

TE KAWERAU Ā MAKI
and
THE TRUSTEES OF TE KAWERAU IWI SETTLEMENT TRUST
and
THE CROWN

DEED OF SETTLEMENT SCHEDULE:
DOCUMENTS

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1 TE KAWERAU Ā MAKI VALUES

TE HENGA RECREATION RESERVE (TAUMAIHI)

WHENUA RAHUI created over Te Henga Recreation Reserve (Taumaihi) (as shown on deed plan OTS-106-04)

Preamble

Pursuant to section 41(2) of the draft settlement bill (clause 5.1 of the deed of settlement), the Crown acknowledges the statement by Te Kawerau ā Maki of their cultural, spiritual, historic and traditional values relating to the Te Henga Recreation Reserve (Taumaihi) as set out below.

Te Kawerau ā Maki Statement of Values

Te Henga Recreation Reserve, known to Te Kawerau ā Maki as Taumaihi, is an area of major spiritual, cultural and historical importance to Te Kawerau ā Maki. The area's mauri or spiritual essence, and its traditional history, are of central importance to the mana and identity of Te Kawerau ā Maki.

Located at the northern end of Te Henga (Bethells Beach), the reserve extends from the iconic high point and former lookout of Taumaihi above the Waitākere River mouth, past Waitākere Bay and Awa Kauwahaia (O'Neill Bay), to Raetāhinga Point. The reserve contains iconic landmarks that feature in the traditions and waiata of Te Kawerau ā Maki, as well as former kāinga, cultivations, pā, wahi tapu, and places of historical and cultural significance. The present day public walkway through the reserve follows an old coastal walkway known in Te Kawerau ā Maki tradition as Te Ara Kanohi – 'the pathway of the eye' – so named because of its panoramic coastal views.

Taumaihi was originally part of the Waitākere Native Reserve. It was owned and occupied by Te Kawerau ā Maki until the early 1900s, and seasonal kainga and gardens were maintained behind Awa Kauwahaia (O'Neill Bay). A wide variety of kaimoana was harvested from the adjoining coastline, and tītī (muttonbirds) were harvested from Kauwahaia Island and Ōpakahā at the northern end of the reserve until the 1940s. The resources of the area were formerly protected by fortified pā located at Ihumoana Island, Kauwahaia Island, and Tangihau Point which is located within the reserve.

The reserve and its immediate coastal environs contains places of major historical significance as they are associated with the Ngāoho ancestress Erangi, and with the Te Kawerau ā Maki ancestor Taratūwhenua. The reserve contains several wahi tapu, or burial places, and a site known as Te Tokaraerae which was, and remains, an important place of ritual for Te Kawerau ā Maki. Te Kawerau ā Maki recognise the significant landscape and ecological values of the reserve and support their conservation and enhancement.

2 PROTECTION PRINCIPLES

Te Henga Recreation Reserve (Taumaihi) (as shown on deed plan OTS-106-04)

Protection Principles

Respect for and recognition of Te Kawerau ā Maki mana, tikanga and kaitiakitanga within Te Henga Recreation Reserve (Taumaihi).

Recognition of the relationship of Te Kawerau ā Maki with the many wāhi tapu and wāhi whakahirahira within Te Henga Recreation Reserve (Taumaihi) and its immediate environs.

Encourage respect for the association of Te Kawerau ā Maki with Te Henga Recreation Reserve (Taumaihi).

Accurate portrayal of the association of Te Kawerau ā Maki with Te Henga Recreation Reserve (Taumaihi).

Recognition of and respect for the presence of a Te Kawerau a Maki urupā within Te Henga Recreation Reserve (Taumaihi), and of Te Kawerau ā Maki access to it.

Recognition of Te Kawerau ā Maki kaitiakitanga in relation to the mauri and natural and historical values of Te Henga Recreation Reserve (Taumaihi).

Protection of wāhi tapu, wāhi whakahirahira, indigenous flora and fauna and the wider environment of Te Henga Recreation Reserve (Taumaihi).

3 DIRECTOR-GENERAL'S ACTIONS

Director-General actions

The Director-General has determined that the following actions will be taken by the Department of Conservation in relation to the specific principles:

1. Department of Conservation staff, volunteers, researchers, contractors, conservation board members, concessionaires and the public will be provided with information about Te Kawerau a Maki's values in relation to Taumaihi – Te Henga Recreation Reserve and the immediate environs and will be encouraged to recognise and respect Te Kawerau a Maki's association with the area including their role as Kaitiaki.
2. Te Kawerau a Maki's association with and interests in Taumaihi – Te Henga Recreation Reserve will be accurately portrayed in all new Departmental information, signs and educational material about the area.
3. Te Kawerau a Maki will be consulted regarding the provision of all new Department of Conservation public information, or educational material regarding Taumaihi – Te Henga Recreation Reserve and, where appropriate, the content will reflect their significant relationship with Taumaihi – Te Henga Recreation Reserve.
4. The Te Kawerau a Maki Governance Entity will be consulted regarding any proposed introduction or removal of indigenous species to and from Taumaihi – Te Henga Recreation Reserve.
5. The Department of Conservation will protect the ecosystems and life forms of Taumaihi – Te Henga Recreation Reserve to Te Kawerau a Maki through monitoring measures and, where necessary, take steps to protect the indigenous flora and fauna of the area.
6. The Department will seek to ensure that their management of Taumaihi – Te Henga Recreation Reserve is not detrimental to, and where possible contributes to the maintenance and enhancement of the ecological values at this site.
7. Significant earthworks and soil/vegetation disturbance (other than for ongoing track maintenance) will be avoided where possible. Where significant earthworks and disturbances of soil and vegetation cannot be avoided, the Te Kawerau a Maki Governance Entity will be consulted and particular regard will be had to their views, including those relating to Koiwi (human remains) and archaeological sites.
8. Any koiwi or other taonga found or uncovered will be left untouched and contact made as soon as possible with the Te Kawerau a Maki Governance Entity to ensure representation is present on site and appropriate tikanga is followed, noting that the treatment of the koiwi or other taonga will also be subject to any procedures required by law.

4 STATEMENTS OF ASSOCIATION

Te Kawerau ā Maki's statements of association are set out below. These are statements of Te Kawerau ā Maki's particular cultural, spiritual, historical, and traditional association with identified areas.

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TE KAWERAU Ā MAKI COASTAL STATUTORY ACKNOWLEDGEMENT AREA

Statutory Area

The area to which this Statutory Acknowledgement applies is the Te Kawerau ā Maki Coastal Acknowledgement Area, as shown on the deed plan OTS-106-14. This statutory acknowledgement should be considered alongside the Te Kawerau ā Maki statutory acknowledgements for the adjoining coastal environment and rivers of significance.

Statement of Association for the Te Kawerau ā Maki Coastal Statutory Acknowledgement Area

The coastal marine area and the coastline adjoining it are of central importance to the identity of Te Kawerau ā Maki, particularly in relation to the area adjoining the heartland of the iwi in West Auckland. Te Kawerau ā Maki hold a long and enduring ancestral and customary relationship with the coastal marine area bordering the northern shores of the Manukau Harbour, the west coast of the Waitākere Ranges and the upper Waitematā Harbour. Broader and shared ancestral interests are also held with a more extensive coastal area of interest covering Te One Rangatira (Muriwai Beach), the lower Waitematā Harbour, the coastline adjoining the North Shore – Mahurangi districts, and parts of Te Moana nui ō Toi (the Hauraki Gulf).

Ngā Tai a Rakataura – “the tidal currents of Rakataura”

Ngā Tai a Rakataura is one of the traditional names by which Te Kawerau ā Maki know the Manukau Harbour. This evocative name is associated with Rakataura, also known as Hape, who was the leading tohunga on the Tainui canoe. The name symbolises the 600 or so year relationship Te Kawerau ā Maki have held with the Manukau Harbour as descendants of Rakataura and his fellow rangatira, Poutukeka and Hoturoa. This relationship is reflected in numerous other place names applying to the harbour and its northern shores that adjoin the Te Kawerau ā Maki heartland of Hikurangi (the Waitākere Ranges). These landmarks extend from Ngā Pūranga Kupenga ā Maki, “the heaped up fishing nets of Maki”, in the east, to Motu Paratūtai (Paratūtai Island) at the harbour entrance.

Te Motu ā Hiaroa (Puketūtū Island) is the largest island within the Manukau Harbour and a place of considerable significance to Te Kawerau ā Maki. Tradition associates this sacred island with the early ancestor and voyager Toi Te Huatahi, with the arrival of the Tainui canoe, with the ancestor Maki, and with many subsequent centuries of occupation. Flowing down the harbour from Te Motu ā Hiaroa to Te Pūponga (Pūponga Point) are the two main channels of Wairopa and Pūrākau. Adjoining them are the extensive mud and sand banks known as Kārore, Te Tau and Motukaraka. This upper harbour area was traditionally an abundant foodstore, providing a wide range of fish species and shellfish, including tipa (scallops), pūpū (whelks), kūtai (mussels) and tio (oysters).

Extending along the northern shores of the harbour are numerous places of historical, cultural, spiritual, and customary economic significance to Te Kawerau ā Maki. These include Te Whau, a fortified pā that protected the Whau canoe portage to the Waitematā Harbour, and the canoe building area of Te Kōtuitanga. Adjoining the portage to the west was a kāinga (settlement) named Motukaraka, after its once prolific karaka groves which were harvested in autumn. The coastal area extending west from Motukaraka to Waikūmete (Little Muddy Creek) is known collectively as Tītīrangi, having been named by Rakataura in commemoration of a hill in the Pacific homeland. Along these shores are places of historical importance to Te Kawerau ā Maki including: Te Kai ō Poutūkeka, Ōtītore, Ōkewa, Paturoa, and Taumatārearea, (the headland overlooking the entrance of Waikūmete). The latter inlet was strategically important as it was located at the southern end of a major inland walk way that ran north-south, and also as the embarkation point for canoe travel on

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the Manukau Harbour. The importance of Waikūmete and its catchment as a canoe building area, until the 1860s, is reflected in the place names Te-Tō-o-Parahiku, “the dragging place of the semi-finished canoe hulls”, and Maramara Tōtara, “the chips of totara wood”. This locality was protected by a fortified pā known as Te Tokaroa.

Further to the west is the extensive tidal inlet known as Paruroa (Big Muddy Creek), an important place for netting pātiki (flounder), and the location of two important Te Kawerau ā Maki kāinga – Nihotupu (Armour Bay) and Ngāmoko (Lower Nihotupu Dam). Beyond Paruroa is the extensive sandy beach, and the kāinga and fortified pā, known as Karanga-ā-Hape (Cornwallis). This place has considerable significance in Te Kawerau ā Maki tradition from the time of its occupation by Rakataura to the present. Karanga-ā-Hape was treasured for the sandy shore shellfish species that were and still are gathered there, including pipi and tipa (scallops).

At the western end of Karanga-ā-Hape is the headland known as Te Pūponga (Pūponga Point). A clump of ponga trees on this landmark was traditionally used to guide canoes through the difficult channels of the harbour entrance. The locality is also an important wāhi tapu for Te Kawerau ā Maki. Beyond Te Pūponga is the extensive tidal bay Kakamātua, which was an important Te Kawerau ā Maki kāinga until after European settlement. At the eastern entrance to the bay is a locality known as Pī-kāroro, “the black-backed gull breeding colony”. This name provides an example of the many place names in the coastal environment that reflect the once much richer biodiversity that existed prior to the late nineteenth century.

Beyond Kakamātua is Rau-ō-Te Huia (Huia Bay) which is a coastal area of particular significance to Te Kawerau ā Maki as reflected by its name “the plumes of the huia bird”. This bay included four kāinga, cultivations, and wāhi tapu, and was renowned for the abundance and diversity of its natural resources. This is reflected in the names for the headlands at either end of the bay, Kaitieke and Kaitarakihi. These traditional names symbolise the resources of the forest (tieke, the saddleback bird) and of the sea (the fish tarakihi). Rau-ō-Te Huia was associated for many generations, until 1910, with the annual catching and processing of large quantities of pioke shark. The resources of the bay were protected by a fortified pā known as Te-Pā-ā-Maki, so named by the Te Kawerau ancestor Maki. Between Rau-ō-Te Huia and the Manukau Harbour entrance is a precipitous and rocky stretch of coastline overlooked by the fortified pā Ōmanawanui. This coastal area was renowned for the harvest of koura (crayfish), paua and kūtai. It is still used for this purpose, and is valued as the site of one of the region’s few permanent fur seal colonies.

Te Mānukanuka ā Hoturoa – “the anxiety of Hoturoa”

The Manukau Harbour entrance is a place of immense natural beauty and an area that personifies the power of nature. It is a place of particular spiritual, historical and cultural significance to Te Kawerau ā Maki. Te Mānukanuka- ā- Hoturoa (the Manukau Harbour entrance and sand bar) was named by the ancestor Hoturoa because of his “anxiety” in piloting the ancestral voyaging canoe Tainui through this dangerous seaway.

Adjoining the coastline at the northern entrance to the harbour are a group of islands, islets and rocks of major spiritual and historical significance. They include: the island pā of Paratūtai, Te Toka Tapu ā Kupe (Ninepin Rock), and Mārotiri (Cutter Rock). Collectively they are known as Te Kupenga ō Taramainuku, “the fishing net of Taramainuku”, named after an ancestor and a taniwha. The small bay inside Paratūtai is known as Waitīpua, or “the bay of the spiritual guardians”. In the traditions of Te Kawerau ā Maki it was the meeting place for the taniwha known as Whatipu, Taramainuku, Paikea, Ureia and Kaiwhare, who watched over the Manukau Harbour, its entrance and the coastline to the north.

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In pre-European times the appearance of the Manukau Harbour entrance and the adjoining coastal area was very different to what is seen today. In local tradition a vast sand accretion known as “Paorae” once extended well out to sea and to the south of the present harbour entrance. This expansive area of duneland and wetland contained villages, cultivations and lagoons that were a rich source of food. Over time much of this land was destroyed by storms and natural coastal erosion, with result that only the Manukau Bar and the sand accretion between Whatipu and Karekare remain.

Ngā Tai Whakatū ā Kupe – “the upraised seas of Kupe”

In the vicinity of Whatipu are a group of landmarks that commemorate a visit to this coastal area by the famous ancestor voyager Kupe-mai-Tawhiti. In order to commemorate his visit Kupe made a mark on Paratūtai Island known as Te Hoe ā Kupe, “the paddle of Kupe”. Kupe then said karakia (prayers or incantations) at Te Toka tapu ā Kupe, “the sacred rock of Kupe”, in order to safeguard himself and his people who were being pursued. Kupe’s powerful incantations raised up the seas behind his canoe as it journeyed north, thus forcing those pursuing him to seek shelter and to call off the pursuit. From that time the rough seas off the western coastline became known as Ngā Tai Whakatū ā Kupe, “the upraised seas of Kupe”. In the traditions of Te Kawerau ā Maki these seas are also known as Ngā Tai Tamatane, “the manly seas”, which contrast the calmer seas off the eastern coastline of the region, known as Ngā Tai Tamawahine, “the feminine seas”.

The coastline lying to the north of Whatipu, extending as far as Te Henga (Bethells Beach) is known collectively as Hikurangi, after the sacred mountain of that name located between Karekare and Piha. This coastal area provided a wide range of fish and seafood associated with both the sandy and rock shoreline. Of particular significance to Te Kawerau ā Maki was the fact that the Whatipu-Pārāraha coastline was the site of major whale strandings, providing a significant bounty for the iwi. Te Kawerau ā Maki dealt with this natural tragedy with appropriate ritual and distributed whale teeth to the iwi of the region. Te Kawa Rimurapa, the reef at the northern end of Karekare beach, holds natural and cultural significance as it marks the northern-most limit of the rimurapa (bull kelp), which was used by Te Kawerau ā Maki for a wide variety of purposes. The coastal cliffs, islands and islets off this coastline were also treasured as a source of birds and bird eggs in particular tītī (mutton birds), which were harvested by Te Kawerau ā Maki until the 1950s. Important kāinga were located in all of the main valleys along this coastline and the resources of the area were protected by numerous fortified pā.

Places of particular significance to Te Kawerau ā Maki in the coastal environment between Whatipu and Piha include: Taranaki, Pārāraha (a fortified pā), Ōtiriwa, Te Kawakawa, Te Toka Pāoke (Paratahi Island), Waikarekare (also known as Karekare), Te Kākā Whakāra (a fortified pā), Tāhoro / Union Bay, Te Kawa Rimurapa, and Te Āhua ō Hinerangi (Te Āhua Point). This later place is both a fortified pā and a site of immense spiritual significance. It dates back to the early period of human settlement in the area and has traditions associated with the dangerous activity of rock fishing.

Just south of Te Āhua ō Hinerangi is a large bay known as Te Unuhanga-ō-Rangitoto, “the drawing out of Rangitoto” (Mercer Bay). In the traditions of Te Kawerau ā Maki this bay was originally the site of the volcano Rangitoto, which now stands off the entrance to the Waitematā Harbour as Rangitoto Island. The mountain was removed from the western coastline by the ancestor and tohunga Tiriwa, as it blocked the view from Hikurangi to the Manukau Harbour entrance. Tiriwa then carried Rangitoto to the east and placed on the eastern coastline. This ancient coastal tradition is particularly important to Te Kawerau ā Maki as it links them to the formation of the landmarks on both coasts.

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To the north of Karekare is Piha, a place of considerable significance to Te Kawerau ā Maki. The area takes its name from Te Piha (Lion Rock), the prominent landmark and island pā standing in the middle of the bay. At the southern end of the beach is the small rocky island pā, Taitomo, so named because of the sea cave which passes through its base. It is of considerable historic and symbolic importance to Te Kawerau ā Maki as it is the only piece of land in the coastal marine area that remains in their ownership today. Taitomo Island is located in a coastal area of major spiritual significance associated with the primary guardian taniwha of the Waitākere coastline, Paikea. The bay inside Taitomo is known as Te Pua ō Te Tai, “the foam of the sea”, and the rock shelf at its southern outlet is Te Okenga ō Kaiwhare (The Gap), “the writhings of Kaiwhare”. The entire coastal environment including Waitetura (North Piha Beach) and adjoining Kohunui Bay, was well known as an in-shore fishery where large quantities of tāmure (snapper) and pākirikiri (rock cod) were caught, along with a range of rocky shore shellfish species.

The rocky coastline immediately to the north of Piha was also an area noted for fishing and the gathering of kaimoana. Landmarks of significance to Te Kawerau ā Maki include Te Wahangū (a fortified pā), Arerorua (Whites Beach), Mauāharanui, Anawhata, Pārera (a fortified pā) and Puketai. The rugged coastline between Anawhata and Te Henga includes places of historical significance such as Whakatū, associated with the ancestor Kupe-mai-Tawhiti, and Wai-ō-Paikea. This latter bay is said to be one of the homes of Paikea, the taniwha who is the primary guardian of the Waitākere coastline.

Beyond this area is the large sandy embayment known collectively as Waitākere, taking its name from a wave-swept rock in Waitākere Bay at the northern end of Te Henga (Bethells Beach). Since the mid nineteenth century this coastal area has been the heartland of Te Kawerau ā Maki, as the focal point of the Waitākere and Puketōtara Native Reserve established in 1853. Ōtāwewē at the southern end of Te Henga was noted as place for netting kanae (mullet) and a range of other fin fish. The rocky reefs at either end of the beach have long been valued as a source of kūtai (mussels), karengo (a type of seaweed), and in former times koura (crayfish). At the northern end of Te Henga (Bethells Beach) is the landmark island pā Te Ihumoana (Ihumoana Island), and beyond at Awa Kauwahaia (O’Neill Bay) stands the small island and pā known as Motu Kauwahaia. The coastline and seaway of Awa Kauwahaia are of considerable significance to Te Kawerau ā Maki as they are associated with waiata and traditions concerning to the ancestress Erangi. From these traditions come the names of the coastal landmarks, Erangi Point, Te Waharoa and Te Wahatahi.

Between Raetahinga, at the northern end of Awa Kauwahaia (O’Neill Bay), and Te Toheriri (Collins Bay) is a five kilometre stretch of rocky coastline bordered by high coastal cliffs. A coastal pathway known as Te Ara Kanohi, literally “the pathway of the eye” (expansive views), extended along the cliff-top as far as Tirikōhua Pā. Over many generations Te Kawerau ā Maki have accessed this rugged coastline from Parihoa (Constable Māori Reserve). This locality has long been renowned for the harvest of paua, kina and koura. The cliffs running south from Parihoa to Raetāhinga were also used by Te Kawerau ā Maki until the 1950s for the annual harvest of tītī (mutton birds), including a variety known as Pakahā. The resources of this area, which included karamēa (ochre), were protected by fortified pā at Te Wahatahi and Tirikōhua.

At the northern end of this rocky stretch of coastline is Maukātia (formerly Maori Bay), where for generations Te Kawerau ā Maki used local basalt to manufacture stone weapons and implements. Adze “roughouts” were manufactured using basalt eroded from pillow lava at Maukātia. Grinding and polishing stones or hōanga were then used to finish adzes in nearby rock pools. One such place is found on a large rock in the inter-tidal zone at the southern end of the bay. Maukātia was also a seasonal kāinga, and the location of important Te Kawerau ā Maki wāhi tapu. At the northern end of Maukātia, and the southern end of Te One Rangatira (Muriwai Beach), is the important headland pā Ōtakamiro, so named after the ancestor Takamiro, who is credited with the

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formation of parts of the coastal landscape extending south to Whatipu. The headland, and the Ngā-ana sea caves below it, are important wāhi tapu to Te Kawerau ā Maki.

Standing just off Ōtakamiro Point is the rock stack known as Motutara, “the island of the sea birds”. Over the last forty years this bird colony has developed into one of New Zealand’s most important tākapu (Australasian gannet) breeding colonies. Motutara was a kāinga occupied by Te Kawerau ā Maki until the 1870s. It was an important place for fishing, in particular at Te Tokaraerae (Flat Rock). Pekakuku Reef off Motutara was accessed in calm weather as a treasured source of kūtai and koura. Standing off Motutara is the island Motu-ō-Haea (Oaia Island), so named because of the highly visible guano deposits created by its teeming bird colony. Motu-ō-haea was also accessed in calm weather to gather bird eggs, birds and kekeno (fur seals) which were once plentiful along the entire coastal area to the south. The Motutara area was protected by fortified pā, including Ōtakamiro, Mātuakore and Tūkautū.

Te One Rangatira

Te Kawerau ā Maki hold an important shared ancestral relationship with Te One Rangatira, literally “the chiefly beach”, now generally known as Muriwai Beach. In Te Kawerau ā Maki tradition this 48 km long beach holds the name Te One Rangatira as it is the longest beach in the Auckland region, but more particularly as it was named by the ancestor Rakataura. After exploring the Manukau Harbour and the Waitākere coastline, Rakataura journeyed along Te One Rangatira. Several place-names adjoining the beach commemorate his visit. At a spot well north of Waimanu (Muriwai Stream), Rakataura’s eyes became irritated by wind-blown sand, hence the place name Ngā Mataparū. Rakataura and his party finally arrived at the entrance to the Kaipara Harbour. Here Rakataura conducted karakia, and erected a cairn to show that he had visited the district, and to claim mana over it. Because there was no wood or rock available among the extensive sand dunes, Rakataura ordered his people to catch sharks which were plentiful at the harbour entrance. The sharks were heaped into a cairn named Oeha. The locality became known as Rā putu mango, “the day of the heaping up of the sharks”. Inside the harbour entrance is an area of shoals and a whirlpool known as Pokopoko ō Rotu, named after the Te Kawerau ā Maki ancestress Rotu who was the wife of Maki.

The southern end of Te One Rangatira is known traditionally as Paenga Tohorā, “the stranding place of the whales”. This locality, as with the Whatipu coastline, has seen many whale strandings over the years, which provided an important bounty for generations of Te Kawerau ā Maki. A treasure that was harvested from the beach was the large bi-valve shellfish, the toheroa. Te Kawerau ā Maki oral tradition tells how vast quantities of toheroa were dried by the ancestor Te Au o Te Whenua, who occupied Te Korekore, the large headland pā overlooking the southern end of the beach. These dried toheroa were traded for delicacies from the Waitematā, such as dried pātiki (flounder) and dried tuna kiri parauri (a variety of eels). The Waimanu (Muriwai Stream) lagoon was used as a hauling out place for waka used by the occupants of Te Muriwai, a kāinga located inland of the stream.

