots 10 and 11 Deeds Plan 36, Lot 5 DP 4501 and Town Section 733, Napier. All Transfer 675061.2. Subject to survey.	to be separately valued	Ministry of Justice (Office of Treaty Settlements)	1 year
102 Chaucer Road (PF 833)	<i>Hawke's Bay Land District – Napier City</i>  0.08 hectares, approximately, being Part Lot 2 DP 6997. Part Transfer 674283.2. Subject to survey.	to be separately valued	Ministry of Justice (Office of Treaty Settlements)	1 year
4959 Puketitiri Road (former school) (PF 1730)	<i>Hawke's Bay Land District – Hastings District</i>  6.8341 hectares, more or less, being Section 30A Block XIV Pohue Survey District. All computer freehold register 422903.	to be separately valued	Ministry of Justice (Office of Treaty Settlements)	1 year

**PROPERTY REDRESS**

**4: DEFERRED SELECTION PROPERTIES**

88 McDonald Street (PF 1162)	<i>Hawke's Bay Land District – Napier City</i>  0.2528 hectares, more or less, being Lots 435 and 437 DP 2497 and Lot 1 DP 4759. All Transfer 696155A.2.	to be separately valued	Ministry of Justice (Office of Treaty Settlements)	1 year
15 Owen Street (PF 1250)	<i>Hawke's Bay Land District – Napier City</i>  0.1869 hectares, more or less, being Lots 628 and 629 DP 2311. All computer freehold register HBW4/1091.	to be separately valued	Ministry of Justice (Office of Treaty Settlements)	1 year
42 Wharerangi Road (PF 1142)	<i>Hawke's Bay Land District – Napier City</i>  16.65 hectares, approximately, being Parts Section 1 SO 9750, Part Lot 2 DP 14906, Part Lot 10 DP 6227, Part Lot 1 DP 6625, Suburban Sections 110 and 134 Meeanee. Balance Transfer 692889.2. Subject to survey.  0.8201 hectares, more or less, being Lot 82 DP 16907 and Lot 1 DP 394891. All computer freehold register 379493.	to be separately valued	Ministry of Justice (Office of Treaty Settlements)	1 year
2 Sixty Fifth Street, Napier (PF 781)	<i>Hawke's Bay Land District – Napier City</i>  0.0505 hectares, more or less, being Lot 1 DP 6726. Part Transfer 698772.2.	to be separately valued	Ministry of Justice (Office of Treaty Settlements)	1 year
186 Battery Road / 20 Hospital Terrace (PF 1565 and 1566)	<i>Hawke's Bay Land District – Napier City</i>  0.4975 hectares, more or less, being Lots 1 and 2 DP 361511. Part transfer 8105949.3.  0.41 hectares, approximately, being Lots 5, 6, 7 and 8 DP 48. Part transfer 8105949.3. Subject to survey.	to be separately valued	Ministry of Justice (Office of Treaty Settlements)	1 year

**PROPERTY REDRESS**

**4: DEFERRED SELECTION PROPERTIES**

2 Parade Street (PF 780)	<i>Hawke's Bay Land District – Napier City</i>  0.0536 hectares, more or less, being Lot 2 DP 6726. Part Transfer 698772.2.	to be separately valued	Ministry of Justice (Office of Treaty Settlements)	1 year
Ahuriri Station	<i>Hawke's Bay Land District – Napier City</i>  1321.1445 hectares, more or less, being Sections 1, 4 and 5 SO 10213. All computer freehold register HBP2/646.	to be separately valued	Ministry of Justice (Office of Treaty Settlements)	2 years
<b><i>Unlicensed land</i></b>				
Whakatu Forest property	<i>Hawke's Bay Land District – Hastings District</i>  970.0000 hectares, more or less, being Lot 1 DP 395482. All computer freehold register 598050.  1.6105 hectares, more or less, being Lot 1 DP 374033. All computer freehold register 298741.	to be separately valued	Ministry for Primary Industries	3 years

## 5 DEFERRED PURCHASE

### A RIGHT OF PURCHASE: DEFERRED SELECTION PROPERTIES

#### NOTICE OF INTEREST

- 5.1 The governance entity may, at any time during the deferred selection period, give the Crown a written notice of interest in purchasing a deferred selection property.

#### EFFECT OF NOTICE OF INTEREST

- 5.2 If the governance entity gives, in accordance with this part, a notice of interest in a deferred selection property –
- 5.2.1 the Crown must, not later than 10 business days after the notification date, give the governance entity all material information that, to the best of its knowledge, is in its records about the property, including its encumbrances; and
  - 5.2.2 the property's transfer value must be determined or agreed in accordance with subpart B.

#### ELECTION TO PURCHASE

- 5.3 If the governance entity gives a notice of interest in a deferred selection property in accordance with this part, it must give the Crown written notice of whether or not it elects to purchase the property, by not later than 15 business days after its transfer value being determined or agreed in accordance with this part.

#### EFFECT OF ELECTION TO PURCHASE

- 5.4 If the governance entity gives an election notice electing to purchase a deferred selection property in accordance with this part, the parties are to be treated as having entered into an agreement for the sale and purchase of the property at the transfer value determined or agreed in accordance with this part, plus GST if any, on the terms in part 6 and under which –
- 5.4.1 on the DSP settlement date –
- (a) the Crown must transfer the property to the governance entity; and
  - (b) the governance entity must pay to the Crown an amount equal to the transfer value of the property determined or agreed in accordance with this part, plus GST if any, by –
    - (i) the SCP system, as defined in Guideline 6.2 of the New Zealand Law Society's Property Law Section's Property Transactions and E-Dealing Practice Guidelines (April 2015); or
    - (ii) another payment method agreed by the parties.

## PROPERTY REDRESS

### 5: DEFERRED PURCHASE

#### **B DETERMINING THE TRANSFER VALUE OF A DEFERRED SELECTION PROPERTY**

##### **APPLICATION OF THIS SUBPART**

- 5.5 This subpart provides how the transfer value is to be determined after the governance entity has given, in accordance with this part, a notice of interest in a deferred selection property.
- 5.6 The transfer value is to be determined as at the notification date.

##### **APPOINTMENT OF VALUERS AND VALUATION ARBITRATOR**

- 5.7 The parties, in relation to a deferred selection property, not later than 10 business days after the notification date:
- 5.7.1 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
- 5.7.2 may agree and jointly appoint the person to act as the valuation arbitrator in respect of the deferred selection property.
- 5.8 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.
- 5.9 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**

- 5.10 Each valuer must be a registered valuer.
- 5.11 The valuation arbitrator –
- 5.11.1 must be suitably qualified and experienced in determining disputes about the market value of similar properties; and
  - 5.11.2 is appointed when he or she confirms his or her willingness to act.

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

- 5.12 Each party must, in relation to a deferred selection property, not later than –



## PROPERTY REDRESS

### 5: DEFERRED PURCHASE

- 5.12.1 50 business days after the notification date, provide a copy of its final valuation report to the other party; and
  - 5.12.2 60 business days after the notification date, provide its valuer's written analysis report (as referred to in Appendix 1) to the other party.
- 5.13 Valuation reports must comply with the International Valuation Standards 2013, or explain where they are at variance with those standards.

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

- 5.14 If only one valuation report for a deferred selection property is delivered by the required date, the transfer value of the property is the market value as assessed in the report.

#### NEGOTIATIONS TO AGREE A TRANSFER VALUE FOR A DEFERRED SELECTION PROPERTY

- 5.15 If both valuation reports for a deferred selection property are delivered by the required date –
- 5.15.1 the parties must endeavour to agree in writing the transfer value of the deferred selection property;
  - 5.15.2 either party may, if the transfer value of the deferred selection property is not agreed in writing within 70 business days after the notification date and if a valuation arbitrator has been appointed under paragraph 5.7.2 or paragraph 5.8, refer that matter to the determination of the valuation arbitrator; or
  - 5.15.3 if that agreement has not been reached within the 70 business day period but the valuation arbitrator has not been appointed under paragraph 5.7.2 or paragraph 5.8, the parties must attempt to agree and appoint a person to act as the valuation arbitrator within a further 5 business days; and
  - 5.15.4 if paragraph 5.15.3 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
  - 5.15.5 the valuation arbitrator, must promptly on his or her appointment, specify to the parties the arbitration commencement date.

