

**NGĀTI MARU**

**and**

**THE CROWN**

---

**DEED OF SETTLEMENT SCHEDULE:  
DOCUMENTS**

---

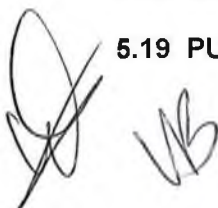
*VB*

**DOCUMENTS**

---

**TABLE OF CONTENTS**

1	NGĀTI MARU VALUES, PROTECTION PRINCIPLES AND DIRECTOR-GENERAL'S ACTIONS.....	1
2	STATEMENTS OF ASSOCIATION .....	4
3	DEED OF RECOGNITION .....	8
4	PROTOCOLS .....	14
4.1	TAONGA TŪTURU PROTOCOL .....	15
4.2	PRIMARY INDUSTRIES PROTOCOL .....	26
5	ENCUMBRANCES .....	39
5.1	MURIWAI SITE B RIGHT TO CONVEY WATER EASEMENT.....	40
5.2	MURIWAI SITE B RIGHT OF WAY EASEMENT .....	42
5.3	MURIWAI SITE A RIGHT TO CONVEY WATER EASEMENT.....	44
5.4	MURIWAI SITE A RESTRICTIVE COVENANT.....	46
5.5	OKAHAROA MA RAKI RIGHT OF WAY EASEMENT.....	48
5.6	MANAIA PROPERTY CONSERVATION COVENANT .....	50
5.7	TARARU MAUNGA CONSERVATION COVENANT .....	52
5.8	DICKSON PARK PROPERTY RIGHT OF WAY EASEMENT.....	54
5.9	DANBY FIELD PROPERTY RIGHT OF WAY AND DRAINAGE EASEMENT .....	56
5.10	TE IPUOMOEHAU CONSERVATION COVENANT .....	58
5.11	TE WHAKAIRI CONSERVATION COVENANT .....	60
5.12	PĀNEHENEHE CONSERVATION COVENANT .....	62
5.13	MOTUTAPERE CONSERVATION COVENANT .....	64
5.14	MOTUTAPERE RIGHT OF WAY EASEMENT.....	66
5.15	KAITARAKIHI CONSERVATION COVENANT.....	68
5.16	KAITARAKIHI RIGHT OF WAY EASEMENT .....	70
5.17	HIKURANGI CONSERVATION COVENANT.....	72
5.18	NGAPUKETURUA CONSERVATION COVENANT.....	74
5.19	PUKETAIOKO CONSERVATION COVENANT .....	76

Handwritten signatures in the bottom left corner of the page, including a large stylized signature and a smaller signature that appears to be 'VB'.

**DOCUMENTS**

---

5.20	TE WHAREPOHA Ō MAHU CONSERVATION COVENANT.....	78
5.21	MAUNGAKAWA RIGHT OF WAY EASEMENT.....	80
5.22	TE TIHI O HAUTURU CONSERVATION COVENANT.....	82
5.23	PUKEHANGI MAUNGA CONSERVATION COVENANT.....	84
5.24	NGĀ TUKITUKI A HIKAWERA CONSERVATION COVENANT.....	86
5.25	TANGITŪ CONSERVATION COVENANT.....	88
5.26	TANGITŪ RIGHT OF WAY EASEMENT.....	90
5.27	WHAKAMOEHAU CONSERVATION COVENANT.....	92
5.28	PUKEWHAKATARATARA CONSERVATION COVENANT.....	94
5.29	PUKEWHAKATARATARA RIGHT OF WAY EASEMENT.....	96
5.30	TAKAIHUEHUE CONSERVATION COVENANT.....	98
5.31	PAEWAI CONSERVATION COVENANT.....	100
5.32	DANBY FIELD SCHOOL SITE (LAND ONLY) RIGHT OF WAY AND DRAINAGE EASEMENT.....	102
5.33	PORT JACKSON SITE A RESTRICTIVE COVENANT.....	104
5.34	PORT JACKSON SITE A RIGHT TO CONVEY WATER EASEMENT.....	106
5.35	PORT JACKSON SITE B [RIGHT OF WAY AND RIGHT TO PARK] EASEMENT.....	108
6	LEASES FOR LEASEBACK PROPERTIES.....	110
6.1	LEASE FOR DANBY FIELD SCHOOL SITE (LAND ONLY).....	111
6.2	LEASE FOR TE WHAREKURA O MANAIA SITE (LAND ONLY).....	135
6.3	LEASE FOR TAIRUA SCHOOL SITE (LAND ONLY).....	159
6.4	LEASE FOR THAMES DISTRICT COURT (LAND ONLY).....	183
7	LETTER OF FACILITATION.....	185
8	LETTER OF INTRODUCTION.....	187
9	LETTER TO MUSEUMS.....	188
10	DEED OF COVENANT FOR THE GOVERNANCE ENTITY.....	189

Handwritten signature and initials in the bottom left corner of the page.