Te One Rangatira and the adjoining coastal environment also have collective spiritual significance to Te Kawerau ā Maki. The beach and its associated landmarks are seen as being part of Te Rerenga Wairua, “the pathway of the souls of the dead,” as they journey north from Hikurangi and Pukemōmore, at Te Henga, to Te Reinga, the departing place of the spirits.

Te Wairoa-ō-Kahu – “the long tidal channel of Kahu”

Te Kawerau ā Maki have a long and enduring relationship with the coastal environment of the upper Waitematā Harbour, known traditionally as Te Wairoa ō Kahu. This sheltered seaway provided an important route between the lower harbour and the overland portages to the Kaipara

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Harbour. These portages began at Pītoitoi and Taurangatira in what is now the settlement of Riverhead. Kāinga were located on both sides of Te Wairoa ō Kahu. On the west, by way of example, were Taurangatira, Maraeroa, Ngongetepara, Te Rarawaru, Onekiritea and Tahingamanu. On the eastern side of the channel were Ōrangikanohi, Panepane Kōkōwai, Pāremoremo, Te Ōkinga ā Toroa, and Ōpaketai. In mid channel was the important seasonal kāinga of Te Pahi ō Te Poataniwha on Motu Pākihi (Herald Island).

The upper harbour area was well known for its diversity of fish resources, shellfish, eels found in its muddy estuaries like Waikōtukutuku, and as a place from which to harvest sea birds. Tahingamanu, an extensive area of tidal flats near present day Hobsonville, was particularly valued by Te Kawerau ā Maki until well into the twentieth century as a place to catch the kūaka (godwit) which flocked there in large numbers during late summer. Another coastal bird that was caught on the shores of Te Wairoa ō Kahu was the kororā (little blue penguin). It was caught during the brief period in autumn when its low oil content made the bird palatable. A favourite spot for catching the penguin was Ana Kororā, near present day Greenhithe.

Places of particular spiritual and historical importance to Te Kawerau ā Maki in this coastal environment are the fortified pā, Panepane Kōkōwai and Tauhinu. Another landmark of significance is Te Ure tū ā Hape, a rock standing off the entrance to the Ōruāmō Creek. It is a treasured reminder of the ancestor Rakataura (Hape) and his association with Te Wairoa ō Kahu and the surrounding area. This area of the harbour is especially significant as one of the homes of Mōkai ō Kahu, the guardian taniwha associated with the mid and upper Waitematā Harbour. His lair at the mouth of the Ōruāmō Creek is known in the traditions of Te Kawerau ā Maki as Ō-rua-ā-Mōkai-ō-Kahu.

Wai-te-matā-ō-Kahu

Te Kawerau ā Maki have an important shared ancestral and customary relationship with Wai-te-matā-ō-Kahu (the Waitematā Harbour). This relationship applies in particular to the western shores of the harbour from Wai o Pareira (Henderson Creek) to Te Auanga (Oakley Creek), and the eastern and northern shores of the harbour. The Waitematā Harbour takes its name from a mauri stone, “Te Mata,” placed on the rock of that name (Boat Rock) by the Te Arawa ancestor Kahumatamomoe. As descendants of the crew of the Arawa canoe, Te Kawerau ā Maki in time became guardians of this mauri, and retain the karakia associated with it to this day.

Places of particular significance to Te Kawerau ā Maki on the western side of the harbour include: Wai o Pareira, Kopupāka, Mānutewhau in the West Harbour-Massey area, Ōrukuwai and Ōrangihina on the Te Atatū Peninsula, Te Awa Whau (the Whau River) and Rangi Matariki, Motu Manawa, Te Kou and Te Auanga (Motumānawa / Pollen Island Marine Reserve). These kāinga were all associated with the seasonal harvest of the rich marine resources of the area. A place of considerable traditional importance to Te Kawerau ā Maki is Te Ara Whakapekapeka ā Ruarangi, “the diversion of Ruarangi” (Meola Reef). This reef was once a valued source of kūtai (mussels) before water quality issues began to arise in the harbour as a result of rapid urban growth in the catchment in the 1960s.

The historical focal point of Te Kawerau ā Maki associations with the lower Waitematā Harbour is Te Matarae ō Mana (Kauri Point). This fortified pā, named after the Te Kawerau ancestor Manaoterangi, and the adjacent kāinga of Rongohau (Kendall Bay), were occupied by Te Kawerau ā Maki, with others, until the early 1840s. Te Matarae ō Mana was strategically important as it controlled access to the upper harbour and overlooked a renowned tauranga mango (shark fishery). Other places of historical and cultural significance on this coastline include: Kaiwhānake,

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Te Wā iti ō Toroa, and Onetaunga. Through descent from both Tawhiakiterangi and his wife Marukiterangi, Te Kawerau ā Maki have ancestral and customary interests in the Oneoneroa (Shoal Bay) area, with the kāinga of Awataha having been occupied by members of the tribe, with others until around 1920. The many coastal places of significance in this area include Te Onewa (Northcote Point), a fortified pā, Te Kōpua ō Matakerepo (Onepoto Basin), Te Kōpua ō Matakamokamo (Tuff Crater), Wakatatare, Waitītiko and Ngau te ringaringa (Ngataringa Bay).

Te Whenua roa ō Kahu – “the extensive landholding of Kahu”

Te Kawerau ā Maki have an important shared ancestral and customary relationship with Te Whenua roa ō Kahu (the North Shore) extending from Maunga ā Uika (North Head) to the Whāngaparāoa Peninsula, and including the adjoining seaways of Te Awanui ō Peretu (Rangitoto Channel) and Moana Te Rapu. This relationship also applies to the adjoining offshore islands extending from Rangitoto to Tiritiri Mātangi. The Devonport area is of historical importance to Te Kawerau ā Maki as the place at which the Tainui canoe first made landfall in the Waitemātā Harbour, at Te Haukapua (Torpedo Bay). Several places on the eastern coastline of the North Shore are of particular importance to Te Kawerau ā Maki as they are directly associated with the ancestor Maki, his warrior sons, and their descendant the ancestress Kahu. These places include: Takapuna, Te Oneroa ō Kahu (Long Bay), Whakarewatoto (a battle site at Long Bay), Ōkura, Ōtaimaro, Te Ringa Kaha ā Manu and Karepiro (a battle site at Karepiro Bay, Weiti). The latter three sites are of significance as they are associated with the Te Kawerau ā Maki ancestor Taimaro (Manu).

The coastal environment of the Whāngaparāoa Peninsula contains a number of sites of historical and cultural significance to Te Kawerau ā Maki. They include: Rarohara (a fortified pā), Matakātia, Kotanui, Ōkoromai and Te Hāruhi (Shakespear Bay). Standing off the eastern end of the peninsula is the island of Tiritiri Mātangi, where Te Kawerau ā Maki have enduring associations including at the fortified pā Te Kawerau Pā (also known as Tiritiri Mātangi Pā). The seaways to the south and north of the Whāngaparāoa Peninsula are known respectively as Moana Te Rapu and Whānga-paraoa, because of their traditional association with the annual whale migration that took place through Te Moana nui ō Toi (the Hauraki Gulf).

Mahurangi

The wider coastal environment lying between Ōrewa and the Mahurangi River is known traditionally as Mahurangi. It takes its name from the small island pā located off the mouth of Awa Waiwerawera (the Waiwera River). Te Kawerau ā Maki have a shared ancestral and customary interest in this locality, which was named by the ancestor Rakataura, and which was occupied by Maki and his descendants. The customary relationship held by Te Kawerau ā Maki with the adjoining land block of Maungatauhoro was recognised by Te Kawerau rangatira and the Native Land Court when title to the Mahurangi reserve was investigated in 1866. The enduring Te Kawerau ā Maki relationship with this area, and its hot springs, was reflected by the fact that the late nineteenth and early twentieth century tribal leader, Te Utika Te Aroha, named one of his daughters Waiwera. This name has continued to be passed down within the iwi to commemorate the ancestral and customary association with Mahurangi.

Through descent from Maki and all four of his sons, Te Kawerau ā Maki have shared ancestral interests in the coastline extending to the north of Mahurangi. Places with which Te Kawerau ā Maki hold a special ancestral association include: Te Korotangi (a fortified pā at the mouth of Waihē, the Mahurangi River), Ōpāheke ō Rotu (Ōpāheke Point), Pukeruhiruhi (a fortified pā at Tāwharanui), and Te Hāwera ā Maki / Goat Island. Te Kawerau ā Maki ancestral and customary relationships with the coastal area north of Matakana were recognised by related Te Kawerau

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rangatira when they were placed on the title to the Mangatāwhiri Block (Tāwharanui–Ōmaha) with other Te Kawerau people in 1873.

Te Kawerau ā Maki also have a shared ancestral association with the main islands standing off this coastline, in particular Te Kawau-tūmārō-ō-Toi (Kawau Island) and Te Hauturu-ō-Toi / Little Barrier Island. This association is claimed through the conquest of Hauturu by Maki and his brother Mataahu, and the subsequent occupation of the island by their descendants until the early 1840s. It was at this time that the Te Kawerau ā Maki rangatira Te Ngerengere is documented to have visited his Ngāti Manuhiri relative Taurekura on Hauturu. Te Kawerau ā Maki continue to treasure their ancestral relationship with Hauturu and the wider coastal environment that surrounds it, while also recognising the enduring kaitiaki role that their Ngāti Manuhiri whanaunga play.

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MOTUTARA DOMAIN (PART MURIWAI BEACH DOMAIN RECREATION RESERVE)

Statutory Area

The area to which this Statutory Acknowledgement applies is the area known as Motutara Domain, part Muriwai Beach Domain Recreation Reserve, as shown on deed plan OTS-106-20.

Cultural, Spiritual, Historic and Traditional Association of Te Kawerau ā Maki with Motutara Domain

Motutara Domain (renamed Muriwai Beach Domain Recreation Reserve) is managed by the Auckland Council as part of Muriwai Regional Park. The Domain includes a number of landmarks of considerable spiritual, cultural and historical significance to Te Kawerau ā Maki. At the southern end of the Domain is Maukātia (Māori Bay) which is significant as it was a landmark named by the Tainui ancestor Rakataura. In Te Kawerau ā Maki tradition Rakataura also named the long beach (presently Muriwai Beach) that extends to the north of the Domain “Te One Rangatira” when he journeyed along it. Maukātia was also a place known for the manufacture of stone tools, which were fashioned from basalt taken from the cliffs behind the bay. This process is remembered by the name of a feature on the foreshore, Te Hōangatai. Maukātia and the sea caves at its northern end hold special significance as an ancestral burial place.

To the north of Maukātia is the headland and pā named Ōtakamiro, “the dwelling place of Takamiro”, so named after an early Tūrehu ancestor of Te Kawerau ā Maki. Standing immediately to the west of Ōtakamiro Point is the large rock stack known as Motutara, “the island of the seabirds”. This landscape feature is of importance to Te Kawerau ā Maki as part of the spiritual pathway to Te Reinga. It is now the focal point of a nationally significant tākapu (Australasian Gannet) breeding colony. Below the headland are the sea caves known as Ngā Ana which are wāhi tapu. At the northern end of the headland is the large rock shelf known to Te Kawerau ā Maki as Te Tokaraerae. It was, and still is, a place renowned for fishing during calm easterly weather. The valley behind Ōtakamiro was occupied by the Te Kawerau ā Maki rangatira Te Utika Te Aroha until the 1870s. The resources of the area were guarded by two inland fortified pā known to Te Kawerau ā Maki as Matuakore and Tūkautū.

Te Kawerau ā Maki have maintained an ongoing interest in the Domain and were involved in the establishment and opening of the visitor facility at the ‘Tākapu Refuge’ Australasian Gannet colony in 1979. They also hosted the Waitangi Tribunal at the site in March 2000.

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WHATIPU SCIENTIFIC RESERVE

Statutory Area

The area to which this Statutory Acknowledgement applies is the Whatipu Scientific Reserve, as shown on deed plan OTS-106-21.

Cultural, Spiritual, Historic and Traditional Association of Te Kawerau ā Maki with Whatipu Scientific Reserve

The 820 hectare sand accretion known as the Whatipu Scientific Reserve is an area of considerable spiritual, historical and cultural significance to Te Kawerau ā Maki. The area is associated with the earliest period of human settlement in the region, and with early ancestors of Te Kawerau ā Maki, including Tiriwa, Takamiro, Kupe-mai-Tawhiti, and several Ngāoho (Tainui) ancestors.

In Te Kawerau ā Maki tradition Whatipu is associated with guardian taniwha and ancient purakau (legends) that relate to the formation of the land. Whatipu also marks the south-western edge of the Te Kawerau ā Maki tribal rohe. Over many generations down to the present Whatipu has been a place famed for its kaimoana resources and has long been a stranding place of whales. In more recent years Te Kawerau ā Maki has played a ceremonial role in dealing with these strandings and helps manage the prized skeletal remains and teeth of the whales.

The Whatipu Scientific Reserve is a large sand accretion that has changed size and shape significantly over many centuries. It has particular significance to Te Kawerau ā Maki as a remaining portion of the once vast sand accretion known as Paorae. This sandy land contained settlements and a large area of cultivations known as Papakiekie, until most of it was eroded by the sea in the late eighteenth century.

Located within the scientific reserve are a group of islets and rocks that are known collectively as Te Kupenga ā Taramainuku, 'the fishing net of Taramainuku'. They include Motu Paratūtai (Paratūtai Island), Te Toka Tapu ā Kupe / Ninepin Rock and Te Marotiri ō Takamiro (Cutter Rock).

Te Kawerau ā Maki continued to occupy Whatipu until well after the arrival of Europeans in the early 1850s, with Apiata Te Aitu living on the accretion until around 1880. The Kura Track at Whatipu recalls the Te Kawerau ā Maki kuia, Te Ipu Kura ā Maki Taua, who in customary terms was a guardian of the area until her death in 1968.

The Crown gazetted the Whatipu sand accretion as a Scientific Reserve in 2002. Te Kawerau ā Maki have continued to play an active role in the interpretation of the area. Two carved pou, Tiriwa and Taramainuku, stand at the entrance to the reserve symbolising Te Kawerau ā Maki kaitiakitanga over Whatipu.

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GOLDIE BUSH SCENIC RESERVE AND MOTUTARA SETTLEMENT SCENIC RESERVE

Statutory Area

The areas to which this Statutory Acknowledgement applies are known as Goldie Bush Scenic Reserve and Motutara Settlement Scenic Reserve, or to Te Kawerau ā Maki as “Te Taiapa,” as shown on deed plan OTS-106-10.

Cultural, Spiritual, Historic and Traditional Association of Te Kawerau ā Maki Te Taiapa.

Te Taiapa is a place of considerable cultural, spiritual and historical significance to Te Kawerau ā Maki. The reserve is named after a fortified pā located at the western edge of the reserve on a promontory overlooking the Mokoroa Stream. The pā was distinguished by the fact that it was defended by “taiapa” (wooden palisades) rather than defensive ditches. Te Taiapa was essentially a defended food store for kūmara grown on the nearby river terraces in the locality known as Motu. It also is also a wāhi tapu and includes rakau tapu, or trees of ritual importance.

On the western edge of the reserve is the large waterfall known as Wairere. The Mokoroa Stream which flows from the falls is named after the taniwha Te Mokoroa who was the guardian of the surrounding area in ancient times. One of the homes of Te Mokoroa was the pool at the base of the falls. It is known as Te Rua o Te Mokoroa, or “the lair of Te Mokoroa”. This part of the reserve is known as Te Patunga o Te Mokoroa, or “the place where Te Mokoroa was killed,” by the ancestor Taiaoroa. Te Taiapa is also valued for its biodiversity, and in particular for its kōwhai groves which flower profusely at the onset of Kōanga or springtime.

Adjoining the Mokoroa Stream to the north is an area of land known as Te Rua o Te Moko/Motutara Settlement Scenic Reserve. This area was formerly a cultivation and papakāinga area occupied by Te Kawerau ā Maki until the mid nineteenth century. Here they provided shelter to the tribes of Tāmāki Makaurau during attacks by musket armed taua (war parties) in 1821. From Te Rua o Te Moko a pathway extended west to Parihoa, Te Waharoa, Tirikōhua and the coastal area known as Te Ara Kānohi.

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HENDERSON VALLEY SCENIC RESERVE

Statutory Area

The area to which this Statutory Acknowledgement applies is the area known as Henderson Valley Scenic Reserve, or to Te Kawerau ā Maki as Ōpareira, as shown on deed plan OTS-106-09.

Cultural, Spiritual, Historic and Traditional Association of Te Kawerau ā Maki with Ōpareira

Ōpareira is a place of considerable spiritual and historical significance to Te Kawerau ā Maki. It is part of the wider locality known as Ōpareira, “the dwelling place of Pareira”. This ancestress was the niece of the famed early Māori voyager Toi Te Huatahi who visited the Auckland region over six centuries ago. When Toi Te Huatahi and his people explored the Waitematā Harbour, Pareira decided to settle at Wai o Pareira near the mouth of what is now the Henderson Creek. She and her people also occupied the Henderson Valley area seasonally to harvest the resources of the forest. Their settlement in this area was named Ōpareira. The area is therefore regarded and being of considerable historical importance because it is one of oldest settled areas in the district.

The scenic reserve and the catchment area adjoining it to the west are also of major significance as the upper part of the valley was an old burial place of Te Kawerau ā Maki for many generations. The Opanuku Stream, which borders the reserve, is named after the ancestress Panuku, and is associated with one of the oldest traditions of Te Kawerau ā Maki. The reserve is also valued for its biodiversity as an area of regenerating riparian forest.

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SWANSON CONSERVATION AREA

Statutory Area

The area to which this Statutory Acknowledgement applies is the area known as the Swanson Conservation Area, or to Te Kawerau ā Maki as Waiwhauwhaupaku, as shown on deed plan OTS-106-08.

Cultural, Spiritual, Historic and Traditional Association of Te Kawerau ā Maki with Waiwhauwhaupaku

Waiwhauwhaupaku is the traditional name applying to the Swanson Stream and its margins. The area takes its name from the whauwhaupaku, or five finger shrub which once grew in profusion in the area. The stream and its margins provided a wide range of food resources, tuna (eels), and harakeke (flax) used for weaving and the production of cordage. In drier weather the valley was an important walking route between the tidal head of Wai Huruheru Manawa (known locally as Huruheru Creek), the inland pathways leading west to the Waitakere Valley, and east along the Pukewhakatara ridge to the many settlements beside the upper Waitematā Harbour. The reserve is also valued by Te Kawerau ā Maki for its remnant biodiversity and as an area of open space in an area that is coming under increasing urban pressure.

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TE HENGA RECREATION RESERVE

Statutory Area

The area to which this Statutory Acknowledgement applies is the area known as Te Henga Recreation Reserve, or to Te Kawerau ā Maki as “Taumaihi”, as shown on deed plan OTS-106-4.

Cultural, Spiritual, Historic and Traditional Association of Te Kawerau ā Maki with Taumaihi

Taumaihi is an area of major spiritual, cultural and historical importance to Te Kawerau ā Maki. The area’s mauri or spiritual essence, and its traditional history, are of central importance to the mana and identity of Te Kawerau ā Maki.

Located at the northern end of Te Henga (Bethells Beach), the reserve extends from the iconic high point and former lookout of Taumaihi above the Waitākere River mouth, past Waitākere Bay and Awa Kauwahaia (O’Neill Bay), to Raetāhinga Point. The reserve contains iconic landmarks that feature in the traditions and waiata of Te Kawerau ā Maki, as well as former kāinga, cultivations, pā, wahi tapu, and places of historical and cultural significance. The present day public walkway through the reserve follows an old coastal walkway known in Te Kawerau ā Maki tradition as Te Ara Kanohi – ‘the pathway of the eye’ – so named because of its panoramic coastal views.

Taumaihi was originally part of the Waitākere Native Reserve. It was owned and occupied by Te Kawerau ā Maki until the early 1900s. Seasonal kainga and gardens were maintained behind Awa Kauwahaia (O’Neill Bay). A wide variety of kaimoana (sea food) was harvested from the adjoining coastline, and until the 1940s tītī (muttonbirds) were harvested from Kauwahaia Island and Ōpakahā at the northern end of the reserve. The resources of the area were formerly protected by fortified pā located at Motu Ihumoana, Motu Kauwahaia and Tangihau, which is located within the reserve.

The reserve and its immediate coastal environs contain places of major historical significance to Te Kawerau ā Maki as they are associated with the Ngāoho ancestress Erangi, and with the Te Kawerau ā Maki ancestor Taratūwhenua. The reserve contains several wahi tapu, or burial places, and a site known as Te Tokaraerae which was, and remains, an important place of ritual for Te Kawerau ā Maki. Te Kawerau ā Maki also recognise the significant landscape and ecological values of the reserve and support their conservation and enhancement.

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RANGITOPUNI STREAM

Statutory Area

The area to which this Statutory Acknowledgement applies is the area known as Rangitōpuni Stream, or to Te Kawerau ā Maki as Manga Rangitōpuni, as shown on deed plan OTS-106-12.

Cultural, Spiritual, Historic and Traditional Association of Te Kawerau ā Maki with Manga Rangitōpuni.

Te Kawerau ā Maki hold significant historical, cultural and spiritual associations with Manga Rangitōpuni and its catchment. The Rangitōpuni Stream extends inland for approximately 15 kilometres from the head of the Waitematā Harbour at Riverhead to the extensive land block known as Pukeatua. Its large catchment is enclosed in the north-west by part of what is now Riverhead Forest and the high point of Te Ahu. In the north east the catchment covers the areas known as Pukekauere and Paeraorao, from which flows the tributary stream known as Huruhuru. On the east the catchment is enclosed by the sacred hill Pukeatua and the long ridgeline known as Heruroa. The main sub-catchment in this area is the Mahoenui Stream, which extends over the area now known as Coatesville. Within this catchment is located the wāhi tapu area known as Onehungahunga. At the south western edge of the catchment is the sacred hill known as Te Pane ō Poataniwha, named after the Te Kawerau ā Maki ancestor Poataniwha.

Within the southern portion of the stream catchment is the locality which gives the Rangitōpuni Stream its name. Here, in the early eighteenth century, Te Kawerau ā Maki concluded a series of peace making meetings with another tribe, in an event known as “Rangi tōpuni”, “the day of the (gifting of) the dog skin cloaks”.

Traditionally occupation was concentrated in the southern area of the catchment around the strategically important area of Rangitōpuni, now known as Riverhead. At the falls marking the outlet of the Rangitōpuni Stream were two kāinga (settlements) known as Taurangatira and Ōrangikānohi. The latter settlement was named after a Te Kawerau ā Maki ancestress. On the south-western edge of the lower catchment is the locality known as Papakoura, which is a reminder of the harvesting of the fresh water crayfish, and the wide array of food that was traditionally taken from the stream and its margins. Also located within this area of the Rangitōpuni Stream catchment are several localities of considerable historical importance, including Te Wā Tira, Rakau Tūrua, Kaiakeake and Moaruku. These places are of particular significance to Te Kawerau ā Maki as they are linked with the tradition “Ruarangi haerere”, associated with the ancestor Ruarangi and his eventful journey from Tāmaki Makaurau to Kaipara.

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WAITĀKERE RIVER

Statutory Area

The area to which this Statutory Acknowledgement applies is the area known as the Waitākere River, or to Te Kawerau ā Maki as Te Awa Waitākere, as shown on deed plan OTS-106-13.

Cultural, Spiritual, Historic and Traditional Association of Te Kawerau ā Maki with Te Awa Waitākere

Te Awa Waitākere is of central importance to the identity of Te Kawerau ā Maki, as illustrated by the whakataukī:

Ko Puketōtara te maunga
Ko Waitākere te awa
Ko Te Au o Te Whenua te tangata
Ko Te Kawerau ā Maki te iwi

Puketōtara is the mountain
Waitākere is the river
Te Au o Te Whenua is the man
Te Kawerau ā Maki are the people

The Waitākere River is approximately 15.5 km long with an overall catchment area of 7140 hectares. It includes two tributary sub catchments – the Mokoroa Stream (2100 ha), and Waitī Stream (972 ha). Te Kawerau ā Maki view the Waitākere River and its catchment in a holistic manner as a living entity, with its physical form, biodiversity, and historical and cultural values seen as inextricably linked. The waterways, wetlands and lakes within the catchment are seen as having their own mauri, or spiritual essence and qualities. These vary from places where water and food are taken, to places to bathe, and places of ritual. There are also places within the river and its catchment that are tapu and restricted.