#### VALUATION ARBITRATION

- 5.16 The valuation arbitrator must, not later than 10 business days after the arbitration commencement date, –
- 5.16.1 give notice to the parties of the arbitration meeting, which must be held –

## PROPERTY REDRESS

### 5: DEFERRED PURCHASE

- (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
- 5.16.2 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.
- 5.17 Each party must –
  - 5.17.1 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 or expert evidence that it will present at the meeting; and
  - 5.17.2 attend the arbitration meeting with its valuer.
- 5.18 The valuation arbitrator must –
  - 5.18.1 have regard to the requirements of natural justice at the arbitration meeting; and
  - 5.18.2 no later than 50 business days after the arbitration commencement date, give his or her determination –
    - (a) of the market value of the deferred selection property; and
    - (b) being no higher than the higher, and no lower than the lower, assessment of market value contained in the parties' valuation reports.
- 5.19 An arbitration under this subpart is an arbitration for the purposes of the Arbitration Act 1996.

### TRANSFER VALUE FOR ALL PROPERTIES

- 5.20 The transfer value of the deferred selection property for the purposes of paragraph 5.4.1(b) is:

## PROPERTY REDRESS

---

### 5: DEFERRED PURCHASE

- 5.20.1 determined under paragraph 5.14; or
- 5.20.2 agreed under paragraph 5.15.1; or
- 5.20.3 the market value determined by the valuation arbitrator under paragraph 5.18.2.

## PROPERTY REDRESS

### 5: DEFERRED PURCHASE

#### C GENERAL PROVISIONS FOR DEFERRED SELECTION PROPERTIES

##### TIME LIMITS

- 5.21 Time is of the essence for the time limits in paragraphs 5.1 and 5.3.
- 5.22 In relation to the time limits in subparts A to C, other than those referred to in paragraph 5.21, each party must use reasonable endeavours to ensure –
- 5.22.1 those time limits are met and delays are minimised; and
  - 5.22.2 in particular, if a valuer or a valuation arbitrator appointed under subpart B is unable to act, a replacement is appointed as soon as is reasonably practicable.

##### DETERMINATION FINAL AND BINDING

- 5.23 The valuation arbitrator's determination under subpart B is final and binding.

##### COSTS

- 5.24 In relation to the determination of the transfer value of a deferred selection property, each party must pay –
- 5.24.1 its costs; and
  - 5.24.2 half the costs of a valuation arbitration; or
  - 5.24.3 such other proportion of the costs of a valuation arbitration awarded by the valuation arbitrator as the result of a party's unreasonable conduct.

##### ENDING OF OBLIGATIONS

- 5.25 The Crown's obligations under this deed in relation to a deferred selection property immediately cease if –
- 5.25.1 the governance entity –
    - (a) does not give notice of interest in relation to the property in accordance with paragraph 5.1; or
    - (b) gives notice of interest in relation to the property in accordance with paragraph 5.1 but the governance entity –
      - (i) gives an election notice under which it elects not to purchase the property; or
      - (ii) does not give an election notice in accordance with paragraph 5.3 electing to purchase the property; or

## PROPERTY REDRESS

---

### 5: DEFERRED PURCHASE

- (c) gives the Crown written notice that it is not interested in purchasing the property at any time before an agreement for the sale and purchase of the property is constituted under paragraph 5.4; or
- 5.25.2 an agreement for the sale and purchase of the property is constituted under paragraph 5.4 and the agreement is cancelled in accordance with the terms of transfer in part 6 but, for the avoidance of doubt, paragraph 6.48 continues to apply.

## PROPERTY REDRESS

### 5: DEFERRED PURCHASE

#### D RIGHT OF PURCHASE: HAWKE'S BAY AIRPORT SHARES

##### NOTICE OF INTEREST

- 5.26 The governance entity may, at any time during the deferred selection period, give the Crown a written notice of interest in purchasing the Hawke's Bay Airport shares.

##### EFFECT OF NOTICE OF INTEREST

- 5.27 If the governance entity gives, in accordance with this part, a notice of interest in the Hawke's Bay Airport shares –

5.27.1 the Crown must, not later than 10 business days after the notification date, give the governance entity all material information that, to the best of its knowledge, is in its records about the Hawke's Bay Airport shares; and

5.27.2 the information to be given by the Crown under paragraph 5.27.1 will not include any information that the Crown is not entitled to disclose but the Crown will use reasonable endeavours to persuade Hawke's Bay Airport Limited to provide (or permit the Crown to provide) the information described in paragraph 5.27.4; and

5.27.3 the Crown will not be obliged to provide to the governance entity any information under paragraph 5.27.1 until the Crown has received from the governance entity such confidentiality undertaking as may reasonably be required by the Crown and Hawke's Bay Airport Limited to preserve the confidentiality of the information; and

5.27.4 subject to paragraphs 5.27.2 and 5.27.3, the information disclosed will include:

- (a) the financial statements of Hawke's Bay Airport Limited for its three most recent financial reporting periods; and
- (b) summaries of, or copies of, contracts to which Hawke's Bay Airport Limited is a party which are material to an assessment of the business of Hawke's Bay Airport Limited by a prospective purchaser; and
- (c) a description of the major physical assets of Hawke's Bay Airport Limited; and
- (d) a description of Hawke's Bay Airport Limited's business; and

5.27.5 the transfer value for the shares must be determined or agreed in accordance with subpart E.

##### ELECTION TO PURCHASE

- 5.28 If the governance entity gives a notice of interest in the Hawke's Bay Airport shares in accordance with this part, it must give the Crown written notice of whether or not it elects

## PROPERTY REDRESS

### 5: DEFERRED PURCHASE

to purchase the shares, by not later than 15 business days after its transfer value being determined or agreed in accordance with this part.

#### EFFECT OF ELECTION TO PURCHASE

5.29 If the governance entity gives an election notice electing to purchase the Hawke's Bay Airport shares in accordance with this part, the parties are to be treated as having entered into an agreement for the sale and purchase of the Hawke's Bay Airport shares at the transfer value determined or agreed in accordance with this part, plus GST if any, and on the DSP settlement date –

5.29.1 the Crown must transfer the Hawke's Bay Airport shares to the governance entity free from any encumbrances; and

5.29.2 the Crown must provide to the governance entity –

(a) instruments of transfer of the shares in favour of the governance entity, which have been duly executed by the persons who hold the shares on behalf of the Crown and are in registrable form together with the relevant share certificates or a certificate certifying that no share certificates have been issued; and

(b) written resignations (each with effect from the DSP settlement date) of any director of Hawke's Bay Airport Limited appointed by the Crown; and

5.29.3 the governance entity must pay to the Crown an amount equal to the transfer value of the Hawke's Bay Airport shares determined or agreed in accordance with this part, plus GST if any, by –

(a) bank cheque drawn on a registered bank and payable to the Crown; or

(b) another payment method agreed by the parties.

#### OBLIGATIONS DURING TRANSFER PERIOD

5.30 The Crown must during the transfer period –

5.30.1 prudently manage the Crown's holding of the Hawke's Bay Airport shares in accordance with the Crown's existing management practices; and

5.30.2 ensure that Hawke's Bay Airport Limited does not enter into any major transaction (as that term is defined in section 129 of the Companies Act 1993); and

5.30.3 not instigate or support any change to the constitution of Hawke's Bay Airport Limited which prejudices the governance entity's right to elect to purchase the Hawke's Bay Airport shares under this deed.

## PROPERTY REDRESS

### 5: DEFERRED PURCHASE

---

#### INTEREST

- 5.31 If for any reason (other than the default of the Crown) all or any of the amount payable by the governance entity to the Crown in relation to the Hawke's Bay Airport shares is not paid on the TSP settlement date –
- 5.31.1 the Crown is not required to give title to the Hawke's Bay Airport shares to the governance entity; and
  - 5.31.2 the governance entity must pay the Crown default interest at the rate of 12% per annum on the unpaid amount (plus GST if any) for the period from the TSP settlement date to the actual TSP settlement date.
- 5.32 Paragraph 5.31 is without prejudice to any of the Crown's other rights or remedies available to the Crown at law or in equity.

#### FURTHER ASSURANCES

- 5.33 Each party must, at the request of the other, sign and deliver any further documents or assurances, and do all acts and things that the other may reasonably require to give full force and effect to paragraphs 5.26 to 5.60.