DOCUMENTS

## 1 NGĀTI MARU VALUES, PROTECTION PRINCIPLES AND DIRECTOR-GENERAL'S ACTIONS

Repanga (Cuvier) Island Nature Reserve (as shown on deed plan OTS-403-336)

### *Ngāti Maru values*

***Kei wareware hoki ki te tūmatangaingai, te mana o te Takareko, o Te Mumuhau ko ngā manu kōrero, ngā manu arataki i taru tere mai ngā mātua tūpuna i Rangitawhitinui, i Rangitawhitiroa***

Repanga is deeply woven into the whakapapa and identity of Ngāti Maru. Likened to an outspread korowai on the tides of Te Tai Tamawahine, Repanga is a motu located about 40km off Tangiaronui a Paretaurira (Port Charles) between Ahuahu (Great Mercury Island) to the south and Aotea (Great Barrier Island) to the north and strategically positioned to guard approaches to Hauraki and Tāmaki from the east.

Cultural sites, denoting rituals, battles and occupation, and taonga on Repanga and its environs are of central importance to Ngāti Maru.

Repanga is tapu to Ngāti Maru. As the Tainui and Te Arawa canoes arrived in Hauraki from Hawaiiki, as acknowledgement of their roles in safely guiding the waka to Aotearoa, they freed the sacred birds Takareko and Te Mumuhau to Repanga. With the recitation of lengthy invocations they charged the liberated birds as sentinels to maintain their lasting vigil over all voyagers who passed that way. Since that day, tribal seafarers have always kept a wary eye on the weather patterns signalled about the island.

Several generations later and following the wars with the former inhabitants, Marutūāhu would journey to the same places as his forebears using the mauri stone named Marutūāhu to perform uruuruwhenua rites asserting his and his descendant's mana and territorial rights, mai Ngā Kuri a Whārei ki Mahurangi. Ceremonies were conducted in key locations by Marutūāhu commencing on the island of Horuhoru at the sacred rocks of Tikapa. After a time, Marutūāhu arrived at Repanga and conducted uruuruwhenua rites there. On completion, he left the mauri stone along with other tribal relics at a secret location on Repanga.

On the death of Marutūāhu, it was his son, Tamaterā who went to Repanga and removed the mauri of Marutūāhu and other sacred relics taking them with him as he departed for Katikati and then Whakatāne with his daughter, Te Aokuranahe. Many centuries and journeys later the mauri of Marutūāhu is now housed in the Auckland Museum at Pukekawa (Auckland Domain) under the kaitiakitanga of the descendants of Marutūāhu.

Marutūāhu is the ancestor from which Ngāti Maru rights and interests, derive. The close connection to the motu, of the descendants of Te Hihi, son of Tamaterā and Hineurunga and of Rongomai, the great grandson of Marutūāhu is recognised. Through inter-marriage across Hauraki, the bloodlines of Toi whenua, Te Arawa and Tainui traditions course through all the descendants of Ngāti Maru today.

The historical, traditional, spiritual, cultural relationship to Repanga is of the utmost importance to Ngāti Maru and needs to be recognised and enabled. As kaitiaki, Ngāti Maru have a responsibility to restore, protect and manage the natural, cultural, spiritual and historic values of Repanga. Along with the cultural, spiritual and historical significance of Repanga to Ngāti Maru, is its important

## DOCUMENTS

### 1: NGĀTI MARU VALUES, PROTECTION PRINCIPLES AND DIRECTOR-GENERAL'S ACTIONS

ecological and scientific values. Ngāti Maru aspire to meaningful natural and historic resource partnerships that give effect to these dual aspirations of Iwi and the Crown.

#### ***Protection principles***

Recognition of, and respect for, the spiritual, cultural, customary, traditional and historical interests of Ngāti Hei, Ngāti Maru, Ngāti Tamaterā and Ngaati Whanaunga with Repanga.