Although the Waitākere River is seen as one entity, it has many names. The name Wai-tākere comes from a wave-swept rock in Waitākere Bay located between Ihumoana Island and Kōtau Point. In former times the river turned north when it reached the coast and flowed out through this bay. The river now enters the sea to the south of Ihumoana Island.

For generations the Kawerau people have referred to the river as Waitākere. However, its more ancient name was “Te Awa Kōtuku”, or “the river of the white heron’s (*Egretta alba modesta*) plume.” This name came from the most distinctive feature of the river, the 100-metre-high Waitākere Falls, which stand out like a white plume against the green background of the forest. The river also had many specific locality names. The upper section of the river was known as “Waikirikiri”, or “the stream with the stony bed”. At Waikirikiri the river is joined by the “Waitipu”, literally “the stream that rises quickly in flood”, and the “Waitoru”, or “the stream of the toru tree” (*Toronia toru*). A short distance downstream is “Te Awa mutu”, literally “the end of the river”. It really means the point to which the river was navigable by canoe. Below that again is “Hūkerewai”, where the river “curls about and meanders”. Further on it is joined by the “Waihoroi” (Brissenden Stream), or literally “the stream where washing was done”. This was a name given in the late nineteenth century, when the Kawerau ā Maki people established a camp there while they worked in Burton’s flaxmill. At the junction of the Wairere Stream and the Waitākere River was the large lagoon known as “Te Roto”, “the lake”, and also “Te Rua o Te Mokoroa”, “the lair of Te Mokoroa”, the guardian taniwha of the river. Te Mokoroa has another lair at the foot of the Mokoroa Falls, which were called “Wairere”, “the waterfall”. Below Te Roto is another section of the river known as

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“Pā-harakeke”, or the “clump of flax” (*Phormium tenax*). This was formerly the site of an artificially constructed fortified pā, located in the middle of the river. Here the Waitākere River slows as it reaches the shallows between Waitī and the river mouth. This section of the river is known as “Turingoi”, or where the river “crawls along and flows slowly”. The rocky ledge on the northern side of the river mouth is known as “Tauranga kawau”, or “the roosting place of the shags”, which are spiritual guardians to Te Kawerau ā Maki.

The Waitī Stream sub catchment is fed by Roto Wainamu (Lake Wainamu) which means “the lake of the sandfly or mosquito”. The lake is fed by three streams at its southern end. Firstly there is “Waitohi”, “the stream where baptismal rites were carried out”. This is also the name of the waterfalls at the mouth of the stream. The next stream to the west is “Waikūkū”, “the stream where the kūkupa or native pigeon (*Hemiphaga novaeseelandiae*) proliferated”. To the north of Waikūkū is the stream valley known as “Toetoeroa”, a name which refers to the expanse of toetoe (*Cortaderia fulvida*) which once grew there. The stream that provides the outlet to Roto Waimanu is also known as Wainamu. It flows north until it joins two other streams. The first is Wai ō Parekura. This is the “stream of Parekura”. “Wai ō Pare” is also the name of the (naturally) in-filled lake or swamp from which the stream drains. The main stream that flows from the junction of Wainamu and Wai ō Pare to the Waitākere River is known as “Waitī”, “the stream of the cabbage tree” (*Cordyline species*), which grows in profusion on its banks. From the stream comes the name of the Te Kawerau ā Maki village that was located at its mouth until the 1950s.

Many kāinga (settlements) and māra (cultivations) were located beside the Waitākere River. They included Ōhutukawa beside Lake Waimanu, Motu and Ōkaihau within the Mokoroa sub catchment, and Raumatī, Pihāriki, Parawai, and Waitī beside the lower reaches of the river. The river provided a rich source of food, including pihariki (lamprey), kanae (mullet), tuna (eels), kokopu, inanga (whitebait), koura (fresh water crayfish) and range of waterfowl. Its margins also provided a major source of weaving materials, including harakeke (flax), ti (cabbage tree), raupo and kuta (sedges).

The resources of the river and its catchment were protected by fortified pā, including: Puketōtara, Te Tuahiwi ō Te Rangī, Te Taiapa, Koropōtiki, Te Pae Kākā, Poutūterangi and Pā Kōhatu. Burial places, and places associated with important historical events, are located throughout the Waitākere River catchment.

Today the Waitākere River wetland is seen as being of great natural and spiritual importance to Te Kawerau ā Maki. It is a home for “the children of Tane”, including fish, eels, and birds such as the mātukū (bittern) and the mātatā (fernbird). These animals are seen as important links, both with the ancestral occupants, and as part of the ancient natural world which survives only in small remnant areas today.

The construction of the Waitākere Dam at the head of the catchment in 1910 (raised in height in 1927), impacted on river flows and raised the river bed several metres. This, combined with a major kauri timber milling operation 1925-1926, led to major and more regular flooding of the river, which in turn impacted on the old Te Kawerau ā Maki kāinga of Waitī. It also created the Te Henga wetland which is now seen as one of the Auckland region’s most important wetland habitats. Te Kawerau ā Maki have been involved with local government in the planning for, and management of, the Waitākere River and its catchment since 1988.

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TE WAI O PAREIRA/HENDERSON CREEK

Statutory Area

The area to which this Statutory Acknowledgement applies is the area known as Wai o Pareira / Henderson Creek and tributaries, as shown on SO Plan OTS-106-18.

Cultural, Spiritual, Historic and Traditional Association of Te Kawerau ā Maki with Wai o Pareira.

Wai o Pareira / Henderson Creek, its tributary streams and catchment, are of considerable spiritual, historical, traditional and cultural value to Te Kawerau ā Maki, who hold an ancestral relationship with the river dating back over centuries. The main tributaries of Wai o Pareira drain from Hikurangi, or the central Waitākere Ranges. The upper catchment extends for approximately fifteen kilometres from Pukematekeo in the north to Tītīrangi and Ōkaurirahi (Kaurilands) in the south east. It contains three sub catchments and tributaries, including: Wai Whauwhaupaku (Swanson Stream), Wai ō Panuku (Panuku Stream) and Wai Horotiu (Oratia Stream).

Wai Whauwhaupaku is a stream of considerable significance to Te Kawerau ā Maki. It and its tributary stream, Waimoko, flow from the eastern slopes of the sacred hill and tribal identifier Pukematekeo. In pre-European times the whole sub catchment was clothed in dense native forest and was renowned for its natural resources. Wai Whauwhaupaku was so named because of the whauwhaupaku or five finger shrub which grew in large numbers along its margins. The Waimoko tributary was named after the numerous native geckoes found in the area, and the Paremuka tributary after the fine quality muka, or weaving variety of flax, that grew in that stream valley. Over many generations the Wai Whauwhaupaku Stream valley was used as an inland walkway. Canoes would be left at the head of the Wai Huruuru Manawa (Huruuru Creek) tidal inlet and travellers would then walk inland to the pā above Swanson known as Pukearuhe, or further on via the northern Pukewhakatatarata ridge to the Waitākere River valley and Te Henga.

The southern-most sub catchment of Wai o Pareira is Waihorotiu (the Oratia Stream). The stream was named after horotiu (landslips) that often occurred at the head of its catchment. It, and the middle and lower part of the sub catchment, also take the name “Ora tia “ from the Te Kawerau ā Maki pā and kāinga of that name located in the Holden’s Road area of Oratia. In pre-European times the upper part of this sub catchment was distinguished by its mature kauri forest, as remembered in the locality name Ōkaurirahi – “the place of the huge kauri trees”.

The central sub catchment is Wai ō Panuku (the Ōpanuku Stream). It rises on the sacred slopes of the hill known as Rua ō Te Whenua and the equally significant hill Parekura. Both places are inextricably linked in one of the oldest traditions of Te Kawerau ā Maki. Parekura and his wife Panuku were both of chiefly birth, and are said to have remained deeply in love throughout their lives. After his death Parekura became the hill of that name, which stands at the head of Henderson Valley. From Parekura forever flows the stream Wai-ō-Panuku which embodies the spiritual essence of Panuku. At the head of this catchment is a sacred area, formerly one of the main burial places of Te Kawerau ā Maki. In the mid catchment is an old settlement area known as Ōpareira, “the dwelling place of Pareira”. The occupation of the lower part of the catchment is reflected in the name of a small tributary stream, Waitaro, “the stream of the taro cultivations”.

Wai o Pareira and Wai Horotiu meet at Te Kōpua (Falls Park, Henderson). This place, at the head of the tidal reaches of Wai o Pareira, was of strategic importance to Te Kawerau ā Maki – it was located at the head of navigation of the tidal river and was the beginning point for a number of inland pathways. As a result Te Kōpua was defended by a small pā, now destroyed by urban development.

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4: STATEMENTS OF ASSOCIATION

The whole tidal section of what is now commonly known as Henderson Creek is also known by the traditional name Wai-ō-Pareira, “the river of Pareira”. (The name also applied to the bay that now contains the West Harbour Marina). This treasured name commemorates the ancestress Pareira, who was the niece of the renowned ancestor and voyager Toi Te Huatahi. When Toi and his people visited the Waitematā harbour centuries ago Pareira decided to make her home at the mouth of Wai-ō-Pareira.

Te Kawerau ā Maki formerly occupied kāinga around the river mouth at Ōrukuwai on the Te Atatū Peninsula, and at Kōpūpāka and Mānutewhau in the Massey and West Harbour area. Mānutewhau was so named because it was a favourite place within the river for netting fish; the name literally means “the floats (of the nets) made from whau wood”. This area around the river mouth was also a favourite place from which to harvest tūangi (Cockles), pipi, and tio (oysters).

The stretch of water running inland to the junction with Wai Huruuru Manawa (Huruuru Creek) was known traditionally as Taimatā, after its broad, “glistening waters”. The Wai Huruuru Manawa inlet was frequently used to travel inland, and was named after the aerial roots of the manawa (mangroves) which are a distinctive feature of the river at low tide. Further upstream was an area that was treasured as the roosting place of the kōtuku, white heron, during its annual northern migration. Up river of the North Western motorway was an area known as Te Tāhuna after the sandbanks which were once there. This area was also a favoured netting area where fish were caught in shallow water on the outgoing tide. It was also a well known area in former times for catching tamure (snapper). In the vicinity of what is now Waitākere Stadium, shell middens indicate the presence of former kāinga. The river margins were once famed for their flowering kōwhai groves, the remnants of these which are still treasured. Between this point and Te Kōpua are several wāhi tapu, or sacred areas.

DOCUMENTS

4: STATEMENTS OF ASSOCIATION

KUMEU RIVER

Statutory Area

The area to which this Statutory Acknowledgement applies is the area known as the Kumeū River, or to Te Kawerau ā Maki as “Te Awa Kumeū”, as shown on deed plan OTS-106-11.

Cultural, Spiritual, Historic and Traditional Association of Te Kawerau ā Maki with Te Awa Kumeū

Te Kawerau ā Maki have a significant ancestral and customary relationship with Te Awa Kumeū, which is the main waterway in the upper Kaipara River catchment. The mātāpuna, or source of the Kumeū River, is formed by the northern slopes of Pukematekeo, a hill of spiritual significance to Te Kawerau ā Maki. The main tributary stream in the area is the Mangatoetoe, so named because of the profusion of toetoe (*Cortaderia fulvida*) which once grew along its margins. A number of small tributary streams also join the head of the Kumeū River from the west. These streams are important as they flow from the line of hills known as “Ngā Rau Pou Tā Maki”, “the many posts of Maki”, so named after the Te Kawerau ā Maki ancestor Maki. These hills include Huranui, Maungakarikari, Te Heke, Papatāwhara and Te Pou ā Maki.

The upper reaches of the Kumeū River provided a significant source of harakeke (flax) and toetoe used for weaving purposes. The catchment was formerly clothed in kahikatea forest and was therefore an ideal place for hunting kūkupa (native pigeons). An important west-east walkway crossed the southern extremity of the catchment between the Waitākere River valley and Mānutewhau, Wai o Pareira and Ngongetepara (Brigham’s Creek) on the Waitematā Harbour. The ridgeline of Ngā Rau Pou Tā Maki, marking the western edge of the catchment, provided an important north-south walkway between the Waitākere River valley and the Muriwai valley.

Near the present day Taupaki village, the Kumeū River is joined by the large tributary, the Pakinui Stream. This stream is named after a peace agreement that was reached in the area many generations ago by the early ancestors of Te Kawerau ā Maki. This historical event was associated with the earliest known battle fought in the district by an ancestor known as Te Kauea, who was of Ngā Tini ō Toi. From an incident in the battle comes the name Kume-ū. This area, located to the north-east of Taupaki village, gives its name to the Kumeū River.

From its junction with the Pakinui Stream, the Kumeū River flows past a sacred locality known as Te Ahi Pekapeka. It then reaches Te Tōangaroa, the Kaipara portage, at the southern end of what is now the village called Kumeu. This area was known traditionally as Wai-paki-i-rape. In pre-European times the area was of considerable strategic importance as it was located at the western end of a canoe portage and walking track that extended east to Maraeroa and Pītotoi at Riverhead.

Beyond Wai-paki-i-rape the Kumeū River flows to Tūraki-awatea, which is now known by the modern name Huapai. The traditional place names Tūraki-awatea, Wai-paki-ī-rape and Waikoukou are a reminder of the journey that the Te Kawerau ā Maki ancestor Ruarangi, made into the district from Tāmaki Makaurau, likely in the sixteenth century. The Kumeū River then flows west for three kilometres across an area known as Te Ihumātao. At Kāhukuri the Kumeu River is joined by the Ahukuramu Stream (or Ahukāramuramu) from the south, and the Waikoukou Stream from the north. Both streams are important in the history of Te Kawerau ā Maki as they were the locations of important peace-making meetings, known as Kāhukuri and Kāhutōpuni. Just west of the junction of these streams is the low-lying area known as Waimauku. It was so named as when the river was in flood only the tops of the Tī mauku (cabbage trees) were visible above the water.

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4: STATEMENTS OF ASSOCIATION

After passing beyond the high point known as Taumata, the Kumeū River becomes the Kaipara River. Te Kawerau ā Maki have a shared ancestral association with the river beyond this point north to Kōpironui, where members of Te Kawerau ā Maki still own land, and on to the outlet of the Kaipara River at Kaikai (Mount Rex), a pā built by the ancestor Maki and his sons. Nearby at Mimihānui is the birthplace of Te Kawerau ā Maki (also known as Tawhiakiterangi), the eponymous ancestor of the iwi. Upstream of Te Awaroa (Helensville) is the locality known as “Te Pūtōrino ā Tangihua” which is a reminder of Tangihua, the taniwha kaitiaki, or spiritual guardian, who protects the Kaipara and Kumeū Rivers and their tributary streams in their entirety.

5 DEED OF RECOGNITION

THIS DEED is made by **THE CROWN** acting by the Minister of Conservation and the Director-General of Conservation

1 INTRODUCTION

1.1 The Crown has granted this deed as part of the redress under a deed of settlement with –

1.1.1 **[name]** (the settling group); and

1.1.2 **[name]** (the governance entity).

1.2 In the deed of settlement, the settling group made statements of the settling group's particular cultural, spiritual, historical, and traditional association with the following areas (the statutory areas):

1.2.1 **[name]** (as shown on deed plan **[number]**):

1.2.2 **[name]** (as shown on deed plan **[number]**).

1.3 Those statements of association are –

1.3.1 in the documents schedule to the deed of settlement; and

1.3.2 copied, for ease of reference, in the schedule to this deed.

1.4 The Crown has acknowledged the statements of association in the **[name]** Act **[year]**, being the settlement legislation that gives effect to the deed of settlement.

2 CONSULTATION

2.1 The Minister of Conservation and the Director-General of Conservation must, if undertaking an activity specified in clause 2.2 in relation to a statutory area, consult and have regard to the views of the governance entity concerning the settling group's association with that statutory area as described in a statement of association.

2.2 Clause 2.1 applies to each of the following activities (the identified activities):

2.2.1 preparing a conservation management strategy, or a conservation management plan, under the Conservation Act 1987 or the Reserves Act 1977:

2.2.2 preparing a national park management plan under the National Parks Act 1980:

2.2.3 preparing a non-statutory plan, strategy, programme, or survey in relation to a statutory area that is not a river for any of the following purposes:

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5: DEED OF RECOGNITION

- (a) to identify and protect wildlife or indigenous plants:
 - (b) to eradicate pests, weeds, or introduced species:
 - (c) to assess current and future visitor activities:
 - (d) to identify the appropriate number and type of concessions:
- 2.2.4 preparing a non-statutory plan, strategy, or programme to protect and manage a statutory area that is a river:
- 2.2.5 locating or constructing structures, signs, or tracks.
- 2.3 The Minister and the Director-General of Conservation must, when consulting the governance entity under clause 2.1, provide the governance entity with sufficient information to make informed decisions.

3 LIMITS

- 3.1 This deed –
- 3.1.1 relates only to the part or parts of a statutory area owned and managed by the Crown; and
 - 3.1.2 does not require the Crown to undertake, increase, or resume any identified activity; and
 - 3.1.3 does not prevent the Crown from not undertaking, or ceasing to undertake, any identified activity; and
 - 3.1.4 is subject to the settlement legislation.

4 TERMINATION

- 4.1 This deed terminates in respect of a statutory area, or part of it, if -
- 4.1.1 the governance entity, the Minister of Conservation, and the Director-General of Conservation agree in writing; or
 - 4.1.2 the relevant area is disposed of by the Crown; or
 - 4.1.3 responsibility for the identified activities in relation to the relevant area is transferred from the Minister or the Director-General of Conservation to another Minister and/or Crown official.
- 4.2 If this deed terminates under clause 4.1.3 in relation to an area, the Crown will take reasonable steps to ensure the governance entity continues to have input into any

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5: DEED OF RECOGNITION

identified activities in relation to the area with the new Minister and/or Crown official responsible for that activity.

5 NOTICES

- 5.1 Notices to the governance entity and the Crown are to be given under this deed in accordance with part 4 of the general matters schedule to the deed of settlement, except that the Crown's address where notices are to be given is -

Area Manager,
Department of Conservation,
[address].

6 AMENDMENT

- 6.1 This deed may be amended only by written agreement signed by the governance entity and the Minister of Conservation and the Director-General of Conservation.

7 NO ASSIGNMENT

- 7.1 The governance entity may not assign its rights under this deed.

8 DEFINITIONS

- 8.1 In this deed -

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

deed means this deed of recognition as it may be amended from time to time; and

deed of settlement means the deed of settlement dated [date] between the settling group, the governance entity, and the Crown; and

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

governance entity has the meaning given to it by the deed of settlement; and

identified activity means each of the activities specified in clause 2.2; and

Minister means the Minister of Conservation; and

settling group and [name] have the meaning given to them by the deed of settlement; and

settlement legislation means the Act referred to in clause 1.4; and

DOCUMENTS

5: DEED OF RECOGNITION

statement of association means each statement of association in the documents schedule to the deed of settlement and which is copied, for ease of reference, in the schedule to this deed; and

statutory area means an area referred to in clause 1.2, the general location of which is indicated on the deed plan referred to in relation to that area, but which does not establish the precise boundaries of the statutory area; and

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

9 INTERPRETATION

- 9.1 The provisions of this clause apply to this deed's interpretation, unless the context requires a different interpretation.
- 9.2 Headings do not affect the interpretation.
- 9.3 A term defined by –
- 9.3.1 this deed has that meaning; and
 - 9.3.2 the deed of settlement, or the settlement legislation, but not by this deed, has that meanings where used in this deed.
- 9.4 All parts of speech and grammatical forms of a defined term have corresponding meanings.
- 9.5 The singular includes the plural and vice versa.
- 9.6 One gender includes the other genders.
- 9.7 Something, that must or may be done on a day that is not a business day, must or may be done on the next business day.
- 9.8 A reference to -
- 9.8.1 this deed or any other document means this deed or that document as amended, novated, or replaced; and
 - 9.8.2 legislation means that legislation as amended, consolidated, or substituted.
- 9.9 If there is an inconsistency between this deed and the deed of settlement, the deed of settlement prevails.

DOCUMENTS

5: DEED OF RECOGNITION

SIGNED as a deed on [*date*]

SIGNED for and on behalf of
THE CROWN by –

The Minister of Conservation in the
presence of -

WITNESS

Name:

Occupation:

Address:

The Director-General of Conservation
in the presence of –

WITNESS

Name:

Occupation:

Address:

DOCUMENTS

5: DEED OF RECOGNITION

Schedule

Copies of Statements of Association

[Name of area] (as shown on deed plan [*number*])

[statement of association]

[Name of area] (as shown on deed plan [*number*])

[statement of association]

6 PROTOCOLS

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6: PROTOCOLS: CROWN MINERALS

PROTOCOL ISSUED BY THE CROWN THROUGH THE MINISTER OF ENERGY AND RESOURCES REGARDING CONSULTATION WITH TE KAWERAU A MAKI BY THE MINISTRY OF BUSINESS, INNOVATION AND EMPLOYMENT ON THE ADMINISTRATION OF CROWN OWNED MINERALS

1 INTRODUCTION

- 1.1 Under the Deed of Settlement dated [] between Te Kawerau ā Maki and the Crown (the “**Deed of Settlement**”), the Crown agreed that the Minister of Energy and Resources (the “**Minister**”) would issue a Protocol (the “**Protocol**”) setting out how the Ministry of Business, Innovation and Employment (the “**Ministry**”) will consult with Te Kawerau ā Maki governance entity on matters specified in the Protocol.
- 1.2 Both the Ministry and Te Kawerau ā Maki are seeking a constructive relationship based on the principles of Te Tiriti o Waitangi/the Treaty of Waitangi.
- 1.3 Section 4 of the Crown Minerals Act 1991 (the “**Act**”) requires all persons exercising functions and powers under the Act to have regard to the principles of Te Tiriti o Waitangi/the Treaty of Waitangi. The minerals programmes set out how this requirement will be given effect to.
- 1.4 The Minister and the Ministry recognise that the Te Kawerau Iwi Settlement Trust (“**Settlement Trust**”) is the governance entity of Te Kawerau ā Maki and represents the iwi.
- 1.5 Te Kawerau ā Maki are tāngata whenua and kaitiaki of the Protocol Area and have significant interests and responsibilities in relation to the preservation, protection and management of natural resources within the Protocol Area.

2 PURPOSE OF THIS PROTOCOL

- 2.1 With the intent of creating a constructive relationship between Te Kawerau ā Maki and the Ministry in relation to minerals administered in accordance with the Act in the Protocol Area, this Protocol sets out how the Ministry will exercise its functions, powers, and duties in relation to the matters set out in this Protocol.
- 2.2 The Settlement Trust will have the opportunity for input into the policy, planning, and decision-making processes relating to the matters set out in this Protocol in accordance with the Act and the relevant minerals programmes issued under the Act.

3 PROTOCOL AREA

- 3.1 This Protocol applies to the area shown on the map in Appendix A and does not go beyond the sovereign territory of New Zealand.

4 TERMS OF ISSUE

- 4.1 This Protocol is issued pursuant to section [] of [] (the “**Settlement Legislation**”) that implements clause [] of the Deed of Settlement, and is subject to the Settlement Legislation and the Deed of Settlement.