#### NON-MERGER

- 5.34 On transfer of the Hawke's Bay Airport shares to the governance entity –
- 5.34.1 the provisions of paragraphs 5.26 to 5.60 will not merge; and
  - 5.34.2 to the extent any provision of paragraphs 5.26 to 5.60 has not been fulfilled, it will remain in force.

#### JOINT PURCHASE

- 5.35 The governance entity may, in its notice electing to purchase the Hawke's Bay Airport shares, nominate that some (but not all) of the shares will be purchased by either or both of the Napier City Council and the Hastings District Council. If so, –
- 5.35.1 the governance entity will remain responsible for the performance of all of the purchaser's obligations relating to purchase of all of the Hawke's Bay Airport shares; and
  - 5.35.2 the nomination will not apply to any of the Hawke's Bay Airport shares that are Kiwi Shares (as that term is defined in the constitution of Hawke's Bay Airport Limited); and
  - 5.35.3 subject to compliance with the constitution of Hawke's Bay Airport Limited and to the agreement of each of the Napier City Council and the Hastings District Council, the Crown will complete its obligations in relation to transfer of the relevant nominated Hawke's Bay Airport shares (other than the Kiwi



## PROPERTY REDRESS

---

### 5: DEFERRED PURCHASE

Shares described in paragraph 5.35.2) as if the nominated council or councils were the governance entity.

## PROPERTY REDRESS

### 5: DEFERRED PURCHASE

#### E DETERMINING THE TRANSFER VALUE OF THE HAWKE'S BAY AIRPORT SHARES

##### APPLICATION OF THIS SUBPART

- 5.36 This subpart provides how the transfer value of the Hawke's Bay Airport shares is to be determined after the governance entity has given, in accordance with this part, a notice of interest in the Hawke's Bay Airport shares.
- 5.37 The transfer value of the Hawke's Bay Airport shares is to be determined as at the notification date.

##### TERMS

- 5.38 In this subpart, unless the context otherwise requires, –
- 5.38.1 **aircraft and freight activities** means the activities undertaken (including the facilities and services provided) to enable, within a security area or areas of the airport, the servicing and maintenance of aircraft and the handling of freight transported, or to be transported, by aircraft; and includes –
- (a) the provision within a security area or areas of the airport, of any one or more of the following:
    - (i) hangars:
    - (ii) facilities and services for the refuelling of aircraft, flight catering, and waste disposal:
    - (iii) facilities and services for the storing of freight:
    - (iv) security, customs, and quarantine services for freight; and
  - (b) the holding of any facilities and assets (including land) acquired or held to provide aircraft and freight activities in the future (whether or not used for any other purpose in the meantime); and
- 5.38.2 **airfield activities** means the activities undertaken (including the facilities and services provided) to enable the landing and take-off of aircraft; and includes –
- (a) the provision of any one or more of the following:
    - (i) airfields, runways, taxiways, and parking aprons for aircraft:
    - (ii) facilities and services for air traffic and parking apron control:
    - (iii) airfield and associated lighting:

## PROPERTY REDRESS

### 5: DEFERRED PURCHASE

- (iv) services to maintain and repair airfields, runways, taxiways, and parking aprons for aircraft:
- (v) rescue, fire, safety, and environmental hazard control services:
- (vi) airfield supervisory and security services; and
- (b) the holding of any facilities and assets (including land) acquired or held to provide airfield activities in the future (whether or not used for any other purpose in the meantime); and

5.38.3 **specified passenger terminal activities** means the activities undertaken (including the facilities and services provided) in relation to aircraft passengers while those passengers are in a security area or areas of the airport; and includes —

- (a) the provision, within a security area or security areas of the relevant airport, of any one or more of the following:
  - (i) passenger seating areas, thoroughfares, and airbridges:
  - (ii) flight information and public address systems:
  - (iii) facilities and services for the operation of customs, immigration, and quarantine checks and control:
  - (iv) facilities for the collection of duty-free items:
  - (v) facilities and services for the operation of security and Police services; and
- (b) any activities undertaken (including the facilities and services provided) in a passenger terminal to enable the check-in of aircraft passengers, including services for baggage handling; and
- (c) the holding of any facilities and assets (including land) acquired or held to provide specified passenger terminal activities in the future (whether or not used for any other purpose in the meantime),

but does not include the provision of any space for retail activities; and

5.38.4 **undeveloped land** is land that has no manmade structures on it, or land that is held for future development.

### APPOINTMENT OF VALUERS AND VALUATION ARBITRATOR

5.39 The parties, in relation to the Hawke's Bay Airport shares, not later than 10 business days after the notification date, –

## PROPERTY REDRESS

### 5: DEFERRED PURCHASE

---

- 5.39.1 must each –
- (a) instruct a valuer using the form of instructions in Appendix 2; and
  - (b) give written notice to the other of the valuer instructed; and
- 5.39.2 may agree upon and jointly appoint one person or organisation to act as the valuation arbitrator in respect of the Hawke's Bay Airport shares.
- 5.40 If the parties do not agree and do not jointly appoint a person or organisation to act as a valuation arbitrator within 15 business days after the notification date, either party may request that the President of the Institute of Chartered Accountants of New Zealand (or his or her nominee) appoint the valuation arbitrator as soon as is reasonably practicable.
- 5.41 The parties must ensure the terms of appointment of their respective valuers require the valuers to participate in the valuation process.

#### QUALIFICATION OF VALUERS AND VALUATION ARBITRATOR

- 5.42 Each valuer must –
- 5.42.1 be a person or organisation with appropriate experience and expertise in valuing a comparable airport and commercial property businesses; and
  - 5.42.2 to the extent necessary or appropriate, engage the services as a sub-valuer of any other person or organisation that may provide specialist aspects of the valuation, including in particular the valuation of undeveloped land by an independent registered valuer.
- 5.43 Each party must agree that the other party's valuer is acceptable under paragraph 5.42, with agreement not to be unreasonably withheld. Any disputes should be resolved by the valuation arbitrator.
- 5.44 The valuation arbitrator –
- 5.44.1 must –
    - (a) be a person or organisation suitably qualified and experienced in determining disputes about the market value of a comparable airport and commercial property businesses; and
    - (b) to the extent necessary or appropriate, engage the services as a sub-valuer of any other person or organisation that may provide specialist aspects of the valuation, including in particular the valuation of undeveloped land by an independent registered valuer;
  - 5.44.2 is appointed when he or she confirms his or her willingness to act, and signs the appropriate confidentiality agreement with the Crown or the Crown

## PROPERTY REDRESS

### 5: DEFERRED PURCHASE

representative regarding access to confidential financial information regarding Hawke's Bay Airport Limited.

#### VALUATION METHODOLOGY AND ACCESS TO INFORMATION

- 5.45 The Crown or the Crown representative must arrange for the valuers, and the valuation arbitrator, access to such actual and forecast financial information regarding Hawke's Bay Airport Limited as is necessary for the valuers to carry out a valuation, provided that –
- 5.45.1 the information to which access is to be given by the Crown will not include any information that the Crown is not entitled to disclose but the Crown will use reasonable endeavours to persuade Hawke's Bay Airport Limited to provide (or permit the Crown to provide) access to the information described in paragraph 5.45.3; and
  - 5.45.2 the Crown will not be obliged to provide access to any information until the Crown has received from the valuers and the valuation arbitrator such confidentiality undertaking as may reasonably be required by the Crown and Hawke's Bay Airport Limited to preserve the confidentiality of the information; and
  - 5.45.3 subject to paragraphs 5.45.1 and 5.45.2, the information disclosed will include –
    - (a) the financial statements of Hawke's Bay Airport Limited for its three most recent financial reporting periods; and
    - (b) summaries of, or copies of, contracts to which Hawke's Bay Airport Limited is a party which are material to an assessment of the business of Hawke's Bay Airport Limited by a prospective purchaser; and
    - (c) a description of the major physical assets of Hawke's Bay Airport Limited; and
    - (d) a description of Hawke's Bay Airport Limited's business.
- 5.46 Valuation reports must use an appropriate valuation suitable to the type of business. The following methodology should be used as a default valuation methodology –
- 5.46.1 the primary valuation approach for aircraft and freight activities, airfield activities and specified passenger terminal activities reflects the asset-based valuation methodology as specified in subpart 11 of Part 4 of the Commerce Act 1986 (the **Act**) and includes relevant current Commerce Commission determinations referred to in the Act; and
  - 5.46.2 undeveloped land is included at the values assessed by independent registered valuers; and

## PROPERTY REDRESS

### 5: DEFERRED PURCHASE

- 5.46.3 other commercial properties and any other activities are valued using a discounted cash flow model based on future earnings projections discounted at an appropriate risk adjusted rate of return; and
  - 5.46.4 both parties should use their best endeavours to agree upfront the key assumptions including appropriate discount rates and the risk adjusted rates of return.
- 5.47 Alternative valuation methodologies may be used as long as they are mutually agreed by both parties.