Recognition and respect for the mana, tikanga and kaitiakitanga of Ngāti Hei, Ngāti Maru, Ngāti Tamaterā and Ngaati Whanaunga with Repanga.

Respect for and inclusion of Ngāti Hei, Ngāti Maru, Ngāti Tamaterā and Ngaati Whanaunga tikanga and kawa in the management of Repanga.

Protection of Ngāti Hei, Ngāti Maru, Ngāti Tamaterā and Ngaati Whanaunga wahi tupuna, wahi taonga and wahi whakahirahira at Repanga.

Respect for the presence of Ngāti Hei, Ngāti Maru, Ngāti Tamaterā and Ngaati Whanaunga in the management and interpretation of Repanga.

Recognition of Ngāti Hei, Ngāti Maru, Ngāti Tamaterā and Ngaati Whanaunga mahinga kai and the provision of cultural resources at Repanga.

Recognition of the interests of Ngāti Hei, Ngāti Maru, Ngāti Tamaterā and Ngaati Whanaunga in actively protecting its taonga species at Repanga.

#### ***Director-General's 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. The Department of Conservation will ensure that its management of Repanga maintains and enhances the ecological health of Repanga through regular monitoring, vigilance regarding biosecurity and compliance threats, and by advocating sound and sustainable environmental planning principles and processes.
2. Department of Conservation staff, contractors, conservation board members, concessionaires and the public will be provided with information about these values and the existence of the overlay classification, and the need to respect the Ngāti Hei, Ngāti Maru, Ngāti Tamaterā and Ngaati Whanaunga spiritual, cultural, customary, traditional and historical interests of Ngāti Hei, Ngāti Maru, Ngāti Tamaterā and Ngaati Whanaunga with Repanga, and the mauri of Repanga.
3. The spiritual, cultural, customary, traditional and historical interests of Ngāti Hei, Ngāti Maru, Ngāti Tamaterā and Ngaati Whanaunga with Repanga will be accurately portrayed in all new Department of Conservation information and educational material. Ngāti Hei, Ngāti Maru, Ngāti Tamaterā and Ngaati Whanaunga will be engaged with regarding the provision of all new Department of Conservation public information or educational material, and the Department of Conservation will only use Ngāti Hei, Ngāti Maru, Ngāti Tamaterā and Ngaati Whanaunga information with the consent of Ngāti Hei, Ngāti Maru, Ngāti Tamaterā and Ngaati Whanaunga.



**DOCUMENTS**

---

**1: NGĀTI MARU VALUES, PROTECTION PRINCIPLES AND DIRECTOR-GENERAL'S ACTIONS**

4. Department staff will consult Ngāti Hei, Ngāti Maru, Ngāti Tamaterā and Ngaati Whanaunga, and particular regard will be had to their world views over any proposed introductions or removal of indigenous or exotic species to and from Repanga.
5. Significant earthworks and disturbances of soil and/or vegetation will be avoided wherever possible.
6. Where significant earthworks and disturbances of soil and/or vegetation cannot be avoided, Ngāti Hei, Ngāti Maru, Ngāti Tamaterā and Ngaati Whanaunga will be consulted and particular regard will be had to their views, including those relating to koiwi (human remains) and archaeological sites.
7. Any koiwi (human remains) or other taonga found or uncovered by the Department of Conservation will be left untouched and Ngāti Hei, Ngāti Maru, Ngāti Tamaterā and Ngaati Whanaunga informed as soon as possible to enable the koiwi or taonga to be dealt with in accordance with their tikanga.
8. The Department will advise Ngāti Hei, Ngāti Maru, Ngāti Tamaterā and Ngaati Whanaunga of opportunities for input into management planning for Repanga and its immediate environs through early engagement in the Conservation Management Strategy/Conservation Management Plan processes by the relevant District or Regional Office.



**DOCUMENTS**

---

**2 STATEMENTS OF ASSOCIATION**

The statements of association of Ngāti Maru are set out below. These are statements of their particular cultural, spiritual, historical, and traditional association with identified areas.



**DOCUMENTS**

---

**2: STATEMENTS OF ASSOCIATION**

**Mercury Islands** (as shown on deed plan OTS-403-339)

***[To be inserted prior to this deed being signed]***

Handwritten initials or signatures in the bottom left corner, consisting of a large, stylized signature and the letters 'VB'.