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6: PROTOCOLS: CROWN MINERALS

4.2 This Protocol must be read subject to the terms of issue set out in Attachment B.

5 CONSULTATION

5.1 The Minister will ensure that the Settlement Trust is consulted by the Ministry:

New minerals programmes

- (a) on the preparation of a draft minerals programme, or a proposed change to a minerals programme (unless the change is one to which section 16(3) of the Act applies), which relate, whether wholly or in part, to the Protocol Area;

Petroleum exploration permit block offers

- (b) on the planning of a competitive tender allocation of a permit block for petroleum exploration (being a specific area with defined boundaries available for allocation as a permit in accordance with section 24 of the Act and the relevant minerals programme), which relates, whether wholly or in part, to the Protocol Area. This will include outlining the proposals for holding the block offer, and consulting with the Settlement Trust on these proposals over the consultation period set out in the relevant minerals programme;

Other petroleum permit applications

- (c) when any application for a petroleum permit is received, which relates, whether wholly or in part, to the Protocol Area, except where the application relates to a block offer over which consultation has already taken place under clause 5.1(b);

Amendments to petroleum permits

- (d) when any application to amend a petroleum permit, by extending the land to which the permit relates, is received where the application relates, wholly or in part, to the Protocol Area;

Permit block offers for Crown owned minerals other than petroleum

- (e) on the planning of a competitive tender allocation of a permit block for Crown owned minerals other than petroleum (being a specific area with defined boundaries available for allocation as a permit in accordance with section 24 of the Act and any relevant minerals programme) which relates, whether wholly or in part, to the Protocol Area;

Other permit applications for Crown owned minerals other than petroleum

- (f) when any application for a permit in respect of Crown owned minerals other than petroleum is received, which relates, whether wholly or in part, to the Protocol Area, except where the application relates to a block offer over which consultation has already taken place under clause 5.1(e) or where the application relates to newly available acreage;

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6: PROTOCOLS: CROWN MINERALS

Newly available acreage

- (g) when the Secretary proposes to recommend that the Minister grant an application for a permit for newly available acreage in respect of minerals other than petroleum, which relates, whether wholly or in part, to the Protocol Area;

Amendments to permits for Crown owned minerals other than petroleum

- (h) when any application to amend a permit in respect of Crown owned minerals other than petroleum, by extending the land or minerals covered by an existing permit is received, where the application relates, wholly or in part, to the Protocol Area; and

Gold fossicking areas

- (i) when any request is received or proposal is made to designate lands as a gold fossicking area, which relates, whether wholly or in part, to the Protocol Area.

5.2 Each decision on a proposal referred to in clause 5.1 will be made having regard to any matters raised as a result of consultation with the Settlement Trust, and having regard to the principles of Te Tiriti o Waitangi/ the Treaty of Waitangi.

6 IMPLEMENTATION AND COMMUNICATION

6.1 The Crown has an obligation under the Act to consult with parties whose interests may be affected by matters described in clause 5.1. The Ministry will consult with the Settlement Trust in accordance with this Protocol if matters described in clause 5.1 of this Protocol may affect the interests of Te Kawerau ā Maki.

6.2 For the purposes of clause 6.1, the basic principles that will be followed by the Ministry in consulting with the Settlement Trust in each case are:

- (a) ensuring that the Settlement Trust is consulted as soon as reasonably practicable following the identification and determination by the Ministry of the proposal or issues;
- (b) providing the Settlement Trust with sufficient information to make informed decisions and submissions;
- (c) ensuring that sufficient time is given for the participation of the Settlement Trust in the decision making process and to enable it to prepare its submissions; and
- (d) ensuring that the Ministry will approach the consultation with the Settlement Trust with an open mind, and will genuinely consider the submissions of the Settlement Trust.

7 DEFINITIONS

7.1 In this Protocol:

Act means the Crown Minerals Act 1991 as amended, consolidated or substituted;

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6: PROTOCOLS: CROWN MINERALS

Chief Executive means the Chief Executive of the Ministry of Business, Innovation and Employment;

Crown means the Sovereign in right of New Zealand and includes, where appropriate, the Ministers and Departments of the Crown that are involved in, or bound by the terms of the Deed of Settlement to participate in, any aspect of the redress under the Deed of Settlement;

Crown owned minerals means any mineral that is the property of the Crown;

Deed of Settlement means the Deed of Settlement dated [] between the Crown and MTT;

Hapū has the meaning set out in clause [] of the Deed of Settlement;

mineral means a naturally occurring inorganic substance beneath or at the surface of the earth, whether or not under water; and includes all metallic minerals, non-metallic minerals, fuel minerals, precious stones, industrial rocks and building stones, and a prescribed substance within the meaning of the Atomic Energy Act 1945;

Minister means the Minister of Energy and Resources;

Ministry means the Ministry of Business, Innovation and Employment;

newly available acreage is a method for allocating permits for minerals (excluding petroleum) as set out in the Minerals Programme for Minerals (Excluding Petroleum) 2013

petroleum means—

- (a) any naturally occurring hydrocarbon (other than coal) whether in a gaseous, liquid, or solid state; or
- (b) any naturally occurring mixture of hydrocarbons (other than coal) whether in a gaseous, liquid, or solid state; or
- (c) any naturally occurring mixture of 1 or more hydrocarbons (other than coal) whether in a gaseous, liquid, or solid state, and 1 or more of the following, namely hydrogen sulphide, nitrogen, helium, or carbon dioxide—

and, except in sections 10 and 11, includes any petroleum as so defined which has been mined or otherwise recovered from its natural condition, or which has been so mined or otherwise recovered but which has been returned to a natural reservoir for storage purposes; and

protocol means a statement in writing, issued by the Crown through the Minister to Te Kawerau ā Maki under the Settlement Legislation and the Deed of Settlement and includes this Protocol.

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6: PROTOCOLS: CROWN MINERALS

ISSUED ON []

SIGNED for and on behalf of

THE SOVEREIGN

in right of New Zealand by

the Minister of Energy and Resources.

WITNESS

Name_____

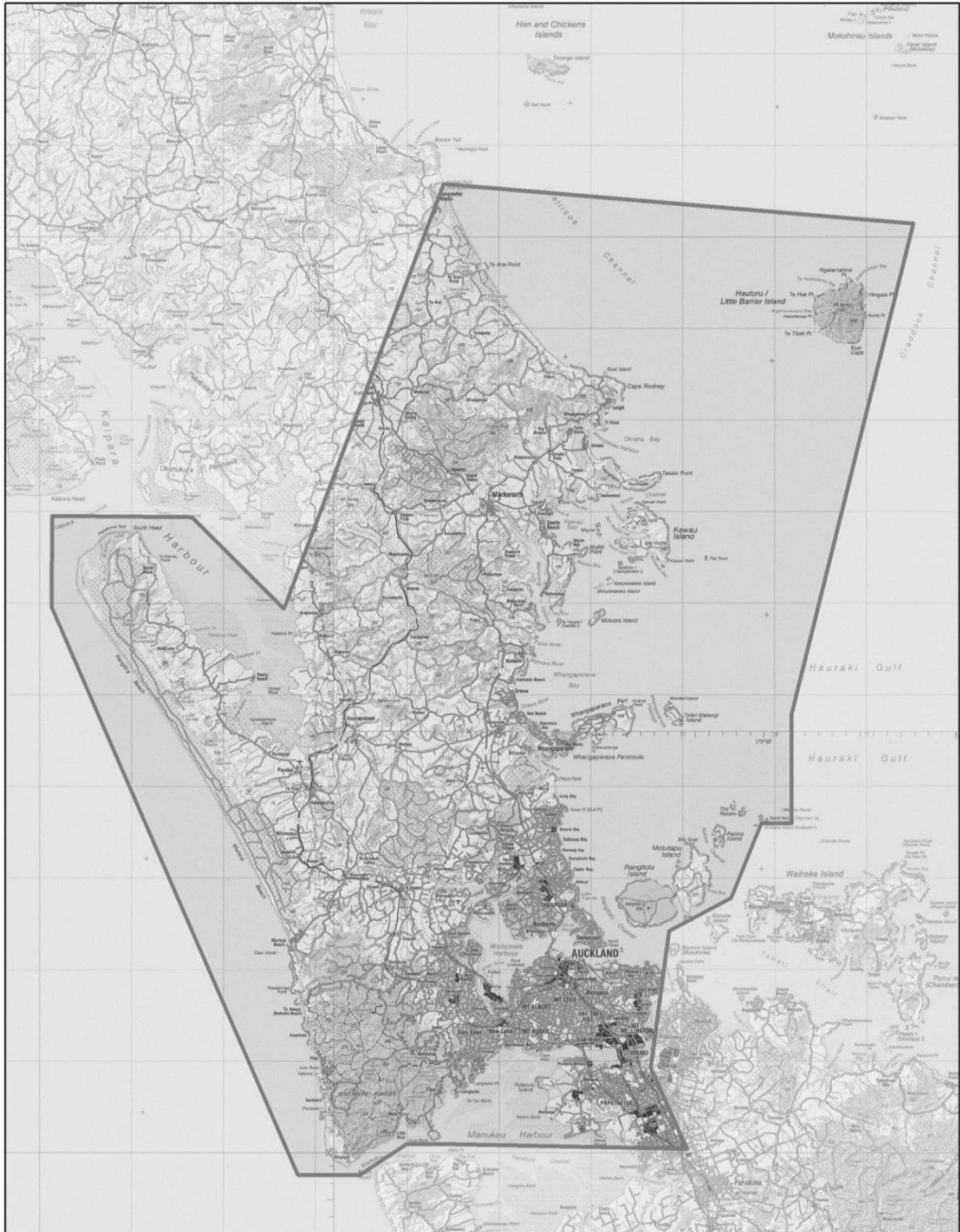
Occupation_____

Address_____

DOCUMENTS

6: PROTOCOLS: CROWN MINERALS

ATTACHMENT A
PROTOCOL AREA MAP



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6: PROTOCOLS: CROWN MINERALS

ATTACHMENT B: SUMMARY OF THE TERMS OF ISSUE

This Protocol is subject to the Deed of Settlement and the Settlement Legislation. A summary of the relevant provisions is set out below.

1. Amendment and cancellation

- 1.1 The Minister or [] may cancel this Protocol.
- 1.2 The Protocol can only be amended by agreement in writing between the Minister and [].

2. Noting

- 2.1 A summary of the terms of this Protocol must be added:
 - 2.1.1 in a register of protocols maintained by the chief executive; and
 - 2.1.2 in the minerals programme affecting the Protocol Area when those programmes are changed;

but the addition:

- 2.1.3 is for the purpose of public notice only; and
- 2.1.4 does not change the minerals programmes for the purposes of the Crown Minerals Act 1991 (section []).

3. Limits

- 3.1 This Protocol does not -
 - 3.1.1 restrict the Crown from exercising its powers, and performing its functions and duties, in accordance with the law (including the Crown Minerals Act 1991) and government policy, including:
 - (a) introducing legislation; or
 - (b) changing government policy; or
 - (c) issuing a Protocol to, or interacting or consulting with anyone the Crown considers appropriate, including any iwi, hapū, marae, whānau, or representative of tāngata whenua (section []); or
 - 3.1.2 restrict the responsibilities of the Minister or the Ministry under the Crown Minerals Act 1991 or the legal rights of [] or a representative entity (section []); or
 - 3.1.3 grant, create, or provide evidence of an estate or interest in, or rights relating to Crown minerals (section []); or

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6: PROTOCOLS: CROWN MINERALS

- 3.1.4 [affect any interests under the Marine and Coastal Area (Takutai Moana) Act 2011 (section []).]
- 3.2 In this summary of the Terms of Issue, “representative entity” has the same meaning as it has in the Deed of Settlement.
- 4. Breach**
- 4.1 Subject to the Crown Proceedings Act 1950, [] may enforce this Protocol if the Crown breaches it without good cause, but damages or monetary compensation will not be awarded (section []).
- 4.2 A breach of this Protocol is not a breach of the Deed of Settlement (clause []).

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6: PROTOCOLS: TAONGA TŪTURU PROTOCOL

A PROTOCOL ISSUED BY THE CROWN THROUGH THE MINISTER FOR ARTS, CULTURE AND HERITAGE REGARDING INTERACTION WITH TE KAWERAU Ā MAKI ON SPECIFIED ISSUES

1 INTRODUCTION

- 1.1 Under the Deed of Settlement dated xx between Te Kawerau ā Maki and the Crown (the “Deed of Settlement”), the Crown agreed that the Minister for Arts, Culture and Heritage (the “Minister”) would issue a protocol (the “Protocol”) setting out how the Minister and the Chief Executive for Manatū Taonga also known as the Ministry for Culture and Heritage (the “Chief Executive”) will interact with the governance entity on matters specified in the Protocol. These matters are:
- 1.1.1 Protocol Area – Part 2
 - 1.1.2 Terms of issue – Part 3
 - 1.1.3 Implementation and communication – Part 4
 - 1.1.4 The role of the Chief Executive under the Protected Objects Act 1975 – Part 5
 - 1.1.5 The role of the Minister under the Protected Objects Act 1975 – Part 6
 - 1.1.7 Effects on Te Kawerau ā Maki interests in the Protocol Area – Part 7
 - 1.1.8 Registration as a collector of Ngā Taonga Tūturu – Part 8
 - 1.1.9 Board Appointments – Part 9
 - 1.1.10 National Monuments, War Graves and Historical Graves – Part 10
 - 1.1.11 History publications relating to Te Kawerau ā Maki – Part 11
 - 1.1.12 Cultural and/or Spiritual Practices and professional services – Part 12
 - 1.1.13 Consultation – Part 13
 - 1.1.14 Changes to legislation affecting this Protocol –Part 14
 - 1.1.15 Definitions – Part 15
- 1.2 For the purposes of this Protocol the governance entity is the body representative of the whānau, hapū, and iwi of Te Kawerau ā Maki who have an interest in the matters covered under this Protocol. This derives from the status of the governance entity as tangata whenua in the Protocol Area and is inextricably linked to whakapapa and has important cultural and spiritual dimensions.
- 1.3 Manatū Taonga also known as the Ministry (the Ministry) and the governance entity are seeking a relationship consistent with Te Tiriti o Waitangi/the Treaty of Waitangi and its principles. The principles of Te Tiriti o Waitangi/the Treaty of Waitangi provide the basis for the relationship between the parties to this Protocol, as set out in this Protocol.

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- 1.4 The purpose of the Protected Objects Act 1975 (“the Act”) is to provide for the better protection of certain objects by, among other things, regulating the export of Taonga Tūturu, and by establishing and recording the ownership of Ngā Taonga Tūturu found after the commencement of the Act, namely 1 April 1976.
- 1.5 The Minister and Chief Executive have certain roles in terms of the matters mentioned in clause 1.1. In exercising such roles, the Minister and Chief Executive will provide the governance entity with the opportunity for input, into matters set out in clause 1.1, as set out in clauses 5 to 11 of this Protocol.

2 PROTOCOL AREA

- 2.1 This Protocol applies across the Protocol Area which is identified in the map included in Attachment A of this Protocol together with adjacent waters (the “Protocol Area”).

3 TERMS OF ISSUE

- 3.1 This Protocol is issued pursuant to section xx of the Te Kawerau ā Maki Settlement Act (“the Settlement Legislation”) that implements the Te Kawerau ā Maki Deed of Settlement, and is subject to the Settlement Legislation and the Deed of Settlement.
- 3.2 This Protocol must be read subject to the terms of issue set out in Attachment B.

4 IMPLEMENTATION AND COMMUNICATION

- 4.1 The Chief Executive will maintain effective communication with the governance entity by:
- 4.1.1 maintaining information provided by the governance entity on the office holders of the governance entity and their addresses and contact details;
 - 4.1.2 discussing with the governance entity concerns and issues notified by the governance entity about this Protocol;
 - 4.1.3 as far as reasonably practicable, providing opportunities for the governance entity to meet with relevant Ministry managers and staff;
 - 4.1.4 meeting with the governance entity to review the implementation of this Protocol at least once a year, if requested by either party;
 - 4.1.5 as far as reasonably practicable, training relevant employees within the Ministry on this Protocol to ensure that they are aware of the purpose, content and implications of this Protocol and of the obligations of the Chief Executive under it;
 - 4.1.6 as far as reasonably practicable, inform other organisations with whom it works, central government agencies and stakeholders about this Protocol and provide ongoing information; and
 - 4.1.7 including a copy of the Protocol with the governance entity on the Ministry’s website.

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6: PROTOCOLS: TAONGA TŪTURU PROTOCOL

5 THE ROLE OF THE CHIEF EXECUTIVE UNDER THE ACT

General

- 5.1 The Chief Executive has certain functions, powers and duties in terms of the Act and will consult, notify and provide information to the governance entity within the limits of the Act. From the date this Protocol is issued the Chief Executive will:
- 5.1.1 notify the governance entity in writing of any Taonga Tūturu found within the Protocol Area or identified as being of Te Kawerau ā Maki origin found anywhere else in New Zealand;
 - 5.1.2 provide for the care, recording and custody of any Taonga Tūturu found within the Protocol Area or identified as being of Te Kawerau ā Maki origin found anywhere else in New Zealand;
 - 5.1.3 notify the governance entity in writing of its right to lodge a claim with the Chief Executive for ownership of any Taonga Tūturu found within the Protocol Area or identified as being of Te Kawerau ā Maki origin found anywhere else in New Zealand;
 - 5.1.4 notify the governance entity in writing of its right to apply directly to the Māori Land Court for determination of the actual or traditional ownership, rightful possession or custody of any Taonga Tūturu found within the Protocol Area or identified as being of Te Kawerau ā Maki origin found anywhere else in New Zealand, or for any right, title, estate, or interest in any such Taonga Tūturu; and
 - 5.1.5 notify the governance entity in writing of any application to the Māori Land Court from any other person for determination of the actual or traditional ownership, rightful possession or custody of any Taonga Tūturu found within the Protocol Area or identified as being of Te Kawerau ā Maki origin found anywhere else in New Zealand, or for any right, title, estate, or interest in any such Taonga Tūturu.

Ownership of Taonga Tūturu found in Protocol Area or identified as being of Te Kawerau ā Maki origin found elsewhere in New Zealand

- 5.2. If the governance entity lodges a claim of ownership with the Chief Executive and there are no competing claims for any Taonga Tūturu found within the Protocol Area or identified as being of Te Kawerau ā Maki origin found anywhere else in New Zealand, the Chief Executive will, if satisfied that the claim is valid, apply to the Registrar of the Māori Land Court for an order confirming ownership of the Taonga Tūturu.
- 5.3 If there is a competing claim or claims lodged in conjunction with the governance entity's claim of ownership, the Chief Executive will consult with the governance entity for the purpose of resolving the competing claims, and if satisfied that a resolution has been agreed to, and is valid, apply to the Registrar of the Māori Land Court for an order confirming ownership of the Taonga Tūturu.
- 5.4 If the competing claims for ownership of any Taonga Tūturu found within the Protocol Area or identified as being of Te Kawerau ā Maki origin found anywhere else in New Zealand, cannot be resolved, the Chief Executive at the request of the governance entity may facilitate an application to the Māori Land Court for determination of ownership of the Taonga Tūturu.

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Custody of Taonga Tūturu found in Protocol Area or identified as being of Te Kawerau ā Maki origin found elsewhere in New Zealand

- 5.5 If the governance entity does not lodge a claim of ownership of any Taonga Tūturu found within the Protocol Area or identified as being of Te Kawerau ā Maki origin found elsewhere in New Zealand with the Chief Executive, and where there is an application for custody from any other person, the Chief Executive will:
- 5.5.1 consult the governance entity before a decision is made on who may have custody of the Taonga Tūturu; and
 - 5.5.2 notify the governance entity in writing of the decision made by the Chief Executive on the custody of the Taonga Tūturu.

Export Applications

- 5.6 For the purpose of seeking an expert opinion from the governance entity on any export applications to remove any Taonga Tūturu of Te Kawerau ā Maki origin from New Zealand, the Chief Executive will register the governance entity on the Ministry for Culture and Heritage's Register of Expert Examiners.
- 5.7 Where the Chief Executive receives an export application to remove any Taonga Tūturu of Te Kawerau ā Maki origin from New Zealand, the Chief Executive will consult the governance entity as an Expert Examiner on that application, and notify the governance entity in writing of the Chief Executive's decision.

6. THE ROLE OF THE MINISTER UNDER THE PROTECTED OBJECTS ACT 1975

- 6.1 The Minister has functions, powers and duties under the Act and may consult, notify and provide information to the governance entity within the limits of the Act. In circumstances where the Chief Executive originally consulted the governance entity as an Expert Examiner, the Minister may consult with the governance entity where a person appeals the decision of the Chief Executive to:
- 6.1.1 refuse permission to export any Taonga Tūturu, or Ngā Taonga Tūturu, from New Zealand; or
 - 6.1.2 impose conditions on the approval to export any Taonga Tūturu, or Ngā Taonga Tūturu, from New Zealand.
- 6.2 The Ministry will notify the governance entity in writing of the Minister's decision on an appeal in relation to an application to export any Taonga Tūturu where the governance entity was consulted as an Expert Examiner.

7. EFFECTS ON TE KAWERAU Ā MAKI INTERESTS IN THE PROTOCOL AREA

- 7.1 The Chief Executive and governance entity shall discuss any policy and legislative development, which specifically affects Te Kawerau ā Maki interests in the Protocol Area.
- 7.2 The Chief Executive and governance entity shall discuss any of the Ministry's operational activities, which specifically affect Te Kawerau ā Maki interests in the Protocol Area.

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7.3 Notwithstanding paragraphs 7.1 and 7.2 above the Chief Executive and governance entity shall meet to discuss Te Kawerau ā Maki interests in the Protocol Area as part of the meeting specified in clause 4.1.4.

8. REGISTRATION AS A COLLECTOR OF NGĀ TAONGA TŪTURU

8.1 The Chief Executive will register the governance entity as a Registered Collector of Taonga Tūturu.

9. BOARD APPOINTMENTS

9.1 The Chief Executive shall:

9.1.1 notify the governance entity of any upcoming ministerial appointments on Boards which the Minister for Arts, Culture and Heritage appoints to;

9.1.2 add the governance entity's nominees onto Manatū Taonga/Ministry for Culture and Heritage's Nomination Register for Boards, which the Minister for Arts, Culture and Heritage appoints to; and

9.1.3 notify the governance entity of any ministerial appointments to Boards which the Minister for Arts, Culture and Heritage appoints to, where these are publicly notified.

10. NATIONAL MONUMENTS, WAR GRAVES AND HISTORIC GRAVES

10.1 The Chief Executive shall seek and consider the views of the governance entity on any proposed major works or changes to any national monument, war grave or historic grave, managed or administered by the Ministry, which specifically relates to Te Kawerau ā Maki's interests in the Protocol Area. For the avoidance of any doubt, this does not include normal maintenance or cleaning.

10.2 Subject to government funding and government policy, the Chief Executive will provide for the marking and maintenance of any historic war grave identified by the governance entity, which the Chief Executive considers complies with the Ministry's War Graves Policy criteria; that is, a casualty, whether a combatant or non-combatant, whose death was a result of the armed conflicts within New Zealand in the period 1840 to 1872 (the New Zealand Wars).

11. HISTORY PUBLICATIONS

11.1 The Chief Executive shall:

11.1.1 upon commencement of this protocol provide the governance entity with a list and copies of all history publications commissioned or undertaken by the Ministry that relates substantially to, Te Kawerau ā Maki; and

11.1.2 where reasonably practicable, consult with the governance entity on any work the Ministry undertakes that relates substantially to Te Kawerau ā Maki:

(a) from an early stage;

(b) throughout the process of undertaking the work; and

(c) before making the final decision on the material of a publication.

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11.2 It is accepted that the author, after genuinely considering the submissions and/or views of, and confirming and correcting any factual mistakes identified by the governance entity, is entitled to make the final decision on the material of the historical publication.

12. PROVISION OF CULTURAL AND/OR SPIRITUAL PRACTICES AND PROFESSIONAL SERVICES

12.1 Where the Chief Executive request's cultural and/or spiritual practices to be undertaken by Te Kawerau ā Maki within the Protocol Area, the Chief Executive will make a contribution subject to prior mutual agreement, to the costs of undertaking such practices.

12.2 Where appropriate, the Chief Executive will consider using the governance entity as a provider of professional services relating to cultural advice, historical and commemorative services sought by the Chief Executive.

12.3 The procurement by the Chief Executive of any such services set out in clauses 12.1 and 12.2 is subject to the Government's Mandatory Rules for Procurement by Departments, all government good practice policies and guidelines, and the Ministry's purchasing policy.

13. CONSULTATION

13.1 Where the Chief Executive is required to consult under this Protocol, the basic principles that will be followed in consulting with the governance entity in each case are:

13.1.1 ensuring that the governance entity is consulted as soon as reasonably practicable following the identification and determination by the Chief Executive of the proposal or issues to be the subject of the consultation;

13.1.2 providing the governance entity with sufficient information to make informed decisions and submissions in relation to any of the matters that are the subject of the consultation;

13.1.3 ensuring that sufficient time is given for the participation of the governance entity in the decision making process including the preparation of submissions by the governance entity in relation to any of the matters that are the subject of the consultation;

13.1.4 ensuring that the Chief Executive will approach the consultation with the governance entity with an open mind, and will genuinely consider the submissions of the governance entity in relation to any of the matters that are the subject of the consultation; and

13.1.5 report back to the governance entity, either in writing or in person, in regard to any decisions made that relate to that consultation.