#### **VALUATION REPORTS FOR THE HAWKE'S BAY AIRPORT SHARES**

- 5.48 Each party must not later than –
- 5.48.1 30 business days after the notification date procure its valuer to prepare a draft valuation report in accordance with the valuation instructions (including the agreed valuation methodology); and
  - 5.48.2 50 business days after the notification date provide a copy of its final valuation report to:
    - (a) the other party; and
    - (b) the other valuer; and
  - 5.48.3 60 business days after the notification date, provide its valuer's written analysis report (as referred to in Appendix 2) to the other party.

#### **EFFECT OF DELIVERY OF ONE VALUATION REPORT FOR THE HAWKE'S BAY AIRPORT SHARES**

- 5.49 If only one valuation report for the Hawke's Bay Airport shares is delivered by the required date, the transfer value of the Hawke's Bay Airport shares is the market value as assessed in the report.

#### **NEGOTIATIONS TO AGREE A TRANSFER VALUE FOR THE HAWKE'S BAY AIRPORT SHARES**

- 5.50 If both valuation reports for the Hawke's Bay Airport shares are delivered by the required date –
- 5.50.1 the parties must endeavour to agree in writing the transfer value of the Hawke's Bay Airport shares; and
  - 5.50.2 either party may, if the transfer value of the Hawke's Bay Airport shares is not agreed in writing within 70 business days after the notification date and if a valuation arbitrator has been appointed under paragraph 5.39.2 or 5.40, refer that matter to the determination of the valuation arbitrator; and

## PROPERTY REDRESS

### 5: DEFERRED PURCHASE

- 5.50.3 if that agreement has not been reached within the 70 business day period but the valuation arbitrator has not been appointed under paragraph 5.39.2 or 5.40, the parties must attempt to agree and appoint a person or organisation to act as the valuation arbitrator within a further 5 business days; and
- 5.50.4 if paragraph 5.50.3 applies, but the parties do not jointly appoint a person or organisation to act as a valuation arbitrator within the further 5 business days, either party may request that the President of the Institute of Chartered Accountants of New Zealand (or his or her nominee) appoint the valuation arbitrator as soon as is reasonably practicable; and
- 5.50.5 the valuation arbitrator, must promptly on his or her appointment, specify to the parties the arbitration commencement date.

### VALUATION ARBITRATION

- 5.51 The valuation arbitrator must, not later than 10 business days after the arbitration commencement date, –
  - 5.51.1 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
  - 5.51.2 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.
- 5.52 Each party must –
  - 5.52.1 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 expert or other evidence that it will present at the meeting; and
  - 5.52.2 attend the arbitration meeting with its valuer.

## PROPERTY REDRESS

---

### 5: DEFERRED PURCHASE

5.53 The valuation arbitrator must –

5.53.1 have regard to the requirements of natural justice at the arbitration meeting; and

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

(a) of the market value of the Hawke's Bay Airport shares; and

(b) being no higher than the higher, and no lower than the lower, assessment of market value, contained in the parties' valuation reports.

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

#### **TRANSFER VALUE FOR THE HAWKE'S BAY AIRPORT SHARES**

5.55 The transfer value of the Hawke's Bay Airport shares for the purposes of paragraph 5.29.3 is –

5.55.1 determined under paragraph 5.49; or

5.55.2 agreed under paragraph 5.50.1; or

5.55.3 the market value determined by the valuation arbitrator under paragraph 5.53.2.



## PROPERTY REDRESS

### 5: DEFERRED PURCHASE

#### F GENERAL PROVISIONS IN RELATION TO HAWKE'S BAY AIRPORT SHARES

##### TIME LIMITS

- 5.56 Time is of the essence for the time limits in paragraphs 5.26 and 5.28.
- 5.57 In relation to the time limits in subparts D to F, other than those referred to in paragraph 5.56, each party must use reasonable endeavours to ensure –
- 5.57.1 those time limits are met and delays are minimised; and
  - 5.57.2 in particular, if a valuer or a valuation arbitrator appointed under subpart E is unable to act, a replacement is appointed as soon as is reasonably practicable.

##### DETERMINATION FINAL AND BINDING

- 5.58 The valuation arbitrator's determination under subpart E is final and binding.

##### COSTS

- 5.59 In relation to the determination of the transfer value of the Hawke's Bay Airport shares, each party must pay –
- 5.59.1 its costs; and
  - 5.59.2 half the costs of a valuation arbitration; or
  - 5.59.3 such other proportion of the costs of a valuation arbitration awarded by the valuation arbitrator as the result of a party's unreasonable conduct.

##### ENDING OF OBLIGATIONS

- 5.60 The Crown's obligations under this deed in relation to the Hawke's Bay Airport shares immediately cease if –
- 5.60.1 the governance entity –
    - (a) does not give notice of interest in relation to the shares in accordance with paragraph 5.26; or
    - (b) gives notice of interest in relation to the shares in accordance with paragraph 5.26 but the governance entity –
      - (i) gives an election notice under which it elects not to purchase the shares; or
      - (ii) does not give an election notice in accordance with paragraph 5.28 electing to purchase the shares; or

## PROPERTY REDRESS

---

### 5: DEFERRED PURCHASE

- (c) gives the Crown written notice that it is not interested in purchasing the shares at any time before an agreement for the sale and purchase of the shares is constituted under paragraph 5.29; or
- 5.60.2 an agreement for the sale and purchase of the shares is constituted under paragraph 5.29 and the agreement is cancelled but, for the avoidance of doubt, the right in the deed of grant of right of first refusal in part 12 of the documents schedule continues to apply.

## PROPERTY REDRESS

### 5: DEFERRED PURCHASE

#### APPENDIX 1

**[Note: These instructions may be modified to apply to more than one deferred selection property.]**

**[Valuer's name]**

**[Address]**

#### Valuation instructions

##### INTRODUCTION

**[Name]** (the **governance entity**) has the right under a deed of settlement to purchase properties from **[name]** (the **land holding agency**).

This right is given by:

- (a) clause 7.13 of the deed of settlement; and
- (b) part 5 of the property redress schedule to the deed of settlement (**part 5**).

##### PROPERTY TO BE VALUED

The governance entity has given the land holding agency a notice of interest in purchasing –

*[describe the property including its legal description]*

##### DEED OF SETTLEMENT

A copy of the deed of settlement is enclosed.

Your attention is drawn to part 5.

All references in this letter to subparts or paragraphs are to subparts or paragraphs of part 5.

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

The property is a deferred selection property for the purposes of part 5. Subpart B of part 5 applies to the valuation of deferred selection properties.

##### ASSESSMENT OF MARKET VALUE REQUIRED

You are required to undertake a valuation to assess the market value of the property as at **[date]** (the **valuation date**), being the date the land holding agency received the notice of interest in the property from the governance entity.

The **[land holding agency][governance entity][delete one]** will require another registered valuer to assess the market value of the property as at the valuation date.

## PROPERTY REDRESS

### 5: DEFERRED PURCHASE

---

The two valuations are to enable the market value of the property 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 the governance entity may elect to purchase the property under part 5, plus GST (if any).

#### 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
  - (ii) the comparable sales to be used in determining the market value of the property; 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 (written analysis report) to assist in the determination of the market value of the property; 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
- (h) if a consensus on market value 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
- (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

## PROPERTY REDRESS

### 5: DEFERRED PURCHASE

- (k) participate in any arbitration process required under subpart B to determine the market value of the property.