**DOCUMENTS**

---

**2: STATEMENTS OF ASSOCIATION**

**Ngahue Reserve (as shown on deed plan OTS-403-333)**

***[To be inserted prior to this deed being signed]***

Two handwritten signatures in black ink. The first signature is a large, stylized cursive mark, and the second is a smaller, more compact cursive mark.

DOCUMENTS

---

2: STATEMENTS OF ASSOCIATION

**Whangapoua conservation area (part Aotea Conservation Park) (as shown on deed plan OTS-403-340)**

Handwritten initials or signatures in the bottom left corner, consisting of two distinct marks.

DOCUMENTS

---

### 3 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 Ngāti Maru (the **settling group**); and
  - 1.1.2 the trustees of the Ngāti Maru Rūnanga Trust (the **governance entity**).
- 1.2 In the deed of settlement, the settling group made a statement of the settling group's particular cultural, spiritual, historical, and traditional association with the Whangapoua conservation area (part Aotea Conservation Park) (as shown on deed plan OTS-403-340) (the statutory area).
- 1.3 That statement of association is –
- 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 statement of association in the [Ngāti Maru Claims Settlement 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 the 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 the 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 the statutory area that is not a river for any of the following purposes:
    - (a) to identify and protect wildlife or indigenous plants:

## DOCUMENTS

### 3: DEED OF RECOGNITION

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

## DOCUMENTS

### 3: DEED OF RECOGNITION

#### 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 -

Partnerships 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** means the trustees of the Ngāti Maru Rūnanga Trust, as defined in 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 **Ngāti Maru** have the meaning given to "Ngāti Maru" by the deed of settlement; and

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

## DOCUMENTS

### 3: DEED OF RECOGNITION

**statement of association** means the 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 the 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

3: 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**

---

**3: DEED OF RECOGNITION**

**Schedule**

**Copy of Statement of Association**

**Whangapoua conservation area (part Aotea Conservation Park) (as shown on deed plan OTS-403-340)**

**[*statement of association*]**

**[*Copy of statement of association will be included in the final deed of recognition*]**

Handwritten initials or signature, possibly 'LB' or similar, located at the bottom left of the page.

DOCUMENTS

---

**4 PROTOCOLS**

Handwritten initials or signature in the bottom left corner, consisting of several overlapping loops and lines.

DOCUMENTS

---

4: PROTOCOLS: TAONGA TŪTURU PROTOCOL

---

4.1 Taonga Tūturu Protocol

---

Handwritten signatures in black ink, consisting of several stylized, overlapping marks.

DOCUMENTS

4: PROTOCOLS: TAONGA TŪTURU PROTOCOL

**TAONGA TŪTURU PROTOCOL: A PROTOCOL ISSUED BY THE CROWN THROUGH THE MINISTER FOR ARTS, CULTURE AND HERITAGE REGARDING INTERACTION WITH NGĀTI MARU ON SPECIFIED ISSUES**

1 INTRODUCTION

1.1 Under the Deed of Settlement dated xx between Ngāti Maru 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 Ngāti Maru 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 Ngāti Maru – 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 Ngāti Maru 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 for Culture and Heritage (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.

## DOCUMENTS

### 4: PROTOCOLS: TAONGA TŪTURU PROTOCOL

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 116 of the Ngāti Maru Claims Settlement Act [date] ("the Settlement Legislation") that implements the Ngāti Maru 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 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.

## DOCUMENTS

### 4: 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 Ngāti Maru 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 Ngāti Maru 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 Ngāti Maru 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 Ngāti Maru 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 Ngāti Maru 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 Ngāti Maru 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 Ngāti Maru 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 Ngāti Maru 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.



## DOCUMENTS

### 4: PROTOCOLS: TAONGA TŪTURU PROTOCOL

#### **Custody of Taonga Tūturu found in Protocol Area or identified as being of Ngāti Maru 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 Ngāti Maru 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 Ngāti Maru 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 Ngāti Maru 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 NGĀTI MARU INTERESTS IN THE PROTOCOL AREA**

- 7.1 The Chief Executive and governance entity shall discuss any policy and legislative development, which specifically affects Ngāti Maru 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 Ngāti Maru interests in the Protocol Area.