14 CHANGES TO POLICY AND LEGISLATION AFFECTING THIS PROTOCOL

14.1 If the Chief Executive consults with Māori generally on policy development or any proposed legislative amendment to the Act that impacts upon this Protocol, the Chief Executive shall:

14.1.1 notify the governance entity of the proposed policy development or proposed legislative amendment upon which Māori generally will be consulted;

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14.1.2 make available to the governance entity the information provided to Māori as part of the consultation process referred to in this clause; and

14.1.3 report back to the governance entity on the outcome of any such consultation.

15. DEFINITIONS

15.1 In this Protocol:

Chief Executive means the Chief Executive of Manatū Taonga also known as the Ministry for Culture and Heritage and includes any authorised employee of Manatū Taonga also known as the Ministry for Culture and Heritage acting for and on behalf of the Chief Executive

Crown means the Sovereign in right of New Zealand and includes, where appropriate, the Ministers and Departments of the Crown that are involved in, or bound by the terms of the Deed of Settlement to participate in, any aspect of the redress under the Deed of Settlement

Expert Examiner has the same meaning as in section 2 of the Act and means a body corporate or an association of persons

Found has the same meaning as in section 2 of the Act and means:

in relation to any Taonga Tūturu, means discovered or obtained in circumstances which do not indicate with reasonable certainty the lawful ownership of the Taonga Tūturu and which suggest that the Taonga Tūturu was last in the lawful possession of a person who at the time of finding is no longer alive; and ‘finding’ and ‘finds’ have corresponding meanings

governance entity means xxx

Ngā Taonga Tūturu has the same meaning as in section 2 of the Act and means two or more Taonga Tūturu

Te Kawerau ā Maki has the meaning set out in clause xx of the Deed of Settlement

Protocol means a statement in writing, issued by the Crown through the Minister to the governance entity under the Settlement Legislation and the Deed of Settlement and includes this Protocol

Taonga Tūturu has the same meaning as in section 2 of the Act and means:

an object that —

- (a) relates to Māori culture, history, or society; and
- (b) was, or appears to have been,—
 - (i) manufactured or modified in New Zealand by Māori; or
 - (ii) brought into New Zealand by Māori; or
 - (iii) used by Māori; and

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(c) is more than 50 years old

ISSUED on

SIGNED for and on behalf of **THE SOVEREIGN** in right of New Zealand by the Minister for Arts, Culture and Heritage:

WITNESS

Name:

Occupation:

Address:

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ATTACHMENT B: SUMMARY OF THE TERMS OF ISSUE

This Protocol is subject to the Deed of Settlement and the Settlement Legislation. A summary of the relevant provisions is set out below.

1. Amendment and cancellation

1.1 The Minister may amend or cancel this Protocol, but only after consulting with the governance entity and having particular regard to its views (section []).

2. Limits

2.1 This Protocol does not -

2.1.1 restrict the Crown from exercising its powers, and performing its functions and duties, in accordance with the law and government policy, including:

- (a) introducing legislation; or
- (b) changing government policy; or
- (c) issuing a Protocol to, or interacting or consulting with anyone the Crown considers appropriate, including any iwi, hapu, marae, whanau, or representative of tangata whenua (section []); or

2.1.2 restrict the responsibilities of the Minister or the Ministry or the legal rights of [] (section []); or

2.1.3 grant, create, or provide evidence of an estate or interest in, or rights relating to, taonga tūturu.

3. Breach

3.1 Subject to the Crown Proceedings Act 1950, the governance entity may enforce this Protocol if the Crown breaches it without good cause, but damages or monetary compensation will not be awarded (section []).

3.2 A breach of this Protocol is not a breach of the Deed of Settlement (clause []).

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ATTACHMENT A
THE MINISTRY FOR CULTURE AND HERITAGE PROTOCOL AREA



7 ENCUMBRANCES

7.1 MURIWAI CONSERVATION COVENANT

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	enjoyment by the public, and safeguarding the options of future generations.
“Conservation Values”	means the conservation values specified in Schedule 1.
“Covenant”	means this Deed of Covenant made under section 27 of the Conservation Act 1987 and section 77 of the Reserves Act 1977.
“Director-General”	means the Director-General of Conservation.
“Fence”	includes a gate.
“Fire Authority”	means a fire authority as defined in the Forest and Rural Fires Act 1977.
“Land”	means the land described in Schedule 1.
“Minerals”	means any mineral that is not a Crown-owned mineral under section 2 of the Crown Minerals Act 1991.
“Minister”	means the Minister of Conservation.
“Natural Water”	includes water contained in streams the banks of which have, from time to time, been re-aligned.
“Owner”	means the person or persons who, from time to time, is or are registered as the proprietor(s) of the Land.
“Reserve Values”	means any or all of the Land’s natural environment, landscape amenity, wildlife, freshwater life, marine life habitat, or historic values as specified in Schedule 1.
“Working Days”	means the period between any one midnight and the next excluding Saturdays, Sundays and statutory holidays in the place where the Land is situated.

1.2 For avoidance of doubt:

- 1.2.1 the reference to any statute in this Covenant extends to and includes any amendment to or substitution of that statute.
- 1.2.2 references to clauses are references to clauses in this Covenant.
- 1.2.3 references to parties are references to the Owner and the Minister.
- 1.2.4 words importing the singular number include the plural and vice versa.
- 1.2.5 expressions defined in clause 1.1 bear the defined meaning in the whole of this Covenant including the Background. Where the parties disagree over the interpretation of anything contained in this Covenant, and seek to determine the issue, the parties must have regard to the matters contained in the Background.

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- 1.2.6 any obligation not to do anything must be treated to include an obligation not to suffer, permit or cause the thing to be done.
- 1.2.7 words importing one gender include the other gender.
- 1.2.8 the agreements contained in this Covenant bind and benefit the parties and their administrators and executors, successors and assigns in perpetuity.
- 1.2.9 where clauses in this Covenant require further agreement between the parties such agreement must not be unreasonably withheld.

2 OBJECTIVES OF THE COVENANT

2.1 The Land must be managed:

- 2.1.1 for Conservation Purposes;
- 2.1.2 so as to preserve the Reserves Values;
- 2.1.3 to provide, subject to this Covenant, freedom of access to the public, on foot, for the appreciation and recreational enjoyment of the Land.

3 IMPLEMENTATION OF OBJECTIVE

3.1 Unless agreed in writing by the parties the Owner must not carry out or permit on or in relation to the Land:

- 3.1.1 grazing of the Land by livestock;
- 3.1.2 subject to clauses 3.2.1 and 3.2.3, felling, removal or damage of any tree, shrub or other plant;
- 3.1.3 the planting of any species of exotic tree, shrub or other plant;
- 3.1.4 the erection of any Fence, building, structure or other improvement for any purpose;
- 3.1.5 any burning, top dressing, sowing of seed or use of chemicals (whether for spraying or otherwise) except where the use of chemicals is reasonably necessary to control weeds or pests;
- 3.1.6 any cultivation, earth works or other soil disturbances;
- 3.1.7 any archaeological or other scientific research involving disturbance of the soil;
- 3.1.8 the damming, diverting or taking of Natural Water;
- 3.1.9 any action which will cause deterioration in the natural flow, supply, quantity, or quality of water of any stream, river, lake, pond, marsh, or any other water resource affecting the Land;

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- 3.1.10 any other activity which might have an adverse effect on the Conservation Values or Reserve Values;
 - 3.1.11 any prospecting or mining for Minerals, coal or other deposit or moving or removal of rock of any kind on or under the Land;
 - 3.1.12 the erection of utility transmission lines across the Land.
- 3.2 The Owner must take all reasonable steps to maintain the Land in a condition no worse than at the date of this Covenant, including:
- 3.2.1 eradicate or control all weeds and pests on the Land to the extent required by any statute; and, in particular, comply with the provisions of, and any notices given under, the Biosecurity Act 1993;
 - 3.2.2 co-operate with the Fire Authority when it is responding to a fire that threatens to burn, or is burning, on the Land and follow the directives of any controlling Rural Fire Officer in attendance at the fire regarding fire suppression;
 - 3.2.3 keep the Land free from exotic tree species;
 - 3.2.4 keep the Land free from rubbish or other unsightly or offensive material arising from the Owner's use of the Land;
 - 3.2.5 subject to consultation between the Owner and the Minister and observance of any reasonable conditions imposed by the Owner, grant to the Minister or authorised agent of the Minister or any employee of the Director-General, a right of access on to the Land, with or without motor vehicles, machinery, and implements of any kind, to examine and record the condition of the Land, or to carry out protection or maintenance work on the Land, or to ascertain whether the provisions of this Covenant are being observed;
 - 3.2.6 keep all Fences on the boundary of the Land in good order and condition and, notwithstanding clause 3.1.4, must rebuild and replace all such Fences when reasonably required except as provided in clause 5.1.2;
 - 3.2.7 comply with all requisite statutes, regulations and bylaws in relation to the Land.
- 3.3 The Owner acknowledges that:
- 3.3.1 this Covenant does not affect the Minister's exercise of the Minister's powers under the Wild Animal Control Act 1977;
 - 3.3.2 the Minister has statutory powers, obligations and duties with which the Minister must comply.

4 PUBLIC ACCESS

- 4.1 The Owner must, subject to this Covenant, permit the public to enter upon the Land on foot.

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7: ENCUMBRANCES – MURIWAI CONSERVATION COVENANT

5 THE MINISTER'S OBLIGATIONS AND OTHER MATTERS

5.1 The Minister must:

5.1.1 have regard to the objectives specified in clause 2.1 when considering any requests for approval under this Covenant.

5.1.2 repair and replace to its former condition any Fence or other improvement on the Land or on its boundary which may have been damaged in the course of the Minister, the Director-General's employees or contractors, or any member of the public exercising any of the rights conferred by this Covenant.

5.2 The Minister may:

5.2.1 provide to the Owner technical advice or assistance as may be necessary or desirable to assist in the objectives specified in clause 2 subject to any financial, statutory or other constraints which may apply to the Minister from time to time;

5.2.2 prepare, in consultation with the Owner, a joint plan for the management of the Land to implement the objectives specified in clause 2.

6 JOINT OBLIGATIONS

The Owner or the Minister may, by mutual agreement, carry out any work, or activity or improvement or take any action either jointly or individually better to achieve the objectives set out in clause 2.

7 DURATION OF COVENANT

7.1 This Covenant binds the parties in perpetuity to the rights and obligations contained in it.

8 OBLIGATIONS ON SALE OF LAND

8.1 If the Owner sells, leases, or parts with possession of the Land, the Owner must ensure that the Owner obtains the agreement of the purchaser, lessee, or assignee to comply with the terms of this Covenant.

8.2 Such agreement must include an agreement by the purchaser, lessee, or assignee to ensure that on a subsequent sale, lease, or assignment, a subsequent purchaser, lessee, or assignee will comply with the terms of this Covenant including this clause.

8.3 If, for any reason, this Covenant remains unregistered and the Owner fails to obtain the agreement of a purchaser, lessee, or assignee to comply with the terms of this Covenant, the Owner will continue to be liable in damages to the Minister for any breach of the Covenant committed after the Owner has parted with all interest in the Land in respect of which a breach occurs.

9 CONSENTS

9.1 The Owner must obtain the consent of any mortgagees of the Land to this Covenant.

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10 MISCELLANEOUS MATTERS

10.1 Rights

10.1.1 The rights granted by this Covenant are expressly declared to be in the nature of a covenant.

10.2 Trespass Act:

10.2.1 Except as provided in this Covenant, the Covenant does not diminish or affect the rights of the Owner to exercise the Owner's rights under the Trespass Act 1980 or any other statute or generally at law or otherwise;

10.2.2 For avoidance of doubt these rights may be exercised by the Owner if the Owner reasonably considers that any person has breached the rights and/or restrictions of access conferred by this Covenant.

10.3 Reserves Act

10.3.1 In accordance with section 77(3) of the Reserves Act 1977 but subject to the terms and conditions set out in this Covenant, sections 93 to 105 of the Reserves Act 1977, as far as they are applicable and with the necessary modifications, apply to the Land as if the Land were a reserve.

10.4 Titles

10.4.1 This Covenant must be signed by both parties and registered against the Certificate of Title to the Land.

10.5 Acceptance of Covenant

10.5.1 The parties agree to be bound by the provisions of the Covenant including during the period prior to the Covenant's registration.

10.6 Fire

10.6.1 The Owner must notify, as soon as practicable, the appropriate Fire Authority (as defined in the Forest and Rural Fires Act 1977) and the Minister in the event of wildfire upon or threatening the Land;

10.6.2 If the Minister is not the appropriate Fire Authority for the Land, the Minister will render assistance to the Fire Authority in suppressing the fire if:

10.6.2.1 requested to do so; or

10.6.2.2 if there is in place between the Minister and the Fire Authority a formalised fire agreement under section 14 of the Forest and Rural Fires Act 1977;

10.6.3 This assistance will be at no cost to the Owner unless the Owner is responsible for the wild fire through wilful action or negligence (which includes the case where the wild fire is caused by the escape of a permitted fire due to non adherence to the conditions of the permit).

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11 DEFAULT

- 11.1 Where either the Owner or the Minister breaches any of the terms and conditions contained in this Covenant the other party:
- 11.1.1 may take such action as may be necessary to remedy the breach or prevent any further damage occurring as a result of the breach; and
 - 11.1.2 will also be entitled to recover from the party responsible for the breach as a debt due all reasonable costs (including solicitor/client costs) incurred by the other party as a result of remedying the breach or preventing the damage.
- 11.2 Should either the Owner or the Minister become of the reasonable view that the other party (the defaulting party) has defaulted in performance of or observance of its obligations under this Covenant then that party (notifying party) may, by written notice:
- 11.2.1 advise the defaulting party of the default;
 - 11.2.2 state the action reasonably required of the defaulting party to perform or observe in accordance with this Covenant; and
 - 11.2.3 state a reasonable period within which the defaulting party must take action to remedy the default.

12 DISPUTE RESOLUTION PROCESSES

- 12.1 If any dispute arises between the Owner and the Minister in connection with this Covenant, the parties must, without prejudice to any other rights they may have under this Covenant, attempt to resolve the dispute by negotiation or other informal dispute resolution technique agreed between the parties.
- 12.2 **Mediation**
- 12.2.1 If the dispute is not capable of resolution by agreement within 14 days of written notice by one party to the other (or such further period as the parties may agree to in writing) either party may refer the dispute to mediation with a mediator agreed between the parties;
 - 12.2.2 If the parties do not agree on a mediator, the President of the New Zealand Law Society is to appoint the mediator.
- 12.3 **Failure of Mediation**
- 12.3.1 In the event that the matter is not resolved by mediation within 2 months of the date of referral to mediation the parties agree that the provisions in the Arbitration Act 1996 will apply.
 - 12.3.2 Notwithstanding anything to the contrary in the Arbitration Act 1996, if the parties do not agree on the person to be appointed as arbitrator, the appointment is to be made by the President for the time being of the New Zealand Law Society.
 - 12.3.3 The parties further agree that the results of arbitration are to be binding upon the parties.

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13 NOTICES

13.1 Any notice to be given under this Covenant by one party to the other is to be in writing and sent by personal delivery, by pre-paid post, or by facsimile addressed to the receiving party at the address or facsimile number set out in Schedule 2.

13.2 A notice given in accordance with clause 13.1 will be deemed to have been received:

- (a) in the case of personal delivery, on the date of delivery;
- (b) in the case of pre-paid post, on the third working day after posting;
- (c) in the case of facsimile, on the day on which it is dispatched or, if dispatched after 5.00pm, on the next day after the date of dispatch.

13.3 The Owner must notify the Minister of any change of ownership or control or all or any part of the Land and must supply the Minister with the name and address of the new owner or person in control.

14 SPECIAL CONDITIONS

14.1 Special conditions relating to this Covenant are set out in Schedule 3

14.2 The standard conditions contained in this Covenant must be read subject to any special conditions.

Executed as a Deed

Signed by _____ as)
Owner in the presence of:)

Witness: _____

Address: _____

Occupation: _____

Signed by _____ and)
acting under a written delegation from the Minister)
of Conservation and exercising his/her powers under)
section 117 of the Reserves Act 1977 as designated)
Commissioner in the presence of::)

Witness: _____

Address: _____

Occupation: _____

DOCUMENTS

7: ENCUMBRANCES – MURIWAI CONSERVATION COVENANT

SCHEDULE 1

Description of Land:

Part (approximately 1 hectare, subject to survey) of Section 24S Motutara Settlement.

Pursuant to the Reserves Act 1977, Section 24S Motutara Settlement was declared to be classified as a reserve for scenic purposes, subject to section 19 (1) (a) of the Reserves Act (Part New Zealand Gazette, 23 August 1979, No.79, page 2521).

Conservation Values to be protected:

The intrinsic value of the natural resources on the land, and the appreciation and enjoyment that may be derived by the public from the opportunity to visit the area. The land supports indigenous vegetation, providing habitat for indigenous fauna including kereru and a good range of common bush birds. It forms part of a reserve traversed by a popular walkway, which provides an opportunity to experience a remnant of the indigenous flora and fauna that once dominated the surrounding landscape.

Reserve Values to be protected:

The natural landscape amenity values of the area and the natural environment values represented by the indigenous flora and fauna on the land. The land is part of a substantial block of indigenous vegetation that contributes to the natural character and open space values of an otherwise semi-rural pastoral landscape.

DOCUMENTS

7: ENCUMBRANCES – MURIWAI CONSERVATION COVENANT

SCHEDULE 2

Address for Service

The address for service of the Owner is:

Conservation Partnerships Manager
Department of Conservation
Ground Floor - Building 2
Carlaw Park Commercial
12-16 Nicholls Lane
Parnell
Auckland

The address for service of the Minister is:

The Area Manager
Department of Conservation
North Head Historic Reserve
18 Takarunga Road
Devonport
North Shore 0624

DOCUMENTS

7: ENCUMBRANCES – MURIWAI CONSERVATION COVENANT

SCHEDULE 3

Special Conditions

1. The Owner may undertake minor clearance of vegetation for the purposes of access to the land and for pest plant or pest animal control, or for the activities specified in paragraph [3] of this Schedule.
2. The Owner may undertake activities otherwise prohibited by clause 3.1 of the Covenant as are reasonably necessary for the development of the facility and the activities specified in paragraph [3] of this Schedule.
3. The Owner may build a wananga facility on the land provided that is consistent with the reserve values of the Land specified in Schedule 1. The wananga facility will incorporate the cultural and spiritual values of Te Kawerau a Maki and provide for the usual wananga activities and may also include:
 - a. short term accommodation for wananga attendees;
 - b. freshwater storage, wastewater disposal, and power generation facilities;
 - c. facilities to store and maintain fire-fighting equipment; and
 - d. general storage facilities.
4. Special conditions 1 to 3 in this schedule are subject to special conditions 5 to 9.
5. The Owner must design and construct any wananga facility so as to avoid as far as practicable the destruction of mature indigenous vegetation and minimise the visual intrusiveness of any structures, particularly as seen from the Goldie Bush walkway.
6. The Owner must take the following steps to minimise the fire risk:
 - a. not allow smoking except in a safe designated area;
 - b. not allow fires except in a safe designated area;
 - c. keep flammable vegetation (for example, rank or dead grass, manuka and kanuka) at least four metres back from buildings; and
 - d. control machinery use, particularly in drought conditions.
7. The Owner must take the following steps to minimise disturbance to wildlife:
 - a. discourage the feeding of birds; and
 - b. ensure that all those on the Land are aware that they may not catch or handle wildlife unless as specified in a permit under the Wildlife Act 1953 or the Reserves Act 1977.
8. Clause 3.2.5 is amended by adding that the owner may not unreasonably refuse permission for the Department of Conservation to access the site immediately to carry out any urgent weed or pest control, or to monitor threatened species.

DOCUMENTS

7: ENCUMBRANCES – MURIWAI CONSERVATION COVENANT

GRANT of Certified correct for the purposes of
the Land Transfer Act 1952

Solicitor for the Minister of
Conservation

CONSERVATION COVENANT

Under section 27 of the
Conservation Act 1987
and section 77 of the
Reserves Act 1977

to

MINISTER OF CONSERVATION

**Legal Services
Department of Conservation**

1.1

DOCUMENTS

7 ENCUMBRANCES – OPAREIRA CONSERVATION COVENANT

7.2 OPAREIRA CONSERVATION COVENANT

DOCUMENTS

7: ENCUMBRANCES - OPAREIRA CONSERVATION COVENANT

	enjoyment by the public, and safeguarding the options of future generations.
“Conservation Values”	means the conservation values specified in Schedule 1.
“Covenant”	means this Deed of Covenant made under section 27 of the Conservation Act 1987 and section 77 of the Reserves Act 1977.
“Director-General”	means the Director-General of Conservation.
“Fence”	includes a gate.
“Fire Authority”	means a fire authority as defined in the Forest and Rural Fires Act 1977.
“Land”	means the land described in Schedule 1.
“Minerals”	means any mineral that is not a Crown-owned mineral under section 2 of the Crown Minerals Act 1991.
“Minister”	means the Minister of Conservation.
“Natural Water”	includes water contained in streams the banks of which have, from time to time, been re-aligned.
“Owner”	means the person or persons who, from time to time, is or are registered as the proprietor(s) of the Land.
“Reserve Values”	means any or all of the Land’s natural environment, landscape amenity, wildlife, freshwater life, marine life habitat, or historic values as specified in Schedule 1.
“Working Days”	means the period between any one midnight and the next excluding Saturdays, Sundays and statutory holidays in the place where the Land is situated.

1.2 For avoidance of doubt:

- 1.2.1 the reference to any statute in this Covenant extends to and includes any amendment to or substitution of that statute.
- 1.2.2 references to clauses are references to clauses in this Covenant.
- 1.2.3 references to parties are references to the Owner and the Minister.
- 1.2.4 words importing the singular number include the plural and vice versa.
- 1.2.5 expressions defined in clause 1.1 bear the defined meaning in the whole of this Covenant including the Background. Where the parties disagree over the interpretation of anything contained in this Covenant, and seek to determine the issue, the parties must have regard to the matters contained in the Background.

DOCUMENTS

7: ENCUMBRANCES - OPAREIRA CONSERVATION COVENANT

- 1.2.6 any obligation not to do anything must be treated to include an obligation not to suffer, permit or cause the thing to be done.
- 1.2.7 words importing one gender include the other gender.
- 1.2.8 the agreements contained in this Covenant bind and benefit the parties and their administrators and executors, successors and assigns in perpetuity.
- 1.2.9 where clauses in this Covenant require further agreement between the parties such agreement must not be unreasonably withheld.

2 OBJECTIVES OF THE COVENANT

- 2.1 The Land must be managed:
 - 2.1.1 for Conservation Purposes;
 - 2.1.2 so as to preserve the Reserves Values;
 - 2.1.3 to provide, subject to this Covenant, freedom of access to the public on foot, for the appreciation and recreational enjoyment of the Land.