#### 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
- (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 2012 and International Valuation Standards 2013; 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 attached disclosure information about the property that has been given by the land holding agency to the governance entity, including the disclosed encumbrances; and
  - (iii) the terms of transfer in part 6 of the property redress schedule to the deed of settlement (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 Ahuriri Hapū.

#### 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 2012 and International Valuation Standards 2013, including –

- (a) an executive summary, containing a summary of –
  - (i) the valuation; and
  - (ii) the key valuation parameters; and
  - (iii) 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 the disclosed encumbrances; and
- (d) details of your assessment of the highest and best use of the property; and

## PROPERTY REDRESS

### 5: DEFERRED PURCHASE

- (e) comment on the rationale of likely purchasers 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 B.

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 [*land holding agency*] [*give contact details*].]

#### 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 governance entity, the landholding agency, and the other valuer; and

**PROPERTY REDRESS**

---

**5: DEFERRED PURCHASE**

- (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 report to us.

Yours faithfully

**[Name of signatory]**

**[Position]**

**[Governance entity/Land holding agency][delete one]**

PROPERTY REDRESS

5: DEFERRED PURCHASE

APPENDIX 2

[Valuer's name]

[Address]

Valuation instructions

INTRODUCTION

[Name] (the **governance entity**) has the right under a deed of settlement to purchase from the shareholding Ministers, being the Minister of Finance and the Minister for State Owned Enterprises, (the **Crown**) the Crown shares in Hawke's Bay Airport Limited (the **Hawke's Bay Airport shares**).

This right is given by:

- (a) clause 7.18 of the deed of settlement; and
- (b) part 5 of the property redress schedule to the deed of settlement (**part 5**).

The governance entity has given the Crown representative a notice of interest in purchasing the Hawke's Bay Airport shares.

DEED OF SETTLEMENT

A copy of the deed of settlement is enclosed.

Your attention is drawn to part 5.

All references in this letter to subparts or paragraphs are to subparts or paragraphs of part 5.

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

Subpart E of part 5 applies to the valuation of the Hawke's Bay Airport shares.

ASSESSMENT OF MARKET VALUE REQUIRED

You are required to undertake a valuation to assess the market value of the Hawke's Bay Airport shares as at [date] (the **valuation date**), being the date that the Crown representative received the notice of interest in the Hawke's Bay Airport shares from the governance entity.

The [Crown representative][governance entity][**delete one**] will require another valuer to assess the market value of the Hawke's Bay Airport shares as at the valuation date.

The two valuations are to enable the market value of the Hawke's Bay Airport shares to be determined either:

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



## PROPERTY REDRESS

### 5: DEFERRED PURCHASE

---

The market value of the Hawke's Bay Airport shares so determined will be the basis of establishing the "transfer value" at which the governance entity may elect to purchase the Hawke's Bay Airport shares under part 5, plus GST (if any).

#### VALUATION OF HAWKE'S BAY AIRPORT SHARES

You must, in relation to the valuation of the Hawke's Bay Airport shares:

- (a) subject to compliance with the access requirements below, inspect the land and improvements that comprise the Hawke's Bay Airport, where practical, together with the valuer appointed by the other party; and
- (b) attempt to resolve with the other valuer the valuation method or methods applicable to the shares and the key assumptions (including appropriate discount rates and the risk adjusted rates of return) in accordance with part 5 of the deed of settlement; and
- (c) by not later than 30 business days after the valuation date, prepare, and deliver to us, a draft valuation report; and
- (d) 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
- (e) by not later than 55 business days after the valuation date, prepare and deliver to us a written analysis of both valuation reports (written analysis report) to assist in the determination of the market value of the Hawke's Bay Airport shares; and
- (f) 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
- (g) if a consensus on market value is reached, record it in writing signed by you and the other valuer and deliver it to both parties; and
- (h) participate in any meetings, including any peer review process, as required by us and the other party to agree the market value of the Hawke's Bay Airport shares; and
- (i) 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 Hawke's Bay Airport shares; and
- (j) participate in any arbitration process required under subpart E to determine the market value of the Hawke's Bay Airport shares.

#### REQUIREMENTS OF YOUR VALUATION

Our requirements for your valuation are as follows.

You are to assume that –

## PROPERTY REDRESS

### 5: DEFERRED PURCHASE

- (a) the Hawke's Bay Airport shares are a current asset and were available for immediate sale as at the valuation date; and
- (b) all legislative processes that the Crown must meet before disposing of the Hawke's Bay Airport shares have been met.

Your valuation is –

- (a) to assess market value of the Hawke's Bay Airport shares based on the valuation methodology in accordance with part 5 of the deed of settlement; and
- (b) not to take into account a claim in relation to the Hawke's Bay Airport shares by or on behalf of Ahuriri Hapū.

### REQUIREMENTS FOR YOUR VALUATION REPORT

We require a full valuation report including –

- (a) an executive summary, containing a summary of –
  - (i) the valuation; and
  - (ii) the key valuation parameters and assumptions; and
  - (iii) the key variables affecting value; and
- (b) a detailed description, and a clear statement, of the market value of the Hawke's Bay Airport shares; and
- (c) details of your assessment of the highest and best use of the Hawke's Bay Airport shares; and
- (d) comment on the rationale of likely purchasers of the Hawke's Bay Airport shares; and
- (e) a clear identification of the key variables which have a material impact on the valuation; and
- (f) full details of the valuation method or methods; and
- (g) appendices setting out –
  - (i) a statement of the valuation methodology and policies; and
  - (ii) relevant market and sales information.

You may, with our prior consent, obtain specialist 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

## PROPERTY REDRESS

### 5: DEFERRED PURCHASE

- (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.

### CONFIDENTIALITY

You will be required to sign a confidentiality agreement with the Crown representative regarding access to confidential financial information regarding Hawke's Bay Airport Limited.

### ACCESS

You should not enter on to the land and improvements that comprise the Hawke's Bay Airport without first arranging access through the Hawke's Bay Airport Limited Chief Executive. Access may be limited or refused entirely, due to statutory or regulatory requirements or the operational requirements of Hawke's Bay Airport Limited. Any access granted to you may be granted subject to you complying with statutory and regulatory requirements or the operational requirements of Hawke's Bay Airport Limited that must be imposed on such access. You must comply with all of these access requirements.

### 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 governance entity, the Crown representative, 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 report to us.

Yours faithfully

**[Name of signatory]**

**[Position]**

**[Governance entity/Crown representative][delete one]**

## **6 TERMS OF TRANSFER FOR COMMERCIAL REDRESS AND PURCHASED DEFERRED SELECTION PROPERTIES**

### **APPLICATION OF THIS PART**

- 6.1 This part applies to the transfer by the Crown to the governance entity of each of the following properties (a **transfer property**):
- 6.1.1 each commercial redress property, under clause 7.6; and
  - 6.1.2 each purchased deferred selection property, under paragraph 5.4.1.

### **TRANSFER**

- 6.2 The Crown must transfer the fee simple estate in a transfer property to the governance entity subject to, and where applicable with the benefit of, –
- 6.2.1 the disclosed encumbrances affecting or benefiting the property (as they may be varied by a non-material variation, or a material variation entered into under paragraph 6.18.4(a)); and
  - 6.2.2 any additional encumbrances affecting or benefiting the property entered into by the Crown under paragraph 6.18.4(b); and
  - 6.2.3 if the transfer property is licensed land, any encumbrances in relation to that property that the licensed land entity is required to provide to the Crown before the registration of the transfer of the licensed land under clause 7.7.2(a).
- 6.3 The Crown must pay any survey and registration costs required to transfer the fee simple estate in a transfer property to the governance entity.

### **POSSESSION**

- 6.4 Possession of a transfer property must, on the TSP settlement date for the property, –
- 6.4.1 be given by the Crown; and
  - 6.4.2 taken by the governance entity; and
  - 6.4.3 be vacant possession subject only to any encumbrances referred to in paragraph 6.2 that prevent vacant possession being given and taken.