## DOCUMENTS

### 4: PROTOCOLS: TAONGA TŪTURU PROTOCOL

- 7.3 Notwithstanding paragraphs 7.1 and 7.2 above the Chief Executive and governance entity shall meet to discuss Ngāti Maru 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 Ngāti Maru 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 Ngāti Maru; and

11.1.2 where reasonably practicable, consult with the governance entity on any work the Ministry undertakes that relates substantially to Ngāti Maru:

(a) from an early stage;

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



## DOCUMENTS

### 4: PROTOCOLS: TAONGA TŪTURU PROTOCOL

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

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 requests cultural and/or spiritual practices to be undertaken by Ngāti Maru 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:

## DOCUMENTS

### 4: PROTOCOLS: TAONGA TŪTURU PROTOCOL

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

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** has the meaning given to it in the Deed of Settlement

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

**Ngāti Maru** has the meaning set out in clause 10.5 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



**DOCUMENTS**

---

**4: PROTOCOLS: TAONGA TŪTURU PROTOCOL**

- (ii) brought into New Zealand by Māori; or
- (iii) used by Māori; and
- (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:

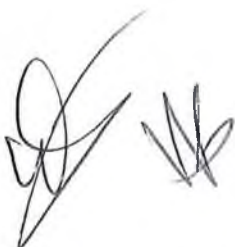
**WITNESS**

---

Name:

Occupation:

Address:

Two handwritten signatures in black ink, one larger and more stylized than the other, located at the bottom left of the page.

*Initialling version for presentation to Ngāti Maru for ratification purposes.*

DOCUMENTS

---

4: PROTOCOLS: TAONGA TŪTURU PROTOCOL

**ATTACHMENT A: THE MINISTRY FOR CULTURE AND HERITAGE PROTOCOL AREA**

*[The Protocol Area map will be inserted prior to the signing of this deed of settlement and following completion of overlapping claims]*

Handwritten initials or signatures in the bottom left corner of the page.

DOCUMENTS

4: PROTOCOLS: TAONGA TŪTURU PROTOCOL

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 116(3)).

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, hapū, marae, whanau, or representative of tangata whenua; or

2.1.2 restrict the responsibilities of the Minister or the Ministry or the legal rights of Ngāti Maru (section 117(b) and (c)); 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 118).

3.2 A breach of this Protocol is not a breach of the Deed of Settlement (clause 5.37).

Two handwritten signatures in black ink, one larger and more stylized than the other, located at the bottom left of the page.

**DOCUMENTS**

---

**4: PROTOCOLS: PRIMARY INDUSTRIES PROTOCOL**

---

**4.2 Primary Industries Protocol**

---

Handwritten initials or signature in the bottom left corner, consisting of two distinct scribbled marks.

DOCUMENTS

---

4: PROTOCOLS: PRIMARY INDUSTRIES PROTOCOL

**Ministry for Primary Industries**  
Manatū Ahu Matua



**THE PRIMARY INDUSTRIES PROTOCOL WITH NGĀTI  
MARU**

**Issued by  
the Minister for Primary Industries**

Two handwritten signatures in black ink, one larger and more stylized than the other.

DOCUMENTS

---

4: PROTOCOLS: PRIMARY INDUSTRIES PROTOCOL

PART ONE - RELATIONSHIP

**PURPOSE**

1. The purpose of this Primary Industries Protocol (the "**Protocol**") is to set out how Ngāti Maru, the Minister for Primary Industries (the "**Minister**") and the Director-General of the Ministry for Primary Industries (the "**Director-General**") will establish and maintain a positive, co-operative and enduring relationship.

**CONTEXT**

2. The Protocol should be read in a manner that best furthers the purpose of the Ngāti Maru Deed of Settlement (the "**Deed of Settlement**").
3. The Protocol is a living document that should be updated to take account of the relationship between the parties, future developments and additional relationship opportunities.

**PRINCIPLES UNDERLYING THE PROTOCOL**

4. The Ministry and Ngāti Maru 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 the Protocol. The relationship created by the Protocol is intended to assist the parties to exercise their respective responsibilities with the utmost cooperation to achieve over time the outcomes sought by both.
5. The parties recognise that to successfully implement the Protocol, the parties will need to work in partnership and in the spirit of collaboration.
6. The parties also acknowledge the principles below and their importance to successfully achieve the purpose of the Protocol. These relationship principles provide that the Ministry and Ngāti Maru will:
  - a. work in a spirit of co-operation;
  - b. ensure early engagement on issues of known mutual interest;
  - c. operate on a 'no surprises' approach;
  - d. acknowledge that the relationship is evolving, not prescribed;
  - e. respect the independence of the parties and their individual mandates, roles and responsibilities; and
  - f. recognise and acknowledge that both parties benefit from working together by sharing their vision, knowledge and expertise.
7. The Minister and the Director-General have certain functions, powers and duties in terms of legislation that they are responsible for administering. With the intention of creating a relationship that achieves, over time, the policies and outcomes sought by both Ngāti Maru and the Ministry. The Protocol sets out how the Minister, Director-General and the Ministry will exercise their functions, powers and duties in relation to matters set out in the Protocol.