3 IMPLEMENTATION OF OBJECTIVE

- 3.1 Unless agreed in writing by the parties the Owner must not carry out or permit on or in relation to the Land:
 - 3.1.1 grazing of the Land by livestock;
 - 3.1.2 subject to clauses 3.2.1 and 3.2.3, felling, removal or damage of any tree, shrub or other plant;
 - 3.1.3 the planting of any species of exotic tree, shrub or other plant;
 - 3.1.4 the erection of any Fence, building, structure or other improvement for any purpose;
 - 3.1.5 any burning, top dressing, sowing of seed or use of chemicals (whether for spraying or otherwise) except where the use of chemicals is reasonably necessary to control weeds or pests;
 - 3.1.6 any cultivation, earth works or other soil disturbances;
 - 3.1.7 any archaeological or other scientific research involving disturbance of the soil;
 - 3.1.8 the damming, diverting or taking of Natural Water;
 - 3.1.9 any action which will cause deterioration in the natural flow, supply, quantity, or quality of water of any stream, river, lake, pond, marsh, or any other water resource affecting the Land;

DOCUMENTS

7: ENCUMBRANCES - OPAREIRA CONSERVATION COVENANT

- 3.1.10 any other activity which might have an adverse effect on the Conservation Values or Reserve Values;
 - 3.1.11 any prospecting or mining for Minerals, coal or other deposit or moving or removal of rock of any kind on or under the Land;
 - 3.1.12 the erection of utility transmission lines across the Land.
- 3.2 The Owner must take all reasonable steps to maintain the Land in a condition no worse than at the date of this Covenant, including:
- 3.2.1 eradicate or control all weeds and pests on the Land to the extent required by any statute; and, in particular, comply with the provisions of, and any notices given under, the Biosecurity Act 1993;
 - 3.2.2 co-operate with the Fire Authority when it is responding to a fire that threatens to burn, or is burning, on the Land and follow the directives of any controlling Rural Fire Officer in attendance at the fire regarding fire suppression;
 - 3.2.3 keep the Land free from exotic tree species;
 - 3.2.4 keep the Land free from rubbish or other unsightly or offensive material arising from the Owner's use of the Land;
 - 3.2.5 subject to consultation between the Owner and the Minister and observance of any reasonable conditions imposed by the Owner, grant to the Minister or authorised agent of the Minister or any employee of the Director-General, a right of access on to the Land, with or without motor vehicles, machinery, and implements of any kind, to examine and record the condition of the Land, or to carry out protection or maintenance work on the Land, or to ascertain whether the provisions of this Covenant are being observed;
 - 3.2.6 keep all Fences on the boundary of the Land in good order and condition and, notwithstanding clause 3.1.4, must rebuild and replace all such Fences when reasonably required except as provided in clause 5.1.2;
 - 3.2.7 comply with all requisite statutes, regulations and bylaws in relation to the Land.
- 3.3 The Owner acknowledges that:
- 3.3.1 this Covenant does not affect the Minister's exercise of the Minister's powers under the Wild Animal Control Act 1977;
 - 3.3.2 the Minister has statutory powers, obligations and duties with which the Minister must comply.

4 PUBLIC ACCESS

- 4.1 The Owner must, subject to this Covenant, permit the public to enter upon the Land on foot.

DOCUMENTS

7: ENCUMBRANCES - OPAREIRA CONSERVATION COVENANT

5 THE MINISTER'S OBLIGATIONS AND OTHER MATTERS

5.1 The Minister must:

5.1.1 have regard to the objectives specified in clause 2.1 when considering any requests for approval under this Covenant.

5.1.2 repair and replace to its former condition any Fence or other improvement on the Land or on its boundary which may have been damaged in the course of the Minister, the Director-General's employees or contractors, or any member of the public exercising any of the rights conferred by this Covenant.

5.2 The Minister may:

5.2.1 provide to the Owner technical advice or assistance as may be necessary or desirable to assist in the objectives specified in clause 2 subject to any financial, statutory or other constraints which may apply to the Minister from time to time;

5.2.2 prepare, in consultation with the Owner, a joint plan for the management of the Land to implement the objectives specified in clause 2.

6 JOINT OBLIGATIONS

The Owner or the Minister may, by mutual agreement, carry out any work, or activity or improvement or take any action either jointly or individually better to achieve the objectives set out in clause 2.

7 DURATION OF COVENANT

7.1 This Covenant binds the parties in perpetuity to the rights and obligations contained in it.

8 OBLIGATIONS ON SALE OF LAND

8.1 If the Owner sells, leases, or parts with possession of the Land, the Owner must ensure that the Owner obtains the agreement of the purchaser, lessee, or assignee to comply with the terms of this Covenant.

8.2 Such agreement must include an agreement by the purchaser, lessee, or assignee to ensure that on a subsequent sale, lease, or assignment, a subsequent purchaser, lessee, or assignee will comply with the terms of this Covenant including this clause.

8.3 If, for any reason, this Covenant remains unregistered and the Owner fails to obtain the agreement of a purchaser, lessee, or assignee to comply with the terms of this Covenant, the Owner will continue to be liable in damages to the Minister for any breach of the Covenant committed after the Owner has parted with all interest in the Land in respect of which a breach occurs.

9 CONSENTS

9.1 The Owner must obtain the consent of any mortgagees of the Land to this Covenant.

DOCUMENTS

7: ENCUMBRANCES - OPAREIRA CONSERVATION COVENANT

10 MISCELLANEOUS MATTERS

10.1 Rights

10.1.1 The rights granted by this Covenant are expressly declared to be in the nature of a covenant.

10.2 Trespass Act:

10.2.1 Except as provided in this Covenant, the Covenant does not diminish or affect the rights of the Owner to exercise the Owner's rights under the Trespass Act 1980 or any other statute or generally at law or otherwise;

10.2.2 For avoidance of doubt these rights may be exercised by the Owner if the Owner reasonably considers that any person has breached the rights and/or restrictions of access conferred by this Covenant.

10.3 Reserves Act

10.3.1 In accordance with section 77(3) of the Reserves Act 1977 but subject to the terms and conditions set out in this Covenant, sections 93 to 105 of the Reserves Act 1977, as far as they are applicable and with the necessary modifications, apply to the Land as if the Land were a reserve.

10.4 Titles

10.4.1 This Covenant must be signed by both parties and registered against the Certificate of Title to the Land.

10.5 Acceptance of Covenant

10.5.1 The parties agree to be bound by the provisions of the Covenant including during the period prior to the Covenant's registration.

10.6 Fire

10.6.1 The Owner must notify, as soon as practicable, the appropriate Fire Authority (as defined in the Forest and Rural Fires Act 1977) and the Minister in the event of wildfire upon or threatening the Land;

10.6.2 If the Minister is not the appropriate Fire Authority for the Land, the Minister will render assistance to the Fire Authority in suppressing the fire if:

10.6.2.1 requested to do so; or

10.6.2.3 if there is in place between the Minister and the Fire Authority a formalised fire agreement under section 14 of the Forest and Rural Fires Act 1977;

10.6.3 This assistance will be at no cost to the Owner unless the Owner is responsible for the wild fire through wilful action or negligence (which includes the case where the wild fire is caused by the escape of a permitted fire due to non adherence to the conditions of the permit).

DOCUMENTS

7: ENCUMBRANCES - OPAREIRA CONSERVATION COVENANT

11 DEFAULT

- 11.1 Where either the Owner or the Minister breaches any of the terms and conditions contained in this Covenant the other party:
- 11.1.1 may take such action as may be necessary to remedy the breach or prevent any further damage occurring as a result of the breach; and
 - 11.1.2 will also be entitled to recover from the party responsible for the breach as a debt due all reasonable costs (including solicitor/client costs) incurred by the other party as a result of remedying the breach or preventing the damage.
- 11.2 Should either the Owner or the Minister become of the reasonable view that the other party (the defaulting party) has defaulted in performance of or observance of its obligations under this Covenant then that party (notifying party) may, by written notice:
- 11.2.1 advise the defaulting party of the default;
 - 11.2.2 state the action reasonably required of the defaulting party to perform or observe in accordance with this Covenant; and
 - 11.2.3 state a reasonable period within which the defaulting party must take action to remedy the default.

12 DISPUTE RESOLUTION PROCESSES

- 12.1 If any dispute arises between the Owner and the Minister in connection with this Covenant, the parties must, without prejudice to any other rights they may have under this Covenant, attempt to resolve the dispute by negotiation or other informal dispute resolution technique agreed between the parties.
- 12.2 **Mediation**
- 12.2.1 If the dispute is not capable of resolution by agreement within 14 days of written notice by one party to the other (or such further period as the parties may agree to in writing) either party may refer the dispute to mediation with a mediator agreed between the parties;
 - 12.2.2 If the parties do not agree on a mediator, the President of the New Zealand Law Society is to appoint the mediator.
- 12.3 **Failure of Mediation**
- 12.3.1 In the event that the matter is not resolved by mediation within 2 months of the date of referral to mediation the parties agree that the provisions in the Arbitration Act 1996 will apply.
 - 12.3.2 Notwithstanding anything to the contrary in the Arbitration Act 1996, if the parties do not agree on the person to be appointed as arbitrator, the appointment is to be made by the President for the time being of the New Zealand Law Society.
 - 12.3.3 The parties further agree that the results of arbitration are to be binding upon the parties.

DOCUMENTS

7: ENCUMBRANCES - OPAREIRA CONSERVATION COVENANT

13 NOTICES

- 13.1 Any notice to be given under this Covenant by one party to the other is to be in writing and sent by personal delivery, by pre-paid post, or by facsimile addressed to the receiving party at the address or facsimile number set out in Schedule 2.
- 13.2 A notice given in accordance with clause 13.1 will be deemed to have been received:
- (a) in the case of personal delivery, on the date of delivery;
 - (b) in the case of pre-paid post, on the third working day after posting;
 - (c) in the case of facsimile, on the day on which it is dispatched or, if dispatched after 5.00pm, on the next day after the date of dispatch.
- 13.3 The Owner must notify the Minister of any change of ownership or control or all or any part of the Land and must supply the Minister with the name and address of the new owner or person in control.

14 SPECIAL CONDITIONS

- 14.1 Special conditions relating to this Covenant are set out in Schedule 3
- 14.2 The standard conditions contained in this Covenant must be read subject to any special conditions.

DOCUMENTS

7: ENCUMBRANCES - OPAREIRA CONSERVATION COVENANT

Executed as a Deed

Signed by _____ as)
Owner in the presence of :)

Witness: _____

Address : _____

Occupation: _____

Signed by _____ and)
acting under a written delegation from the Minister)
of Conservation and exercising his/her powers under)
section 117 of the Reserves Act 1977 as designated)
Commissioner in the presence of :)

Witness: _____

Address : _____

Occupation: _____

DOCUMENTS

7: ENCUMBRANCES - OPAREIRA CONSERVATION COVENANT

SCHEDULE 1

Description of Land:

Part (approximately 1 hectare, subject to survey) Allotment 196, Waipareira Parish, Block I, Titirangi Survey District.

Conservation Values to be protected:

The intrinsic value of the natural resources on the land, and the appreciation and enjoyment that may be derived by the public from the opportunity to visit the area. The land supports regenerating (previously logged) indigenous forest, comprising manuka forest with some emergent kauri, rimu and other podocarp and hardwood species. The forest provides habitat for indigenous fauna including kereru, ruru and some common bush birds. The land provides an opportunity for the public to experience a remnant of the indigenous flora and fauna that once dominated the surrounding landscape.

Reserve Values to be protected:

The natural landscape amenity values of the area and the natural environment values represented by the indigenous flora and fauna on the land. The land is part of a block of indigenous vegetation that contributes to the natural character and open space values of an otherwise semi-rural pastoral landscape.

DOCUMENTS

7: ENCUMBRANCES - OPAREIRA CONSERVATION COVENANT

SCHEDULE 2

Address for Service

The address for service of the Owner is:

The address for service of the Minister is:

The Area Manager
Department of Conservation
North Head Historic Reserve
18 Takarunga Road
Devonport
North Shore 0624

DOCUMENTS

7: ENCUMBRANCES - OPAREIRA CONSERVATION COVENANT

SCHEDULE 3

Special Conditions

1. The Owner may undertake minor clearance of vegetation for the purposes of access to the land and for pest plant or pest animal control.
2. The Owner must take the following steps to minimise the fire risk:
 - a. not allow smoking except in a safe designated area;
 - b. not allow fires except in a safe designated area;
 - c. control machinery use, particularly in drought conditions.
3. The Owner must take the following steps to prevent the spread or introduction of weeds:
 - a. not plant exotic species
 - b. check equipment before taking to the land for plants and seeds; and
 - c. control weed species present.
4. The Owner must take the following steps to minimise disturbance to wildlife:
 - a. discourage the feeding of birds; and
 - b. ensure that all those on the Land are aware that they may not catch or handle wildlife unless as specified in a permit under the Wildlife Act 1953.

The owner may not unreasonably refuse permission for the Department of Conservation to access the site immediately to carry out any urgent weed or pest control.

DOCUMENTS

7: ENCUMBRANCES - OPAREIRA CONSERVATION COVENANT

GRANT of Certified correct for the purposes of
the Land Transfer Act 1952

Solicitor for the Minister of
Conservation

CONSERVATION COVENANT

Under section 27 of the
Conservation Act 1987
and section 77 of the
Reserves Act 1977

to

MINISTER OF CONSERVATION

Legal Services
Department of Conservation

DOCUMENTS

7 ENCUMBRANCES - PARIHOA SITE A CONSERVATION COVENANT

7.3 PARIHOA SITE A CONSERVATION COVENANT

DOCUMENTS

7: ENCUMBRANCES - PARIHOA SITE A CONSERVATION COVENANT

“Land”	means the land described in Schedule 1.
“Minerals”	means any mineral that is not a Crown-owned mineral under section 2 of the Crown Minerals Act 1991.
“Minister”	means the Minister of Conservation.
“Natural Water”	includes water contained in streams the banks of which have, from time to time, been re-aligned.
“Owner”	means the person or persons who, from time to time, is or are registered as the proprietor(s) of the Land.
“Reserve Values”	means any or all of the Land’s natural environment, landscape amenity, wildlife, freshwater life, marine life habitat, or historic values as specified in Schedule 1.
“Working Days”	means the period between any one midnight and the next excluding Saturdays, Sundays and statutory holidays in the place where the Land is situated.

1.2 For avoidance of doubt:

- 1.2.1 the reference to any statute in this Covenant extends to and includes any amendment to or substitution of that statute.
- 1.2.2 references to clauses are references to clauses in this Covenant.
- 1.2.3 references to parties are references to the Owner and the Minister.
- 1.2.4 words importing the singular number include the plural and vice versa.
- 1.2.5 expressions defined in clause 1.1 bear the defined meaning in the whole of this Covenant including the Background. Where the parties disagree over the interpretation of anything contained in this Covenant, and seek to determine the issue, the parties must have regard to the matters contained in the Background.
- 1.2.6 any obligation not to do anything must be treated to include an obligation not to suffer, permit or cause the thing to be done.
- 1.2.7 words importing one gender include the other gender.
- 1.2.8 the agreements contained in this Covenant bind and benefit the parties and their administrators and executors, successors and assigns in perpetuity.
- 1.2.9 where clauses in this Covenant require further agreement between the parties such agreement must not be unreasonably withheld.

2 OBJECTIVES OF THE COVENANT

- 2.1 The Land must be managed so as to preserve the Reserve Values;

DOCUMENTS

7: ENCUMBRANCES - PARIHOA SITE A CONSERVATION COVENANT

3 IMPLEMENTATION OF OBJECTIVE

- 3.1 Unless agreed in writing by the parties the Owner must not carry out or permit on or in relation to the Land:
- 3.1.1 grazing of the Land by livestock;
 - 3.1.2 subject to clauses 3.2.1 and 3.2.3, felling, removal or damage of any tree, shrub or other plant;
 - 3.1.3 the planting of any species of exotic tree, shrub or other plant;
 - 3.1.4 the erection of any Fence, building, structure or other improvement for any purpose;
 - 3.1.5 any burning, top dressing, sowing of seed or use of chemicals (whether for spraying or otherwise) except where the use of chemicals is reasonably necessary to control weeds or pests;
 - 3.1.6 any cultivation, earth works or other soil disturbances;
 - 3.1.7 any archaeological or other scientific research involving disturbance of the soil;
 - 3.1.8 the damming, diverting or taking of Natural Water;
 - 3.1.9 any action which will cause deterioration in the natural flow, supply, quantity, or quality of water of any stream, river, lake, pond, marsh, or any other water resource affecting the Land;
 - 3.1.10 any other activity which might have an adverse effect on the Reserve Values;
 - 3.1.11 any prospecting or mining for Minerals, coal or other deposit or moving or removal of rock of any kind on or under the Land;
 - 3.1.12 the erection of utility transmission lines across the Land.
- 3.2 The Owner must take all reasonable steps to maintain the Land in a condition no worse than at the date of this Covenant, including:
- 3.2.1 eradicate or control all weeds and pests on the Land to the extent required by any statute; and, in particular, comply with the provisions of, and any notices given under, the Biosecurity Act 1993;
 - 3.2.2 co-operate with the Fire Authority when it is responding to a fire that threatens to burn, or is burning, on the Land and follow the directives of any controlling Rural Fire Officer in attendance at the fire regarding fire suppression;
 - 3.2.3 keep the Land free from exotic tree species;
 - 3.2.4 keep the Land free from rubbish or other unsightly or offensive material arising from the Owner's use of the Land;

DOCUMENTS

7: ENCUMBRANCES - PARIHOA SITE A CONSERVATION COVENANT

- 3.2.5 subject to consultation between the Owner and the Minister and observance of any reasonable conditions imposed by the Owner, grant to the Minister or authorised agent of the Minister or any employee of the Director-General, a right of access on to the Land, with or without motor vehicles, machinery, and implements of any kind, to examine and record the condition of the Land, or to carry out protection or maintenance work on the Land, or to ascertain whether the provisions of this Covenant are being observed;
 - 3.2.6 keep all Fences on the boundary of the Land in good order and condition and, notwithstanding clause 3.1.4, must rebuild and replace all such Fences when reasonably required except as provided in clause 4.1.2;
 - 3.2.7 comply with all requisite statutes, regulations and bylaws in relation to the Land.
- 3.3 The Owner acknowledges that:
- 3.3.1 this Covenant does not affect the Minister's exercise of the Minister's powers under the Wild Animal Control Act 1977;
 - 3.3.2 the Minister has statutory powers, obligations and duties with which the Minister must comply.

4 THE MINISTER'S OBLIGATIONS AND OTHER MATTERS

- 4.1 The Minister must:
- 4.1.1 have regard to the objectives specified in clause 2.1 when considering any requests for approval under this Covenant.
 - 4.1.2 repair and replace to its former condition any Fence or other improvement on the Land or on its boundary which may have been damaged in the course of the Minister, the Director-General's employees or contractors, or any member of the public exercising any of the rights conferred by this Covenant.
- 4.2 The Minister may:
- 4.2.1 provide to the Owner technical advice or assistance as may be necessary or desirable to assist in the objectives specified in clause 2 subject to any financial, statutory or other constraints which may apply to the Minister from time to time;
 - 4.2.2 prepare, in consultation with the Owner, a joint plan for the management of the Land to implement the objectives specified in clause 2.

5 JOINT OBLIGATIONS

The Owner or the Minister may, by mutual agreement, carry out any work, or activity or improvement or take any action either jointly or individually better to achieve the objectives set out in clause 2.

6 DURATION OF COVENANT

- 6.1 This Covenant binds the parties in perpetuity to the rights and obligations contained in it.

DOCUMENTS

7: ENCUMBRANCES - PARIHOA SITE A CONSERVATION COVENANT

7 OBLIGATIONS ON SALE OF LAND

- 7.1 If the Owner sells, leases, or parts with possession of the Land, the Owner must ensure that the Owner obtains the agreement of the purchaser, lessee, or assignee to comply with the terms of this Covenant.
- 7.2 Such agreement must include an agreement by the purchaser, lessee, or assignee to ensure that on a subsequent sale, lease, or assignment, a subsequent purchaser, lessee, or assignee will comply with the terms of this Covenant including this clause.
- 7.3 If, for any reason, this Covenant remains unregistered and the Owner fails to obtain the agreement of a purchaser, lessee, or assignee to comply with the terms of this Covenant, the Owner will continue to be liable in damages to the Minister for any breach of the Covenant committed after the Owner has parted with all interest in the Land in respect of which a breach occurs.

8 CONSENTS

- 8.1 The Owner must obtain the consent of any mortgagees of the Land to this Covenant.

9 MISCELLANEOUS MATTERS

9.1 Rights

- 9.1.1 The rights granted by this Covenant are expressly declared to be in the nature of a covenant.

9.2 Trespass Act:

- 9.2.1 Except as provided in this Covenant, the Covenant does not diminish or affect the rights of the Owner to exercise the Owner's rights under the Trespass Act 1980 or any other statute or generally at law or otherwise;
- 9.2.2 For avoidance of doubt these rights may be exercised by the Owner if the Owner reasonably considers that any person has breached the rights and/or restrictions of access conferred by this Covenant.

9.3 Reserves Act

- 9.3.1 In accordance with section 77(3) of the Reserves Act 1977 but subject to the terms and conditions set out in this Covenant, sections 93 to 105 of the Reserves Act 1977, as far as they are applicable and with the necessary modifications, apply to the Land as if the Land were a reserve.

9.4 Title

- 9.4.1 This Covenant must be signed by both parties and registered against the Certificate of Title to the Land.

9.5 Acceptance of Covenant

DOCUMENTS

7: ENCUMBRANCES - PARIHOA SITE A CONSERVATION COVENANT

- 9.5.1 The parties agree to be bound by the provisions of the Covenant including during the period prior to the Covenant's registration.

9.6 Fire

- 9.6.1 The Owner must notify, as soon as practicable, the appropriate Fire Authority (as defined in the Forest and Rural Fires Act 1977) and the Minister in the event of wildfire upon or threatening the Land;

- 9.6.2 If the Minister is not the appropriate Fire Authority for the Land, the Minister will render assistance to the Fire Authority in suppressing the fire if:

10.6.2.1 requested to do so; or

10.6.2.4 if there is in place between the Minister and the Fire Authority a formalised fire agreement under section 14 of the Forest and Rural Fires Act 1977;

- 9.6.3 This assistance will be at no cost to the Owner unless the Owner is responsible for the wild fire through wilful action or negligence (which includes the case where the wild fire is caused by the escape of a permitted fire due to non adherence to the conditions of the permit).

10 DEFAULT

- 10.1 Where either the Owner or the Minister breaches any of the terms and conditions contained in this Covenant the other party:

10.1.1 may take such action as may be necessary to remedy the breach or prevent any further damage occurring as a result of the breach; and

10.1.2 will also be entitled to recover from the party responsible for the breach as a debt due all reasonable costs (including solicitor/client costs) incurred by the other party as a result of remedying the breach or preventing the damage.

- 10.2 Should either the Owner or the Minister become of the reasonable view that the other party (the defaulting party) has defaulted in performance of or observance of its obligations under this Covenant then that party (notifying party) may, by written notice:

10.2.1 advise the defaulting party of the default;

10.2.2 state the action reasonably required of the defaulting party to perform or observe in accordance with this Covenant; and

10.2.3 state a reasonable period within which the defaulting party must take action to remedy the default.

11 DISPUTE RESOLUTION PROCESSES

- 11.1 If any dispute arises between the Owner and the Minister in connection with this Covenant, the parties must, without prejudice to any other rights they may have under this Covenant, attempt to resolve the dispute by negotiation or other informal dispute resolution technique agreed between the parties.

DOCUMENTS

7: ENCUMBRANCES - PARIHOA SITE A CONSERVATION COVENANT

11.2 Mediation

11.2.1 If the dispute is not capable of resolution by agreement within 14 days of written notice by one party to the other (or such further period as the parties may agree to in writing) either party may refer the dispute to mediation with a mediator agreed between the parties;

11.2.2 If the parties do not agree on a mediator, the President of the New Zealand Law Society is to appoint the mediator.

11.3 Failure of Mediation

11.3.1 In the event that the matter is not resolved by mediation within 2 months of the date of referral to mediation the parties agree that the provisions in the Arbitration Act 1996 will apply.

11.3.2 Notwithstanding anything to the contrary in the Arbitration Act 1996, if the parties do not agree on the person to be appointed as arbitrator, the appointment is to be made by the President for the time being of the New Zealand Law Society.

11.3.3 The parties further agree that the results of arbitration are to be binding upon the parties.

12 NOTICES

12.1 Any notice to be given under this Covenant by one party to the other is to be in writing and sent by personal delivery, by pre-paid post, or by facsimile addressed to the receiving party at the address or facsimile number set out in Schedule 2.

12.2 A notice given in accordance with clause 12.1 will be deemed to have been received:

- (a) in the case of personal delivery, on the date of delivery;
- (b) in the case of pre-paid post, on the third working day after posting;
- (c) in the case of facsimile, on the day on which it is dispatched or, if dispatched after 5.00pm, on the next day after the date of dispatch.

12.3 The Owner must notify the Minister of any change of ownership or control or all or any part of the Land and must supply the Minister with the name and address of the new owner or person in control.