### **SETTLEMENT**

- 6.5 Subject to paragraphs 6.6 and 6.41.4, the Crown must provide the governance entity with the following in relation to a transfer property on the TSP settlement date for that property:

## PROPERTY REDRESS

### 6: TERMS OF TRANSFER

---

- 6.5.1 evidence of –
- (a) a registrable transfer instrument; and
  - (b) any other registrable instrument required by this deed in relation to the property; and
- 6.5.2 all contracts and other documents (but not public notices such as proclamations and *Gazette* notices) that create unregistered rights or obligations affecting the registered proprietor's interest in the property after the TSP settlement date.
- 6.6 If the fee simple estate in the transfer property may be transferred to the governance entity electronically under the relevant legislation, –
- 6.6.1 paragraph 6.5.1 does not apply; and
- 6.6.2 the Crown must ensure its solicitor, –
- (a) a reasonable time before the TSP settlement date for the property, –
    - (i) creates a Landonline workspace for the transfer to the governance entity of the fee simple estate in the property and for any other registrable instruments required by the deed in relation to the property (the **electronic transfer instruments**); and
    - (ii) prepares, certifies, signs, and pre-validates in the Landonline workspace the electronic transfer instruments; and
  - (b) on the TSP settlement date, releases the electronic transfer instruments so that the governance entity's solicitor may submit them for registration under the relevant legislation; and
- 6.6.3 the governance entity must ensure its solicitor, a reasonable time before the TSP settlement date, certifies and signs the electronic transfer instruments for the property prepared in the Landonline workspace under paragraph 6.6.2(a)(ii); and
- 6.6.4 paragraphs 6.6.2 and 6.6.3 are subject to paragraph 6.41.4.
- 6.7 The **relevant legislation** for the purposes of paragraph 6.6 is –
- 6.7.1 the Land Transfer Act 1952; and
  - 6.7.2 the Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002.

## PROPERTY REDRESS

### 6: TERMS OF TRANSFER

- 6.8 The Crown must, on the actual TSP settlement date for a transfer property, provide the governance entity with any key or electronic opener to a gate or door on, and any security code to an alarm for, the property that are held by the Crown.
- 6.9 The transfer value of, or the amount payable by the governance entity for, a transfer property is not affected by –
- 6.9.1 a non-material variation, or a material variation entered into under paragraph 6.18.4(a), of a disclosed encumbrance affecting or benefiting the property; or
  - 6.9.2 an additional encumbrance affecting or benefiting the property entered into by the Crown under paragraph 6.18.4(b).

### APPORTIONMENT OF OUTGOINGS AND INCOMINGS

- 6.10 If, as at the actual TSP settlement date for a transfer property, –
- 6.10.1 the outgoings for the property pre-paid by the Crown for any period after that date exceed the incomings received by the Crown for any period after that date, the governance entity must pay the amount of the excess to the Crown; or
  - 6.10.2 the incomings for the property received by the Crown for any period after that date exceed the outgoings for the property pre-paid by the Crown for any period after that date, the Crown must pay the amount of the excess to the governance entity.
- 6.11 The outgoings for a transfer property for the purposes of paragraph 6.10 do not include insurance premiums and the governance entity is not required to take over from the Crown any contract of insurance in relation to the property.
- 6.12 The incomings for the licensed land for the purposes of paragraph 6.10 do not include licence fees under the Crown forestry licence.
- 6.13 An amount payable under paragraph 6.10 in relation to a transfer property must be paid on the actual TSP settlement date for the property.
- 6.14 The Crown must, before the actual TSP settlement date for a transfer property, provide the governance entity with a written statement calculating the amount payable by the governance entity or the Crown under paragraph 6.10.

### FIXTURES, FITTINGS, AND CHATTELS

- 6.15 The transfer of a transfer property includes all fixtures and fittings that were owned by the Crown, and located on the property, on the first date of the transfer period for that property.
- 6.16 Fixtures and fittings transferred under paragraph 6.15 must not be mortgaged or charged.

## PROPERTY REDRESS

### 6: TERMS OF TRANSFER

---

6.17 The transfer of a transfer property does not include chattels.

#### **OBLIGATIONS AND RIGHTS DURING THE TRANSFER PERIOD**

6.18 The Crown must, during the transfer period for a transfer property, –

6.18.1 ensure the property is maintained in substantially the same condition, fair wear and tear excepted, as it was in at the first day of the period; and

6.18.2 pay the charges for electricity, gas, water, and other utilities that the Crown owes as owner of the property, except where those charges are payable by a tenant or occupier to the supplier; and

6.18.3 ensure the Crown's obligations under the Building Act 2004 are complied with in respect of any works carried out on the property during the period –

(a) by the Crown; or

(b) with the Crown's written authority; and

6.18.4 obtain the prior written consent of the governance entity before –

(a) materially varying a disclosed encumbrance affecting or benefiting the property; or

(b) entering into an encumbrance affecting or benefiting the property; or

(c) procuring a consent, providing a waiver, or giving an approval, that materially affects the property, under the Resource Management Act 1991 or any other legislation; and

6.18.5 use reasonable endeavours to obtain permission for the governance entity to enter and inspect the property under paragraph 6.19.2 if the governance entity is prevented from doing so by the terms of an encumbrance referred to in paragraph 6.2.

6.19 The governance entity, during the transfer period in relation to a transfer property, –

6.19.1 must not unreasonably withhold or delay any consent sought under paragraph 6.18.4 in relation to the property; and

6.19.2 may enter and inspect the property on one occasion –

(a) after giving reasonable notice; and

(b) subject to the terms of the encumbrances referred to in paragraph 6.2; and

## PROPERTY REDRESS

### 6: TERMS OF TRANSFER

---

- 6.19.3 must comply with all reasonable conditions imposed by the Crown in relation to entering and inspecting the property.

#### PRE-TRANSFER OBLIGATIONS AND RIGHTS IN RELATION TO LICENSED LAND

- 6.20 During the transfer period for the licensed land, the Crown –
- 6.20.1 must prudently manage the licensor's rights under the Crown forestry licence in relation to the licensed land; and
- 6.20.2 in reviewing the licence fee under the Crown forestry licence, must ensure that, so far as reasonably practicable, the governance entity's interests as licensor after the settlement date are not prejudiced; and
- 6.20.3 must provide the governance entity with all material information, and must have regard to the governance entity's written submissions, in relation to the performance of the Crown's obligations under paragraphs 6.20.1 and 6.20.2; and
- 6.20.4 must, so far as is reasonably practicable, provide the information to the governance entity under paragraph 6.20.3 in sufficient time to enable it to make effective submissions on the performance of the Crown's obligations under paragraphs 6.20.1 and 6.20.2; but
- 6.20.5 is not required to provide information to the governance entity under paragraph 6.20.3 if that would result in the Crown breaching a confidentiality obligation.

#### PRE-TRANSFER OBLIGATIONS IN RELATION TO UNLICENSED LAND

- 6.21 The Crown must, during the transfer period for the unlicensed land, prudently manage the forest on the land in accordance with the Crown's existing management practices.

#### OBLIGATIONS AFTER SETTLEMENT

- 6.22 The Crown must –
- 6.22.1 give the relevant territorial authority notice of the transfer of a transfer property immediately after the actual TSP settlement date for the property; and
- 6.22.2 if it receives a written notice in relation to a transfer property from the Crown, a territorial authority, or a tenant after the actual TSP settlement date for the property, –
- (a) comply with it; or
- (b) provide it promptly to the governance entity or its solicitor; or



## PROPERTY REDRESS

### 6: TERMS OF TRANSFER

---

- 6.22.3 pay any penalty incurred by the governance entity to the person providing the written notice as a result of the Crown not complying with paragraph 6.22.2.
- 6.23 The governance entity must, from the settlement date, comply with the licensor's obligations under the Crown forestry licence in relation to the licensed land including the obligation to –
- 6.23.1 repay any overpayment of licence fees by the licensee; and
- 6.23.2 pay interest arising on or after the settlement date on that overpayment.

### RISK AND INSURANCE

- 6.24 A transfer property is at the sole risk of –
- 6.24.1 the Crown, until settlement and possession on the actual TSP settlement date for the property; and
- 6.24.2 the governance entity, from settlement and possession on the actual TSP settlement date for the property.