13 SPECIAL CONDITIONS

13.1 Special conditions relating to this Covenant are set out in Schedule 3

13.2 The standard conditions contained in this Covenant must be read subject to any special conditions.

DOCUMENTS

7: ENCUMBRANCES - PARIHOA SITE A CONSERVATION COVENANT

Executed as a Deed

Signed by _____ as)
Owner in the presence of:)

Witness: _____

Address: _____

Occupation: _____

Signed by _____ and)
acting under a written delegation from the Minister)
of Conservation and exercising his/her powers under)
section 117 of the Reserves Act 1977 as designated)
Commissioner in the presence of :)

Witness: _____

Address: _____

Occupation: _____

DOCUMENTS

7: ENCUMBRANCES - PARIHOA SITE A CONSERVATION COVENANT

SCHEDULE 1

Description of Land:

Part (approximately 2.03 ha, subject to survey) Crown Land Registration District Motutara Settlement and adjoining Lot 3 DP 190087.

Reserve Values to be protected:

The natural landscape amenity values of the area and the natural environment values represented by the indigenous flora and fauna on the land. The land is part of a wild and rugged stretch of coastal cliffs and rock platforms with an undulating, open pastoral landscape inland of the coastal cliffs and slopes. The land offers expansive views in most directions. A variety of indigenous coastal trees, shrubs and grasses are present. The threatened plant *Leptinella rotundata* has been recorded in the northern part of the property.

DOCUMENTS

7: ENCUMBRANCES - PARIHOA SITE A CONSERVATION COVENANT

SCHEDULE 2

Address for Service

The address for service of the Owner is:

Conservation Partnerships Manager
Department of Conservation
Ground Floor - Building 2
Carlaw Park Commercial
12-16 Nicholls Lane
Parnell
Auckland

The address for service of the Minister is:

The Area Manager
Department of Conservation
North Head Historic Reserve
18 Takarunga Road
Devonport
North Shore 0624

DOCUMENTS

7: ENCUMBRANCES - PARIHOA SITE A CONSERVATION COVENANT

SCHEDULE 3

Special Conditions

1. The Owner may undertake minor clearance of vegetation for the purposes of access to the land and for pest plant or pest animal control.
2. The Owner must take the following steps to minimise the fire risk while undertaking activities for purposes of access and for pest plant and pest animal control:
 - a. not allow smoking except in a safe designated area; and
 - b. not allow fires except in a safe designated area.
3. The Owner must take the following steps to minimise disturbance to wildlife
 - a. discourage the feeding of birds; and
 - b. ensure that all those on the Land are aware that they may not catch or handle wildlife unless as specified in a permit under the Wildlife Act 1953.
4. Clause 3.2.5 is amended by adding that the owner may not unreasonably refuse permission for the Department of Conservation to access the site immediately to carry out any urgent weed or pest control, or to monitor threatened species.

DOCUMENTS

7: ENCUMBRANCES - PARIHOA SITE A CONSERVATION COVENANT

GRANT of Certified correct for the purposes of
the Land Transfer Act 1952

Solicitor for the Minister of
Conservation

CONSERVATION COVENANT

Under section 77 of the
Reserves Act 1977

to

MINISTER OF CONSERVATION

Legal Services
Department of Conservation

1.2

DOCUMENTS

7 ENCUMBRANCES - PARIHOA SITE A EASEMENT

7.4 PARIHOA SITE A EASEMENT

DOCUMENTS

7: ENCUMBRANCES - PARIHOA SITE A EASEMENT

EASEMENT INSTRUMENT
to grant easement

Sections 90A and 90F, Land Transfer Act 1952

Land Registration District

North Auckland

Grantor

Surname must be underlined

Te Kawerau Iwi Settlement Trust

Grantee

Surname must be underlined

Her Majesty the Queen acting by and through the Minister of Conservation

Grant of easement

The Grantor, being the registered proprietor of the servient tenement(s) set out in Schedule A, **grants to the Grantee** in gross and in perpetuity the easement **set out** in Schedule A, with the rights and powers or provisions set out in the Annexure Schedule B

Dated this

day of

20

ATTESTATION:

----- Signature of Grantor	Signed in my presence by the Grantor:
	_____ <i>Signature of Witness</i> Witness Name: Occupation: Address:

All signing parties and either their witnesses or solicitors must sign or initial in this box.

DOCUMENTS

7: ENCUMBRANCES - PARIHOA SITE A EASEMENT

<p>Signed on behalf of Her Majesty the Queen Council by acting under a delegation from the Minister of Conservation</p> <p>_____</p> <p>Signature of Grantee</p>	<p>Signed in my presence by the Grantee</p> <p>_____</p> <p><i>Signature of Witness</i></p> <p>Witness Name:</p> <p>Occupation:</p> <p>Address:</p>
--	---

Certified correct for the purposes of the Land Transfer Act 1952

Solicitor for the Grantee

All signing parties and either their witnesses or solicitors must sign or initial in this box.

DOCUMENTS

7: ENCUMBRANCES - PARIHOA SITE A EASEMENT

ANNEXURE SCHEDULE A

Easement Instrument	Dated:	Page of pages
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Purpose (nature and extent) of easement	Shown (plan reference)	Servient tenement (Identifier/CT)	Dominant Tenement (identifier CT or in gross)
Right of Way	Marked "A" on SO XXXX	Section 1 SO XXXX	In gross
	The Easement Area	The Grantor's Land	

The rights and powers implied in specific classes of easement prescribed by the Land Transfer Regulations 2002 and the Fifth Schedule of the Property Law Act 2007 do not apply and the easement rights and powers are as set out in **Annexure Schedule B**.

All signing parties and either their witnesses or solicitors must sign or initial in this box.

DOCUMENTS

7: ENCUMBRANCES - PARIHOA SITE A EASEMENT

ANNEXURE SCHEDULE B

Easement Instrument	Dated:	Page of pages
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RIGHTS AND POWERS

1 Rights of way

- 1.1 The right of way includes the right for the Grantee in common with the Grantor and other persons to whom the Grantor may grant similar rights, at all times, to go over and along the Easement Area.
- 1.2 The right of way includes the right for the public as the Grantee's invitees to go over and along the Easement Area on foot and where the Grantee wishes to carry out work to develop, improve or maintain the Easement Area or adjoining land administered by the Grantee its employees or contractors may proceed along the Easement Area by foot and with hand-held tools, or may on giving prior notice (where practicable and if not practicable as soon as possible after entry) by vehicle or any other means of transport and with all necessary tools, vehicles and equipment to carry out the work.
- 1.3 The right of way includes—
 - 1.3.1 the right on the Easement Area to repair or maintain the existing recreation track on the Easement Area, and (if necessary for any of those purposes) to alter the state of the land over which the easement is granted; and
 - 1.3.2 the right to have the Easement Area kept clear at all times of obstructions, deposit of materials, or unreasonable impediment to the use and enjoyment of the recreation track.
 - 1.3.3 The right for the Grantee to improve the Easement Area in any way it considers expedient, including the installation of track markers, stiles but without at any time causing damage to or interfering with the Grantor's management of the Grantor's Land.
 - 1.3.4 The right for the Grantee to erect and display notices on the Easement Area and with the Grantor's consent which will not be unreasonably withheld on the Grantor's Land.
- 1.4 The right of way does not confer on the public the right to camp on the Easement Area without the consent of the Grantor.
- 1.5 No horse or any other animal (including any dogs or other pets of any description whether on a leash or not) may be taken on the Easement Area without the consent of the Grantor.

All signing parties and either their witnesses or solicitors must sign or initial in this box.

DOCUMENTS

7: ENCUMBRANCES - PARIHOA SITE A EASEMENT

Easement Instrument	Dated:	Page of pages
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1.6 No firearm or other weapon may be carried or discharged on the Easement Area without the consent of the Grantor.

1.7 The public may not light any fires or deposit any rubbish on the Easement Area.

2 General rights

2.1 The Grantor must not do and must not allow to be done on the Grantor's Land anything that may interfere with or restrict the rights under this easement or of any other party or interfere with the efficient operation of the Easement Area.

2.2 Except as provided in this easement the Grantee must not do and must not allow to be done on the Grantor's Land anything that may interfere with or restrict the rights of any other party or interfere with the efficient operation of the Easement Area.

2.3 The Grantee may transfer or otherwise assign this easement.

3 Repair, maintenance, and costs

3.1 The Grantee is responsible for arranging the repair and maintenance of the recreation track on the Easement Area and for the associated costs, so as to keep the track to a standard suitable for its use.

3.2 The Grantee must meet any associated requirements of the relevant local authority.

3.3 The Grantee will repair all damage that may be caused by the negligent or improper exercise by the Grantee of any right or power conferred by this easement.

3.4 The Grantor will repair at its cost all damage caused to the recreation track through its negligence or improper actions.

4 Rights of entry

4.1 For the purpose of performing any duty or in the exercise of any rights conferred or implied in the easement, the Grantee may, with the consent of the Grantor, which must not be unreasonably withheld —

4.1.1 enter upon the Grantor's Land by a reasonable route and with all necessary tools, vehicles, and equipment; and

All signing parties and either their witnesses or solicitors must sign or initial in this box.
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DOCUMENTS

7: ENCUMBRANCES - PARIHOA SITE A EASEMENT

Easement Instrument	Dated:	Page of pages
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4.1.2 remain on the Grantor's Land for a reasonable time for the sole purpose of completing the necessary work; and

4.1.3 leave any vehicles or equipment on the Grantor's Land for a reasonable time if work is proceeding.

4.2 The Grantee must ensure that as little damage or disturbance as possible is caused to the Grantor's Land or to the Grantor.

4.3 The Grantee must ensure that all work is performed in a proper and workmanlike manner.

4.4 The Grantee must ensure that all work is completed promptly.

4.5 The Grantee must immediately make good any damage done to the Grantor's Land by restoring the surface of the land as nearly as possible to its former condition.

4.6 The Grantee must compensate the Grantor for all damages caused by the work to any buildings, erections, or fences on the Grantor's Land.

5 Default

If the Grantor or the Grantee does not meet the obligations implied or specified in this easement,—

- (a) the party not in default may serve on the defaulting party written notice requiring the defaulting party to meet a specific obligation and stating that, after the expiration of 7 working days from service of the notice of default, the other party may meet the obligation:
- (b) if, at the expiry of the 7-working-day period, the party in default has not met the obligation, the other party may—
 - (i) meet the obligation; and
 - (ii) for that purpose, enter the Grantor's Land:
- (c) the party in default is liable to pay the other party the cost of preparing and serving the default notice and the costs incurred in meeting the obligation:
- (d) the other party may recover from the party in default, as a liquidated debt, any money payable under this clause.

All signing parties and either their witnesses or solicitors must sign or initial in this box.
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DOCUMENTS

7: ENCUMBRANCES - PARIHOA SITE A EASEMENT

Easement Instrument	Dated:	Page of pages
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6 Disputes

If a dispute in relation to this easement arises between the Grantor and Grantee—

- (a) the party initiating the dispute must provide full written particulars of the dispute to the other party; and
- (b) the parties must promptly meet and in good faith try to resolve the dispute using informal dispute resolution techniques, which may include negotiation, mediation, independent expert appraisal, or any other dispute resolution technique that may be agreed by the parties; and
- (c) if the dispute is not resolved within 14 working days of the written particulars being given (or any longer period agreed by the parties),—
 - (i) the dispute must be referred to arbitration in accordance with the Arbitration Act 1996; and
 - (ii) the arbitration must be conducted by a single arbitrator to be agreed on by the parties or, failing agreement, to be appointed by the President of the New Zealand Law Society.

All signing parties and either their witnesses or solicitors must sign or initial in this box.

7.5 TE HENGA SITE B EASEMENT

DOCUMENTS

7: ENCUMBRANCES - TE HENGA SITE B EASEMENT

ANNEXURE SCHEDULE A

Easement Instrument	Dated:	Page of pages
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Purpose (nature and extent) of easement	Shown (plan reference)	Servient tenement (Identifier/CT)	Dominant Tenement (identifier CT or in gross)
Right of Way	Marked "A" on SO XXXX	Section 1 SO XXXX	In gross
	The Easement Area	The Grantor's Land	

The rights and powers implied in specific classes of easement prescribed by the Land Transfer Regulations 2002 and the Fifth Schedule of the Property Law Act 2007 do not apply and the easement rights and powers are as set out in **Annexure Schedule B**.

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DOCUMENTS

7: ENCUMBRANCES - TE HENGA SITE B EASEMENT

ANNEXURE SCHEDULE B

Easement Instrument	Dated:	Page of pages
---------------------	--------	---------------

RIGHTS AND POWERS

1 Rights of way

- 1.1 The right of way includes the right for the Grantee in common with the Grantor and other persons to whom the Grantor may grant similar rights, at all times, to go over and along the Easement Area.
- 1.2 The right of way includes the right for the public as the Grantee's invitees to go over and along the Easement Area on foot and where the Grantee wishes to carry out work to develop, improve or maintain the Easement Area or adjoining land administered by the Grantee its employees or contractors may proceed along the Easement Area by foot and with hand-held tools, or may on giving prior notice (where practicable and if not practicable as soon as possible after entry) by vehicle or any other means of transport and with all necessary tools, vehicles and equipment to carry out the work.
- 1.3 The right of way includes—
 - 1.3.1 the right on the Easement Area to repair or maintain the existing recreation track on the Easement Area, and (if necessary for any of those purposes) to alter the state of the land over which the easement is granted; and
 - 1.3.2 the right to have the Easement Area kept clear at all times of obstructions, deposit of materials, or unreasonable impediment to the use and enjoyment of the recreation track.
 - 1.3.3 The right for the Grantee to improve the Easement Area in any way it considers expedient, including the installation of track markers, stiles but without at any time causing damage to or interfering with the Grantor's management of the Grantor's Land.
 - 1.3.4 The right for the Grantee to erect and display notices on the Easement Area and with the Grantor's consent which will not be unreasonably withheld on the Grantor's Land.
- 1.4 The right of way does not confer on the public the right to camp on the Easement Area without the consent of the Grantor.
- 1.5 No horse or any other animal (including any dogs or other pets of any description whether on a leash or not) may be taken on the Easement Area without the consent of the Grantor.

All signing parties and either their witnesses or solicitors must sign or initial in this box.

DOCUMENTS

7: ENCUMBRANCES - TE HENGA SITE B EASEMENT

Easement Instrument	Dated:	Page of pages
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1.6 No firearm or other weapon may be carried or discharged on the Easement Area without the consent of the Grantor.

1.7 The public may not light any fires or deposit any rubbish on the Easement Area.

2 General rights

2.1 The Grantor must not do and must not allow to be done on the Grantor's Land anything that may interfere with or restrict the rights under this easement or of any other party or interfere with the efficient operation of the Easement Area.

2.2 Except as provided in this easement the Grantee must not do and must not allow to be done on the Grantor's Land anything that may interfere with or restrict the rights of any other party or interfere with the efficient operation of the Easement Area.

2.3 The Grantee may transfer or otherwise assign this easement.

3 Repair, maintenance, and costs

3.1 The Grantee is responsible for arranging the repair and maintenance of the recreation track on the Easement Area and for the associated costs, so as to keep the track to a standard suitable for its use.

3.2 The Grantee must meet any associated requirements of the relevant local authority.

3.3 The Grantee will repair all damage that may be caused by the negligent or improper exercise by the Grantee of any right or power conferred by this easement.

3.4 The Grantor will repair at its cost all damage caused to the recreation track through its negligence or improper actions.

4 Rights of entry

4.1 For the purpose of performing any duty or in the exercise of any rights conferred or implied in the easement, the Grantee may, with the consent of the Grantor, which must not be unreasonably withheld —

4.1.1 enter upon the Grantor's Land by a reasonable route and with all necessary tools, vehicles, and equipment; and

All signing parties and either their witnesses or solicitors must sign or initial in this box.

DOCUMENTS

7: ENCUMBRANCES - TE HENGA SITE B EASEMENT

Easement Instrument	Dated:	Page of pages
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- 4.1.2 remain on the Grantor's Land for a reasonable time for the sole purpose of completing the necessary work; and
- 4.1.3 leave any vehicles or equipment on the Grantor's Land for a reasonable time if work is proceeding.
- 4.2 The Grantee must ensure that as little damage or disturbance as possible is caused to the Grantor's Land or to the Grantor.
- 4.3 The Grantee must ensure that all work is performed in a proper and workmanlike manner.
- 4.4 The Grantee must ensure that all work is completed promptly.
- 4.5 The Grantee must immediately make good any damage done to the Grantor's Land by restoring the surface of the land as nearly as possible to its former condition.
- 4.6 The Grantee must compensate the Grantor for all damages caused by the work to any buildings, erections, or fences on the Grantor's Land.

5 Default

If the Grantor or the Grantee does not meet the obligations implied or specified in this easement,—

- (a) the party not in default may serve on the defaulting party written notice requiring the defaulting party to meet a specific obligation and stating that, after the expiration of 7 working days from service of the notice of default, the other party may meet the obligation:
- (b) if, at the expiry of the 7-working-day period, the party in default has not met the obligation, the other party may—
 - (i) meet the obligation; and
 - (ii) for that purpose, enter the Grantor's Land:
- (c) the party in default is liable to pay the other party the cost of preparing and serving the default notice and the costs incurred in meeting the obligation:
- (d) the other party may recover from the party in default, as a liquidated debt, any money payable under this clause.

All signing parties and either their witnesses or solicitors must sign or initial in this box.

DOCUMENTS

7: ENCUMBRANCES - TE HENGA SITE B EASEMENT

Easement Instrument	Dated:	Page of pages
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6 Disputes

If a dispute in relation to this easement arises between the Grantor and Grantee—

- (a) the party initiating the dispute must provide full written particulars of the dispute to the other party; and
- (b) the parties must promptly meet and in good faith try to resolve the dispute using informal dispute resolution techniques, which may include negotiation, mediation, independent expert appraisal, or any other dispute resolution technique that may be agreed by the parties; and
- (c) if the dispute is not resolved within 14 working days of the written particulars being given (or any longer period agreed by the parties),—
 - (i) the dispute must be referred to arbitration in accordance with the Arbitration Act 1996; and
 - (ii) the arbitration must be conducted by a single arbitrator to be agreed on by the parties or, failing agreement, to be appointed by the President of the New Zealand Law Society.

All signing parties and either their witnesses or solicitors must sign or initial in this box.

8 LEASES FOR DEFERRED SELECTION PROPERTIES

DOCUMENTS

8: LEASES FOR DEFERRED SELECTION PROPERTIES

WITHOUT PREJUDICE and SUBJECT TO APPROVAL BY MINISTER

Draft as at 29 June 2012

MINISTRY OF EDUCATION
TREATY SETTLEMENT LEASE

Form F

LEASE INSTRUMENT

(Section 115 Land Transfer Act 1952)



Land registration district

[]

Affected Instrument Identifier
and type (if applicable)

All/part

Area/Description of part or stratum

[]	[]	[]
-----	-----	-----

Lessor

[]

Lessee

HER MAJESTY THE QUEEN for education purposes

Estate or Interest

Insert "fee simple"; "leasehold in lease number" etc.

Fee simple

Lease Memorandum Number *(if applicable)*

Not applicable

Term

See Annexure Schedule

Rental

See Annexure Schedule

Lease and Terms of Lease

If required, set out the terms of lease in Annexure Schedules

The Lessor leases to the Lessee and the Lessee accepts the lease of the above Estate or Interest in the land in the affected computer register(s) for the Term and at the Rental and on the Terms of Lease set out in the Annexure Schedule(s)

DOCUMENTS

8: LEASES FOR DEFERRED SELECTION PROPERTIES

Form F *continued*

Attestation

Signature of the Lessor	Signed in my presence by the Lessor
<hr/>	<hr/>
[]	<i>Signature of witness</i>
	<i>Witness to complete in BLOCK letters (unless legibly printed)</i>
	Witness name:
	Occupation:
	Address:
<hr/>	<hr/>
[]	<i>Signature of witness</i>
	<i>Witness to complete in BLOCK letters (unless legibly printed)</i>
	Witness name:
	Occupation:
	Address:
<hr/>	<hr/>
[]	<i>Signature of witness</i>
	<i>Witness to complete in BLOCK letters (unless legibly printed)</i>
	Witness name:
	Occupation:
	Address:
<hr/>	<hr/>
[]	<i>Signature of witness</i>
	<i>Witness to complete in BLOCK letters (unless legibly printed)</i>
	Witness name:
	Occupation:
	Address:

DOCUMENTS

8: LEASES FOR DEFERRED SELECTION PROPERTIES

Form F *continued*

Annexure Schedule

Page 1 of 20 Pages

Insert instrument type

Lease Instrument

BACKGROUND

- A The purpose of this Lease is to give effect to the signed Deed of Settlement between *[insert name of claimant group]* and the Crown, under which the parties agreed to transfer the Land to *[insert name of post-settlement governance entity]* and lease it back to the Crown.
- B The Lessor owns the Land described in Item 1 of Schedule A.
- C The Lessor has agreed to lease the Land to the Lessee on the terms and conditions in this Lease.
- D The Lessor leases to the Lessee the Land from the Start Date, at the Annual Rent, for the Term, with the Rights of Renewal and for the Permitted Use all as described in Schedule A.
- E The Lessee accepts this Lease of the Land to be held by the Lessee as tenant and subject to the conditions, restrictions and covenants as set out in Schedules A and B.

SCHEDULE A

ITEM 1 THE LAND

[insert full legal description - note that improvements are excluded].

ITEM 2 START DATE

[insert start date].

ITEM 3 ANNUAL RENT

\$(*insert agreed rent*) plus GST per annum payable monthly in advance on the first day of each month but the first payment shall be made on the Start Date on a proportionate basis for any broken period until the first day of the next month.

ITEM 4 TERM OF LEASE

21 Years.

ITEM 5 LESSEE OUTGOINGS

- 5.1 Rates and levies payable to any local or territorial authority, excluding any taxes levied against the Lessor in respect of its interest in the Land.
- 5.2 All charges relating to the maintenance of any Lessee Improvements (whether of a structural nature or not).

All signing parties and either their witnesses or solicitors must either sign or initial in this box.

DOCUMENTS

8: LEASES FOR DEFERRED SELECTION PROPERTIES

Form F *continued*

Annexure Schedule

Page 2 of 20 Pages

Insert instrument type

Lease Instrument

- 5.3 The cost of ground maintenance, including the maintenance of playing fields, gardens and planted and paved areas.
- 5.4 Maintenance of car parking areas.
- 5.5 All costs associated with the maintenance or replacement of any fencing on the Land.

ITEM 6 PERMITTED USE

The Permitted Use referred to in clause 9.

ITEM 7 RIGHT OF RENEWAL

Perpetual rights of renewal of 21 years each with the first renewal date being the 21st anniversary of the Start Date, and then each subsequent renewal date being each 21st anniversary after that date.

ITEM 8 RENT REVIEW DATES

The 7th anniversary of the Start Date and each subsequent 7th anniversary after that date.

ITEM 9 LESSEE'S IMPROVEMENTS

As defined in clause 1.9 and including the following existing improvements: *[List here all existing buildings and improvements on the Land together with all playing fields and sub soil works (including stormwater and sewerage drains) built or installed by the Lessee or any agent, contractor or sublessee or licensee of the Lessee on the Land].*

[]

The above information is taken from the Lessee's records as at []. A site inspection was not undertaken to compile this information.

All signing parties and either their witnesses or solicitors must either sign or initial in this box.

DOCUMENTS

8: LEASES FOR DEFERRED SELECTION PROPERTIES

Form F continued

Annexure Schedule

Page 3 of 20 Pages

Insert instrument type

Lease Instrument

ITEM 10

CLAUSE 16.5 NOTICE

To: [Post-Settlement Governance Entity] ("the Lessor")

And to: The Secretary, Ministry of Education, National Office, PO Box 1666, WELLINGTON 6011 ("the Lessee")

From: [Name of Mortgagee/Chargeholder] ("the Lender")

The Lender acknowledges that in consideration of the Lessee accepting a lease from the Lessor of all the Land described in the Schedule to the Lease attached to this Notice which the Lender acknowledges will be for its benefit:

- (i) It has notice of the provisions of clause 16.5 of the Lease; and
(ii) It agrees that any Lessee's Improvements (as defined in the Lease) placed on the Land by the Lessee at any time before or during the Lease shall remain the Lessee's property at all times; and
(iii) It will not claim any interest in any Lessee's Improvements under the security of its loan during the relevant period no matter how any Lessee's Improvement may be fixed to the Land and regardless of any rule of law or equity to the contrary or any provisions of its security to the contrary; and
(iv) It agrees that this acknowledgement is irrevocable.

SCHEDULE

[]

[Form of execution by Lender]

[Date]

All signing parties and either their witnesses or solicitors must either sign or initial in this box.