### DAMAGE AND DESTRUCTION

- 6.25 Paragraphs 6.26 to 6.34 apply if, before settlement and possession on the actual TSP settlement date for a transfer property, –
- 6.25.1 the property is destroyed or damaged; and
- 6.25.2 the destruction or damage has not been made good.
- 6.26 Paragraph 6.27 applies if the transfer property is –
- 6.26.1 a commercial redress property (other than licensed land); or
- 6.26.2 a deferred selection property (other than unlicensed land); and
- 6.26.3 as a result of the destruction or damage, the property is not tenable.
- 6.27 Where this paragraph applies, the governance entity may cancel its transfer by written notice to the Crown.
- 6.28 Notice under paragraph 6.27 must be given before settlement and possession on the actual TSP settlement date.
- 6.29 Paragraph 6.30 applies if the property is –
- 6.29.1 licensed land; or

## PROPERTY REDRESS

### 6: TERMS OF TRANSFER

---

- 6.29.2 unlicensed land; or
- 6.29.3 a commercial redress property (other than licensed land), or a deferred selection property (other than unlicensed land), that –
- (a) despite the destruction or damage, is tenantable; or
  - (b) as a result of the damage or destruction, is not tenantable, but its transfer is not cancelled under paragraph 6.27 before the actual TSP settlement date.
- 6.30 Where this paragraph applies –
- 6.30.1 the governance entity must complete the transfer of the property in accordance with this deed; and
- 6.30.2 the Crown must pay the governance entity –
- (a) the amount by which the value of the property has diminished, as at the actual TSP settlement date for the property, as a result of the destruction or damage; and
  - (b) an amount equal to the GST if any for which the governance entity is liable due to receipt of the amount referred to in paragraph 6.30.2(a).
- 6.31 The value of the property for the purposes of paragraph 6.30.2 is to be –
- 6.31.1 in the case of a commercial redress property, -
- (a) its transfer value as provided in part 3; or
  - (b) if the property is the early release commercial property, its transfer value as provided in clause 7.1.1; or
- 6.31.2 in the case of a deferred selection property, its transfer value as determined or agreed in accordance with part 5.
- 6.32 An amount paid by the Crown under paragraph 6.30.2 –
- 6.32.1 is redress, if it relates to the destruction or damage of a commercial redress property; and
- 6.32.2 is a partial refund of the purchase price if it relates to the destruction or damage of a deferred selection property; and
- 6.32.3 subject to paragraph 6.34, is to be paid on the TSP settlement date for the property.

## PROPERTY REDRESS

---

### 6: TERMS OF TRANSFER

- 6.33 Each party may give the other notice –
- 6.33.1 requiring a dispute arising out of paragraphs 6.27 to 6.32 be determined by an arbitrator appointed by the Arbitrators' and Mediators' Institute of New Zealand; and
  - 6.33.2 referring the dispute to the arbitrator so appointed for determination under the Arbitration Act 1996.
- 6.34 If a dispute arising out of paragraphs 6.27 to 6.32 is not determined by the TSP settlement date, the date the parties must comply with their obligations on transfer of the property is to be –
- 6.34.1 the fifth business day following the determination of the dispute; or
  - 6.34.2 if an arbitrator appointed under paragraph 6.33 so determines, another date including the original TSP settlement date.

### BOUNDARIES AND TITLE

- 6.35 The Crown is not required to point out the boundaries of a transfer property.
- 6.36 If a transfer property is subject only to the encumbrances referred to in paragraph 6.2, the governance entity –
- 6.36.1 is to be treated as having accepted the Crown's title to the property as at the actual TSP settlement date; and
  - 6.36.2 may not make any objections to, or requisitions on, it.
- 6.37 An error or omission in the description of a transfer property or its title does not annul its transfer.

### FENCING

- 6.38 The Crown is not liable to pay for, or contribute towards, the erection or maintenance of a fence between a transfer property and any contiguous land of the Crown, unless the Crown requires the fence, in which case the provisions of the Fencing Act 1978 will prevail.
- 6.39 Paragraph 6.38 does not continue for the benefit of a purchaser from the Crown of land contiguous to a transfer property.
- 6.40 The Crown may require a fencing covenant to the effect of paragraphs 6.38 and 6.39 to be registered against the title to a transfer property.

## PROPERTY REDRESS

### 6: TERMS OF TRANSFER

#### DELAYED TRANSFER OF TITLE

- 6.41 The Crown covenants for the benefit of the governance entity that it will –
- 6.41.1 arrange for the creation of one computer freehold register for licensed land that is subject to a particular Crown forestry licence if that land –
- (a) is not contained in one computer freehold register; or
  - (b) is contained in one computer freehold register but together with other land; and
- 6.41.2 arrange for the creation of a computer freehold register for the land of a transfer property for land that –
- (a) is not licensed land; and
  - (b) is not the deferred selection property that is 186 Battery Road / 20 Hospital Terrace (PF 1565 and 1566); and
  - (c) is not contained in a computer freehold register; or
  - (d) is contained in a computer freehold register or registers but together with other land; and
- 6.41.3 in relation to the deferred selection property that is 186 Battery Road / 20 Hospital Terrace (PF 1565 and 1566), arrange for the creation of two computer freehold registers for the property as follows:
- (a) one computer freehold register for that part of the property that is Lots 1 and 2 DP 361511; and
  - (b) one computer freehold register for the balance of the property; and
- 6.41.4 transfer (in accordance with paragraph 6.5 or 6.6, whichever is applicable) the fee simple estate in a transfer property to which paragraph 6.41.1, 6.41.2 or 6.41.3 applies as soon as reasonably practicable after complying with that paragraph in relation to the property but not later than five years after the actual TSP settlement date.
- 6.42 If paragraph 6.41.4 applies to a transfer property, and paragraph 6.6 is applicable, the governance entity must comply with its obligations under paragraph 6.6.3 by a date specified by written notice by the Crown.
- 6.43 The covenant given by the Crown under paragraph 6.41 has effect and is enforceable, despite:
- 6.43.1 being positive in effect; and

## PROPERTY REDRESS

### 6: TERMS OF TRANSFER

6.43.2 there being no dominant tenement.

6.44 If paragraph 6.41 applies then, for the period from the actual TSP settlement date until the date that the Crown transfers the fee simple estate in the transfer property to the governance entity –

6.44.1 the governance entity will be the beneficial owner of the property; and

6.44.2 all obligations and rights will be performed and arise as if the fee simple estate had been transferred to the governance entity on the actual TSP settlement date; and

6.44.3 the governance entity may not serve a settlement notice under paragraph 6.47.

#### INTEREST

6.45 If for any reason (other than the default of the Crown) all or any of the amount payable by the governance entity to the Crown in relation to a purchased deferred selection property is not paid on the TSP settlement date –

6.45.1 the Crown is not required to give possession of the property to the governance entity; and

6.45.2 the governance entity must pay the Crown default interest at the rate of 12% per annum on the unpaid amount (plus GST if any) for the period from the TSP settlement date to the actual TSP settlement date.

6.46 Paragraph 6.45 is without prejudice to any of the Crown's other rights or remedies available to the Crown at law or in equity.

#### SETTLEMENT NOTICE

6.47 If, without the written agreement of the parties, settlement of a purchased deferred selection property is not effected on the TSP settlement date –

6.47.1 either party may at any time after the TSP settlement date serve notice on the other (a **settlement notice**) requiring the other to effect settlement; but

6.47.2 the settlement notice is effective only if the party serving it is –

(a) ready, able, and willing to effect settlement in accordance with the settlement notice; or

(b) not ready, able, and willing to effect settlement only by reason of the default or omission of the other party; and

## PROPERTY REDRESS

### 6: TERMS OF TRANSFER

- 6.47.3 upon service of a settlement notice, the party on which it is served must effect settlement within 10 business days after the date of service (excluding the date of service); and
  - 6.47.4 time is of the essence under paragraph 6.47.3; and
  - 6.47.5 if the party in default does not comply with the terms of a settlement notice, the other party may cancel the agreement constituted by paragraph 5.4.
- 6.48 Paragraph 6.47, and the exercise of rights under it, is without prejudice to any other rights or remedies, at law, in equity, or otherwise, that the party not in default may have.

### FURTHER ASSURANCES

- 6.49 Each party must, at the request of the other, sign and deliver any further documents or assurances, and do all acts and things that the other may reasonably require to give full force and effect to this part.

### NON-MERGER

- 6.50 On transfer of a transfer property to the governance entity –
- 6.50.1 the provisions of this part will not merge; and
  - 6.50.2 to the extent any provision of this part has not been fulfilled, it will remain in force.

### GST

- 6.51 When the governance entity gives a written notice of election to purchase under part 5, it must include in that notice the following information in relation to the factual situation that will exist at the DSP settlement date and warrants the correctness of that information –
- 6.51.1 whether or not the governance entity is a registered person for GST purposes; and
  - 6.51.2 the governance entity's registration number (if any); and
  - 6.51.3 whether or not the governance entity intends to use the property for the purposes of making taxable supplies; and
  - 6.51.4 whether or not the governance entity intends to use the property as a principal place of residence of the governance entity or a person associated with the governance entity under section 2A(1)(c) of the Goods and Services Tax Act 1985.

## PROPERTY REDRESS

---

### 6: TERMS OF TRANSFER

- 6.52 If any of that information provided in the election to purchase notice alters before the DSP settlement date, the governance entity must forthwith notify the Crown and warrants the correctness of that altered information.
- 6.53 If the information provided (subject to alteration, if any) indicates that, at the DSP settlement date, each of the following statements is correct and the supply of the property is a taxable supply by the Crown, the parties agree that GST will apply to the supply at the rate of zero percent:
- 6.53.1 the governance entity is a registered person for GST purposes; and
  - 6.53.2 the governance entity intends to use the property for the purposes of making taxable supplies; and
  - 6.53.3 the governance entity does not intend to use the property as a principal place of residence of the governance entity or a person associated with the governance entity under section 2A(1)(c) of the Goods and Services Tax Act 1985.

## 7 NOTICE IN RELATION TO REDRESS AND DEFERRED SELECTION PROPERTIES, THE EARLY RELEASE COMMERCIAL PROPERTY, AND HAWKE'S BAY AIRPORT SHARES

7.1 If clause 7.3 or this schedule requires the governance entity to give notice to the Crown in relation to or in connection with a redress property, or a deferred selection property, or the early release commercial property, or the Hawke's Bay Airport shares, the governance entity must give the notice in accordance with part 4 of the general matters schedule, except the notice must be addressed to the land holding agency for the property, or to the Crown representative for the Hawke's Bay Airport shares, at its address or facsimile number provided –

7.1.1 in paragraph 7.2; or

7.1.2 if the land holding agency or the Crown representative has given notice to the governance entity of a new address or facsimile number, in the most recent notice of a change of address or facsimile number.

7.2 Until any other address or facsimile number of a land holding agency or the Crown representative is given by notice to the governance entity, the address of each land holding agency and the Crown representative is as follows for the purposes of giving notice to that agency or representative in accordance with this part.

Land holding agency	Address and facsimile number
Office of Treaty Settlements	Level 3, The Justice Centre 19 Aitken Street SX 10111 Wellington 6011  Fax: (04) 494 9801
Land Information New Zealand	Level 7, Radio New Zealand House 155 The Terrace PO Box 551 Wellington 6011  Fax: (04) 472 2244
Department of Conservation	18 Manners Street Wellington PO Box 10420 The Terrace Wellington 6011  Fax: (04) 384 7773



**PROPERTY REDRESS**

---

**7: NOTICE IN RELATION TO REDRESS AND DEFERRED SELECTION PROPERTIES, THE EARLY  
RELEASE COMMERCIAL PROPERTY, AND HAWKE'S BAY AIRPORT SHARES**

Ministry for Primary Industries - Crown Forestry	143 Lambton Quay PO Box 2526 Wellington 6011  Attention: National Manager Forest Assets
--	---

<b>Crown representative</b>	<b>Address and facsimile number</b>
The Treasury	Level 5 1 The Terrace PO Box 3724 Wellington 6011  Fax: (04) 473 0982

## 8 DEFINITIONS

8.1 In this schedule, unless the context otherwise requires, **party** means each of the governance entity and the Crown.

8.2 In this deed, unless the context otherwise requires, –

**acquired property** has the meaning given to it by paragraph 1.2.1; and

**arbitration commencement date** means –

- (a) in relation to the determination of the market value of a deferred selection property means:
  - (i) in relation to a referral under paragraph 5.15.2 the date of that referral; and
  - (ii) in relation to an appointment under paragraph 5.15.3 or 5.15.4, a date specified by the valuation arbitrator:
- (b) in relation to the determination of the market value of the Hawke's Bay Airport shares means:
  - (i) in relation to a referral under paragraph 5.50.2, the date of that referral; and
  - (ii) in relation to an appointment under paragraph 5.50.3 or 5.50.4, a date specified by the valuation arbitrator; and

**arbitration meeting** means –

- (a) in relation to the determination of the market value of a deferred selection property, means the meeting notified by the valuation arbitrator under paragraph 5.16.1; and
- (b) in relation to the determination of the market value of the Hawke's Bay Airport shares, means the meeting notified by the valuation arbitrator under paragraph 5.51.1; and

**Crown representative** has the meaning given to it by paragraph 1.2.3; and

**deferred selection property** means each property described in part 4; and

**disclosed encumbrance**, in relation to a transfer property, means an encumbrance affecting or benefiting the property that is disclosed in the disclosure information about the property; and

**disclosure information** has the meaning given to it by paragraph 1.2.2; and

**DSP settlement date**, in relation to –

- (a) a purchased deferred selection property that is not Ahuriri Station, means the date that is 20 business days after the Crown receives an election notice from the governance entity electing to purchase the property; and

## PROPERTY REDRESS

### 8: DEFINITIONS

- (b) the purchased deferred selection property that is Ahuriri Station, means the date that is 8 months after the Crown receives an election notice from the governance entity electing to purchase Ahuriri Station, or such earlier date as may be agreed by the parties; and
- (c) the Hawke's Bay Airport shares, means the date that is 20 business days after the Crown receives an election notice from the governance entity electing to purchase the shares; and

**election notice** means a written notice given by the governance entity in accordance with –

- (a) paragraph 5.3, electing whether or not to purchase a deferred selection property; or
- (b) paragraph 5.28, electing whether or not to purchase the Hawke's Bay Airport shares; and

**market value**, in relation to –

- (a) a deferred selection property, has the meaning provided in the valuation instructions in appendix 1 to part 5; and
- (b) the Hawke's Bay Airport shares, has the meaning provided in the valuation instructions in appendix 2 to part 5; and

**notice of interest** means –

- (a) in relation to a deferred selection property, a notice given by the governance entity under paragraph 5.1 in relation to the property; and
- (b) in relation to the Hawke's Bay Airport shares, a notice given by the governance entity under paragraph 5.26; and

**notification date**, in relation to a deferred selection property or the Hawke's Bay Airport shares, means the date that the Crown receives a notice of interest in the property or the shares from the governance entity; and

**registered bank** has the meaning given to it by section 2(1) of the Reserve Bank of New Zealand Act 1989; and

**registered valuer** means a person registered as a valuer with the Valuers Act 1948; and

**settlement notice** has the meaning given to it by paragraph 6.47.1; and

**terms of transfer** means the terms of transfer set out in part 6; and

**transfer property** has the meaning given to it by paragraph 6.1; and

**transfer period** means, in relation to –

- (a) a commercial redress property, the period from the date of this deed to its actual TSP settlement date; and

## PROPERTY REDRESS

---

### 8: DEFINITIONS

- (b) a deferred selection property or the Hawke's Bay Airport shares, the period from the notification date for that property or the shares to its actual TSP settlement date; and

**transfer value** means –

- (a) in relation to a deferred selection property, the amount payable by the governance entity for the transfer of the property determined or agreed in accordance with part 5; and
- (b) in relation to the Hawke's Bay Airport shares, the amount payable by the governance entity for the transfer of the shares determined or agreed in accordance with part 5; and

**TSP settlement date** means, in relation to –

- (a) a commercial redress property, the settlement date (as defined in paragraph 6.1 of the general matters schedule); and
- (b) a purchased deferred selection property or the Hawke's Bay Airport shares, the DSP settlement date for the property or the shares; and

**valuation arbitrator** means –

- (a) in relation to a deferred selection property, the person appointed under paragraph 5.7.2 or 5.8 or 5.15.3 or 5.15.4 in relation to the determination of its market value; and
- (b) in relation to the Hawke's Bay Airport shares, the person or organisation appointed under paragraph 5.39.2 or 5.40 or 5.50.3 or 5.50.4 in relation to the determination of their market value; and

**valuation date**, in relation to a deferred selection property or the Hawke's Bay Airport shares, means the notification date in relation to the property or the shares.