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8: LEASES FOR DEFERRED SELECTION PROPERTIES

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ITEM 11

CLAUSE 16.6 NOTICE

To: *[Post-Settlement Governance Entity] ("the Lessor")*

And to: *The Secretary, Ministry of Education, National Office,
PO Box 1666, WELLINGTON 6011 ("the Lessee")*

From *[Name of Mortgagee/Chargeholder] ("the Lender")*

The Lender acknowledges that before it advanced monies to the Lessor under a security ("the Security") given by the Lessor over the Land described in the Schedule to the Lease attached to this Notice) it had notice of and agreed to be bound by the provisions of clause 16.6 of the Lease and that in particular it agrees that despite any provision of the Security to the contrary and regardless of how any Lessee's Improvement is fixed to the Land it:

- (i) will not claim any security interest in any Lessee's Improvement (as defined in the Lease) at any time; and*
- (ii) acknowledges that any Lessee's Improvements remain the Lessee's property at all times.*

SCHEDULE

[]

[Form of execution by Lender]

[Date]

All signing parties and either their witnesses or solicitors must either sign or initial in this box.

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- (ii) a Crown entity;
 - (iii) a State enterprise; and
 - (e) a subsidiary of, or related company to, a company or body referred to in clause 1.5(d).
- 1.6 "Department" has the meaning given in section 2 of the Public Finance Act 1989.
- 1.7 "Education Purposes" means any or all lawful activities necessary for, or reasonably related to, the provision of education.
- 1.8 "Legislation" means any applicable statute (including regulations, orders, rules or notices made under that statute and all amendments to or replacements of that statute), and all bylaws, codes, standards, requisitions or notices made or issued by any lawful authority.
- 1.9 "Lessee's Improvements" means all improvements on the Land of any kind including buildings, sealed yards, paths, lawns, gardens, fences, playing fields, subsoil works (including stormwater and sewerage drains) and other property of any kind built or placed on the Land by the Lessee or any agent or sub-lessee or licensee of the Lessee whether before or after the Start Date of this Lease and includes those listed in Item 9 of Schedule A.
- 1.10 "Lessee's property" includes property owned wholly or partly by a sublessee or licensee of the Lessee.
- 1.11 "Maintenance" includes repair.
- 1.12 "Public Work" has the meaning given in section 2 of the Public Works Act 1981.
- 1.13 "Sublet" and "Sublease" include the granting of a licence to occupy the Land or part of it.
- 2 Payment of Annual Rent**
- 2.1 The Lessee will pay the Annual Rent as set out in Item 3 of Schedule A.
- 2.2 The initial Annual Rent payable at the Start Date will be set at 6% of the Transfer Value of the Land.
- 2.3 The Transfer Value of the Land is equivalent to the market value of the Land exclusive of improvements less 20%.

All signing parties and either their witnesses or solicitors must either sign or initial in this box.

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3 Rent Review

When a party initiates the rent review process as set out in clause 3.5:

- 3.1 The proposed Annual Rent will be calculated on the basis of an Annual Rent of 6% of the lesser of:
 - (a) the Current Market Value of the Land as a School Site, as defined in clause 3.2; or
 - (b) the Nominal Value being:
 - (i) during the initial Term: a value based on 4% growth per annum of the Transfer Value of the Land; or
 - (ii) for subsequent Terms: a value based on 4% growth per annum of the reset Nominal Value as calculated in clause 3.4.
- 3.2 The Current Market Value of the Land as a School Site referred to in clause 3.1(a) above is equivalent to the market value of the Land exclusive of improvements based on highest and best use less 20%.
- 3.3 In any rent review under this Lease the highest and best use on which the Annual Rent is based is to be calculated on the zoning for the Land in force at the beginning of that Term.
- 3.4 A new value for the Nominal Value will be reset to the midpoint between the two values set out in 3.1(a) and whichever of (b)(i) or (b)(ii) is applicable:
 - (a) at the start date of every new Term; and
 - (b) at any Rent Review Date where the Nominal Value has been consistently either higher than the market value for the three consecutive Rent Review Dates or Lease renewal dates, or lower than the market value for the three consecutive Rent Review Dates or Lease renewal dates.
- 3.5 The rent review process will be as follows:
 - (a) At any time during the period which starts three months before any Rent Review Date and ends one year after any Rent Review Date (time being of the essence) either party may give written notice to the other specifying a new Annual Rent, calculated in accordance with clause 3.1, which the notifying party considers should be charged from that Rent Review Date ("Rent Review Notice"). The Rent Review Notice must be supported by a registered valuer's certificate.

All signing parties and either their witnesses or solicitors must either sign or initial in this box.

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- (b) If the notified party accepts the notifying party's assessment in writing the Annual Rent will be the rent specified in the Rent Review Notice which will be payable in accordance with step (l) below.
- (c) If the notified party does not agree with the notifying party's assessment it has 30 Business Days after it receives the Rent Review Notice to issue a notice disputing the proposed new rent ("the Dispute Notice"), in which case the steps set out in (d) to (k) below must be followed. The Dispute Notice must specify a new Annual Rent, calculated in accordance with clause 3.1, which the notified party considers should be charged from that Rent Review Date, and be supported by a registered valuer's certificate.
- (d) Until the new rent has been determined or agreed, the Lessee will continue to pay the Annual Rent at the existing amount which had been payable up to the Rent Review Date.
- (e) The parties must try to agree on a new Annual Rent.
- (f) If a new Annual Rent has not been agreed within 20 Business Days of the receipt of the Dispute Notice then the new Annual Rent may be determined either:
 - (i) by one party giving written notice to the other requiring the new Annual Rent to be determined by arbitration; or
 - (ii) (ii) if the parties agree, by registered valuers acting as experts and not as arbitrators as set out in steps (g) to (k) below.
- (g) Within 10 Business Days of receipt of the written notice each party will appoint a valuer and give written notice of the appointment to the other party. If the party receiving a notice fails to appoint a valuer within the 10 Business Day period then the valuer appointed by the other party will determine the new Annual Rent and that determination will be binding on both parties.
- (h) Within 10 Business Days of their appointments the two valuers must appoint an umpire who must be a registered valuer. If the valuers cannot agree on an umpire they must ask the president of the Property Institute of New Zealand Incorporated (or equivalent) to appoint an umpire.
- (i) Once the umpire has been appointed the valuers must try to determine the new Annual Rent by agreement. If they fail to agree within 40 Business Days (time being of the essence) the Annual Rent will be determined by the umpire.

All signing parties and either their witnesses or solicitors must either sign or initial in this box.

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- (j) Each party will have the opportunity to make written or verbal representations to the umpire within the period, and on the conditions, set by the umpire.
- (k) When the rent has been determined or agreed, the umpire or valuers must give written notice of it to the parties. The parties will each pay their own valuer's costs and will share the umpire's costs equally between them.
- (l) Once the new rent has been agreed or determined it will be the Annual Rent from the Rent Review Date or the date of the notifying party's notice if that notice is given later than 60 Business Days after the Rent Review Date.
- (m) The new Annual Rent may at the option of either party be recorded in a variation of this Lease, at the cost of the party requesting that variation.

4 **Payment of Lessee Outgoings**

During the Term of this Lease the Lessee must pay the Lessee Outgoings specified in Item 5 of Schedule A directly to the relevant person.

5 **Valuation Roll**

Where this Lease is registered under section 115 of the Land Transfer Act 1952 the Lessee will be entered in the rating information database and the district valuation roll as the ratepayer for the Land and will be responsible for payment of any rates.

6 **Utility Charges**

- 6.1 The Lessee must promptly pay to the relevant authority or supplier all utility charges including water, sewerage, drainage, electricity, gas, telephone and rubbish collection which are separately metered or charged in respect of the Land.
- 6.2 If any utility or service is not separately charged in respect of the Land then the Lessee will pay a fair and reasonable proportion of the charges.
- 6.3 If required to do so by the Lessor or any local authority the Lessee must at its own expense install any meter necessary to assess the charges for any utility or other service supplied to the Land.

7 **Goods and Services Tax**

The Lessee will pay the Lessor on demand the goods and services tax (GST) payable by the Lessor in respect of the Annual Rent and other payments payable by the Lessee under this Lease.

All signing parties and either their witnesses or solicitors must either sign or initial in this box.

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8 Interest

If the Lessee fails to pay within 10 Business Days any amount payable to the Lessor under this Lease (including rent) the Lessor may charge the Lessee interest at the maximum rate of interest from time to time payable by the Lessor to its principal banker for an overdraft facility plus a margin of 4% per annum accruing on a daily basis from the due date for payment until the Lessee has paid the overdue amount. The Lessor is entitled to recover this interest as if it were rent in arrears.

9 Permitted Use of Land

The Land may be used for Education Purposes, and/or any other Public Work, including any lawful secondary or incidental use.

10 Designation

The Lessor consents to the Lessee requiring a designation or designations under the Resource Management Act 1991 for the purposes of the Permitted Use and maintaining that designation or those designations for the Term of this Lease.

11 Compliance with Law

The Lessee must at its own cost comply with the provisions of all relevant Legislation.

12 Hazards

12.1 The Lessee must take all reasonable steps to minimise or remedy any hazard arising from the Lessee's use of the Land and ensure that any hazardous goods are stored or used by the Lessee or its agents on the Land in accordance with all relevant Legislation.

12.2 Subject to clause 13, in the event the state of the Land is altered by any natural event including flood, earthquake, slip or erosion the Lessor agrees at its own cost to promptly address any hazards for the protection of occupants of the site and to remediate any hazards as soon as possible.

13 Damage or Destruction

13.1 Total Destruction

If the Land or the Lessee's Improvements or any portion thereof shall be destroyed or so damaged so as to render the Land or the Lessee's Improvements unsuitable for the Permitted Use to which it was put at the date of the destruction or damage (the "Current Permitted Use"), then either party may, within three months of the date of the damage, give the other 20 Business Days notice of termination, and the whole of the Annual Rent and Lessee Outgoings shall cease to be payable as from the date of the damage.

All signing parties and either their witnesses or solicitors must either sign or initial in this box.

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13.2 Partial Destruction

- (a) If the Land, or any portion of the Land, shall be damaged or destroyed but not so to render the Land or the Lessee's Improvements unfit for the Current Permitted Use then the Lessor shall, with all reasonable speed, repair such damage and reinstate the Land so as to allow the Lessee to repair and reinstate the Lessee's Improvements, as the case may be.
- (b) The whole (or a fair proportion, having regard to the nature and extent to which the Lessee can use the Land for the Current Permitted Use) of the Annual Rent and Lessee's Outgoings shall cease to be payable for the period starting on the date of the damage and ending on the date when:
 - (i) the repair and reinstatement of the Land have been completed; and
 - (ii) the Lessee can lawfully occupy the Land.
- (a) If:
 - (i) in the reasonable opinion of the Lessor it is not economically viable to repair and reinstate the Land; or
 - (ii) any necessary council consents shall not be obtainable,

then the term will terminate with effect from the date that either such fact is established.

13.3 Natural Disaster or Civil Defence Emergency

- (a) If there is a natural disaster or civil emergency and the Lessee is unable to gain access to all parts of the Land or to fully use the Land for its Current Permitted Use (for example, because the Land is situated within a prohibited or restricted access cordon or access to or occupation of the Land is not feasible as a result of the suspension or unavailability of services such as energy, water or sewerage) then the whole (or a fair proportion, having regard to the extent to which it can be put to its Current Permitted Use) of the Annual Rent and Lessee Outgoings shall cease to be payable for the period starting on the date when the Lessee became unable to gain access to the Land or to lawfully conduct the Current Permitted Use from the Land (as the case may be) and ending on the later date when:
 - (i) such inability ceases; or
 - (ii) (if clause 13.2 applies) the date when the repair and reinstatement of the Land have been completed.

All signing parties and either their witnesses or solicitors must either sign or initial in this box.

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- (b) Where either clause 13.2 or clause 13.3(a) applies, the Lessee may, at its sole option, terminate this Lease if:
 - (i) the relevant clause has applied for a period of 6 months or more; or
 - (ii) the Lessee can at any time establish with reasonable certainty that the relevant clause will apply for a period of 6 months or more.

13.4 Any termination pursuant to this clause 13 shall be without prejudice to the rights of either party against the other.

13.5 Notwithstanding anything to the contrary, no payment of Annual Rent or Lessee Outgoings by the Lessee at any time, nor any agreement by the Lessee as to an abatement of Annual Rent and/or Lessee Outgoings shall prejudice the Lessee's rights under this clause 13 to:

- (a) assert that this lease has terminated; or
- (b) claim an abatement or refund of Annual Rent and/or Lessee Outgoings.

14 Contamination

14.1 When this Lease ends the Lessee agrees to remedy any Contamination caused by the use of the Land by the Lessee or its agents during the Term of the Lease by restoring the Land to a standard reasonably fit for human habitation.

14.2 Under no circumstances will the Lessee be liable for any Contamination on or about the Land which is caused by the acts or omissions of any other party, including the owner or occupier of any adjoining land.

14.3 In this clause "Contamination" means any change to the physical, biological, or chemical condition of the Land by a Contaminant and "Contaminant" has the meaning set out in section 2 of the Resource Management Act 1991.

15 Easements

15.1 The Lessee may without the Lessor's consent conclude (on terms no more favourable than this Lease) all easements or other rights and interests over or for the benefit of the Land which are necessary for, or incidental to, either the Permitted Use or to any permitted alterations or additions to the Lessee's Improvements and the Lessor agrees that it will execute any documentation reasonably required to give legal effect to those rights.

15.2 The Lessee agrees to take all steps necessary to remove at the Lessor's request at the end of the Lease any easement or other burden on the title which may have been granted after the Start Date of the Lease.

All signing parties and either their witnesses or solicitors must either sign or initial in this box.

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15.3 The Lessor must not cancel, surrender or modify any easements or other similar rights or interests (whether registered or not) which are for the benefit of or appurtenant to the Land without the prior written consent of the Lessee.

16 Lessee's Improvements

16.1 The parties acknowledge that despite any rule of law or equity to the contrary, the intention of the parties as recorded in the Deed of Settlement is that ownership of improvements whether or not fixed to the land will remain unaffected by the transfer of the Land, so that throughout the Term of this Lease all Lessee's Improvements will remain the Lessee's property.

16.2 The Lessee or its agent or sub-lessee or licensee may build or alter Lessee's Improvements without the Lessor's consent where necessary for, or incidental to, the Permitted Use. For the avoidance of doubt, this clause extends to Lessee's Improvements owned (wholly or partly) or occupied by third parties provided that all necessary consents are obtained.

16.3 The Lessee acknowledges that the Lessor has no maintenance obligations for any Lessee's Improvements.

16.4 If any Lessee's Improvements are destroyed or damaged, the Lessee may decide whether or not to reinstate without consulting the Lessor and any insurance proceeds will be the Lessee's property.

16.5 If the Land is subject to any mortgage or other charge at the Start Date, the Lessor will give the Lessee written acknowledgment of all existing mortgagees or chargeholders in the form prescribed in Schedule A Item 10 and executed by the mortgagees or chargeholders. The Lessor acknowledges that the Lessee is not required to execute this Lease until the provisions of this subclause have been fully satisfied.

16.6 If the Lessor proposes to grant any mortgage or charge after the Start Date it must first have required any proposed mortgagee or chargeholder to execute the written acknowledgment prescribed in Schedule A Item 11. The Lessor agrees not to grant any mortgage or charge until the provisions of this clause have been satisfied and to deliver executed originals of those acknowledgments to the Lessee within three Business Days from the date of their receipt by the Lessor.

16.7 The Lessee may demolish or remove any Lessee's Improvements at any time during the Lease Term without the consent of the Lessor provided that the Lessee reinstates the Land to a tidy and safe condition which is free from Contamination in accordance with clause 14.

16.8 When this Lease ends the Lessee may remove any Lessee's Improvements from the Land without the Lessor's consent.

All signing parties and either their witnesses or solicitors must either sign or initial in this box.

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16.9 The Lessee agrees that it has no claim of any kind against the Lessor in respect of any Lessee's Improvements or other Lessee's property left on the Land after this Lease ends and that any such Lessee's property shall at that point be deemed to have become the property of the Lessor.

17 Rubbish Removal

The Lessee agrees to remove at its own cost all rubbish from the Land and to keep any rubbish bins tidy.

18 Signs

The Lessee may display any signs which relate to the Permitted Use without the Lessor's consent. The Lessee must remove all signs at the end of the Lease.

19 Insurance

19.1 The Lessee is responsible for insuring or self insuring any Lessee's Improvements on the Land.

19.2 The Lessee must ensure that any third party which is not the Crown or a Crown Body permitted to occupy part of the Land has adequate insurance at its own cost against all public liability.

20 Fencing

20.1 The Lessee acknowledges that the Lessor is not obliged to build or maintain, or contribute towards the cost of, any boundary fence between the Land and any adjoining land.

20.2 If the Lessee considers it reasonably necessary for the purposes of the Permitted Use it may at its own cost fence the boundaries of the Land.

21 Quiet Enjoyment

21.1 If the Lessee pays the Annual Rent and complies with all its obligations under this Lease, it may quietly enjoy the Land during the Lease Term without any interruption by the Lessor or any person claiming by, through or under the Lessor.

21.2 The Lessor may not build on the Land or put any improvements on the Land without the prior written consent of the Lessee.

All signing parties and either their witnesses or solicitors must either sign or initial in this box.

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22 Assignment

22.1 Provided that the Land continues to be used for Education Purposes, the Lessee has the right to assign its interest under the Lease without the Lessor's consent to:

- (a) any Department or Crown Body; or
- (b) any other party provided that the assignment complies with the Education Act 1989 and the Public Works Act 1981 (if applicable).

22.2 If the Lessee wishes to assign the Lease to any party for any Permitted Use which is not an Education Purpose it must first seek the Lessor's consent (which will not be unreasonably withheld).

22.3 Without limiting clause 22.1, the Lessor agrees that the Lessee has the right to nominate any Department to exercise for Education Purposes the rights and obligations in respect of the Lessee's interest under this Lease and that this will not be an assignment for the purposes of clause 22 or a subletting for the purposes of clause 23.

22.4 If following assignment the Land will no longer be used for Education Purposes the Lessor and new Lessee may renegotiate in good faith the provision setting the value of the land for rent review purposes, being clause 3.2 of this Lease.

23 Subletting

The Lessee may without the Lessor's consent sublet to:

- (a) any Department or Crown Body; or
- (b) any other party provided that the sublease complies with the Education Act 1989 and the Public Works Act 1981 (if applicable).

24 Occupancy by School Board of Trustees

24.1 The Lessee has the absolute right to sublet to or otherwise permit a school board of trustees to occupy the Land on terms and conditions set by the Lessee from time to time in accordance with the Education Act 1989 and otherwise consistent with this Lease.

24.2 The Lessor agrees that the covenant for quiet enjoyment contained in clause 21 extends to any board of trustees occupying the Land.

24.3 A board of trustees occupying the Land has the right to sublet or license any part of the Land or the Lessee's Improvements to any third party in accordance with the Education Act 1989 and any licence or lease to any third party existing at the Start Date of this Lease will continue in effect until that licence or lease ends.

All signing parties and either their witnesses or solicitors must either sign or initial in this box.

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25 Lessee Break Option

The Lessee may at any time end this Lease by giving not less than six months' notice in writing to the Lessor. At the end of the notice period the Lease will end and the Lessee will pay a further 12 months' rent to the Lessor, who agrees to accept that sum in full and final satisfaction of all claims, loss and damage which the Lessor could otherwise claim because the Lease has ended early, but without prejudice to any right or remedy available to the Lessor as a consequence of any breach of this Lease by the Lessee which occurred before the Lease ended.

26 Breach

Despite anything else in this Lease, the Lessor agrees that, if the Lessee breaches any terms or conditions of this Lease, the Lessor must not in any circumstances cancel this Lease or re-enter into possession but may seek such other remedies which are lawfully available to it.

27 Notice of Breach

27.1 Despite anything expressed or implied in this Lease, the Lessor will not exercise its rights under clause 26 unless the Lessor has first given the Lessee written notice of the breach on which the Lessor relies and given the Lessee an opportunity to remedy the breach as provided below:

- (a) by paying the Lessor all money necessary to remedy the breach within 20 Business Days of the notice; or
- (b) by undertaking in writing to the Lessor within 20 Business Days of the notice to remedy the breach and then remedying it within a reasonable time; or
- (c) by paying to the Lessor within 60 Business Days of the notice compensation to the reasonable satisfaction of the Lessor in respect of the breach having regard to the nature and extent of the breach.

27.2 If the Lessee remedies the breach in one of the ways set out above the Lessor will not be entitled to rely on the breach set out in the notice to the Lessee and this Lease will continue as if no such breach had occurred.

28 Renewal

28.1 If the Lessee has performed its obligations under this Lease the Lessor agrees that the Lease will automatically be renewed on the 21st anniversary of the Start Date for a further 21 year period unless the Lessee gives written notice to the Lessor at least six months before the expiry of the Lease Term that it does not wish the Lease to be renewed.

28.2 The renewed lease will be on the terms and conditions expressed or implied in this Lease, including this right of perpetual renewal, provided that either party may initiate the rent review process in accordance with clause 3.

All signing parties and either their witnesses or solicitors must either sign or initial in this box.

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29 Right of First Refusal for Lessor's Interest

- 29.1 If at any time during the Lease Term the Lessor wishes to sell or transfer its interest in the Land the Lessor must immediately give written notice ("Lessor's Notice") to the Lessee setting out the terms on which the Lessor wishes to sell the Land and offering to sell it to the Lessee on those terms.
- 29.2 The Lessee has 60 Business Days after and excluding the date of receipt of the Lessor's Notice (time being of the essence) in which to exercise the Lessee's right to purchase the Land, by serving written notice on the Lessor ("Lessee's Notice") accepting the offer contained in the Lessor's Notice.
- 29.3 If the Lessee does not serve the Lessee's Notice on the Lessor in accordance with clause 29.2 the Lessor may sell or transfer the Lessor's interest in the Land to any person on no more favourable terms than those previously offered to the Lessee.
- 29.4 If the Lessor wishes to offer more favourable terms for selling or transferring the Lessor's interest in the Land than the terms contained in the Lessor's Notice, the Lessor must first re-offer its interest in the Land to the Lessee on those terms by written notice to the Lessee and clauses 29.1–29.4 (inclusive) will apply and if the re-offer is made within six months of the Lessor's Notice the 60 Business Days period must be reduced to 30 Business Days.
- 29.5 The Lessor may dispose of the Lessor's interest in the Land to a fully owned subsidiary of the Lessor and in that case the consent of the Lessee is not required and the Lessee's right to purchase the land under clause 29 will not apply.

30 Exclusion of Implied Provisions

- 30.1 For the avoidance of doubt, the following covenants, conditions and powers implied in leases of land pursuant to Schedule 3 of the Property Law Act 2007 are expressly excluded from application to this Lease:
 - (a) Clause 11 – Power to inspect premises.

31 Entire Agreement

This Lease sets out the entire agreement between the parties in relation to the Land and any variation to the Lease must be recorded in writing and executed in the same way as this Lease.

32 Disputes

The parties will try to resolve all disputes by negotiations in good faith. If negotiations are not successful, the parties will refer the dispute to the arbitration of two arbitrators (one to be appointed by each party) and an umpire (to be appointed by the arbitrators before arbitration) in accordance with the Arbitration Act 1996.

All signing parties and either their witnesses or solicitors must either sign or initial in this box.

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33 Service of Notices

- 33.1 Notices given under this Lease by the Lessor must be served on the Lessee by hand delivery or by registered mail addressed to:

The Secretary for Education
Ministry of Education
PO Box 1666
WELLINGTON 6011

- 33.2 Notices given under this Lease by the Lessee must be served on the Lessor by hand delivery or by registered mail addressed to:

[insert contact details]

- 33.3 Hand delivered notices will be deemed to be served at the time of delivery. Notices sent by registered mail will be deemed to be served two Business Days after posting.

34 Registration of Lease

The parties agree that the Lessee may at its expense register this Lease under the Land Transfer Act 1952. The Lessor agrees to make title available for that purpose and consents to the Lessee caveating title to protect its interest in the Lease before registration.

35 Costs

The parties will pay their own costs relating to the negotiation, preparation and execution of this Lease and any renewal, variation or surrender of the Lease.

All signing parties and either their witnesses or solicitors must either sign or initial in this box.