## DOCUMENTS

### 4: PROTOCOLS: PRIMARY INDUSTRIES PROTOCOL

In accordance with the Protocol, the Governance Entity will have the opportunity for input into the policy and planning processes relating to matters set out in the Protocol.

8. The Ministry will have particular regard to the Statement of Pare Hauraki World View when exercising functions under the Fisheries Act 1996, the Forests Act 1949 and the Biosecurity Act 1993.
9. The Ministry will advise the Governance Entity whenever it proposes to consult with a hapū of Ngāti Maru or with another iwi or hapū with interests inside the Protocol Area on matters that could affect the interests of Ngāti Maru.

### PART TWO - SCOPE AND INTERPRETATION

#### SCOPE

10. The Protocol applies to agriculture (agriculture includes animal welfare and horticulture), forestry, fisheries, biosecurity and food safety portfolios administered by the Ministry for Primary Industries (the "Ministry").
11. The Protocol does not cover processes regarding the allocation of aquaculture space, or the Treaty settlement processes established for assets held by the Ministry's Crown Forestry unit.
12. The Ministry is required to provide for the utilisation of fisheries resources while ensuring sustainability, to meet Te Tiriti o Waitangi/the Treaty of Waitangi and international obligations, to enable efficient resource use and to ensure the integrity of fisheries management systems.
13. In addition to the requirements of clause 8, the Statement of Pare Hauraki World View will be given particular regard through the programmes and processes set out in this Protocol.
14. The Protocol applies to the Ngāti Maru area of interest as noted and described in the attached map (Attachment A).

#### DEFINITIONS AND INTERPRETATION

15. In the Protocol:
  - a. "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;
  - b. "Protocol Area" means the land area as noted in the attached map at Attachment A, together with the adjacent waters;
  - c. "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 to participate in any aspect of the redress under the Deed;



**DOCUMENTS**

**4: PROTOCOLS: PRIMARY INDUSTRIES PROTOCOL**

- d. **"Fisheries Legislation"** means the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992, the Fisheries Act 1983 and the Fisheries Act 1996, and any regulations made under the Fisheries Act 1983 and the Fisheries Act 1996;
- e. **"Governance Entity"** and the **"trustees"** means the trustees of the Ngāti Maru Rūnanga Trust;
- f. **"iwi of Hauraki"** means the iwi referred to in clause 26 of this Protocol;
- g. **"Pare Hauraki Collective Redress Deed"** has the meaning given to it in the Deed of Settlement; and
- h. the **"parties"** means the trustees of the Ngāti Maru Rūnanga Trust, the Minister for Primary Industries (acting on behalf of the Crown), and the Director-General of the Ministry for Primary Industries (acting on behalf of the Ministry for Primary Industries).

**TERMS OF ISSUE**

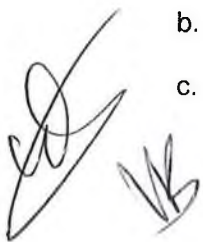
- 16. The Protocol is issued pursuant to section 116 of the [Ngāti Maru Claims Settlement Act *[date]*] (the **"Settlement Legislation"**) and clause 5.34 of the Deed of Settlement and is subject to the Settlement Legislation and the Deed of Settlement.

**PART THREE - FISHERIES**

- 17. The Minister and the Director-General of the Ministry have certain functions, powers and duties in terms of the Fisheries Legislation. With the intention of creating a relationship that achieves, over time, the policies and outcomes sought by both Ngāti Maru and the Ministry.
- 18. The Protocol sets out how the Minister, Director-General and the Ministry will exercise their functions, powers and duties in relation to matters set out in the Protocol. In accordance with the Protocol, the Governance Entity will have the opportunity for input into the policy and planning processes relating to matters set out in the Protocol.
- 19. The Protocol must be read subject to the summary of the terms of issue set out in Attachment B.

**INPUT INTO AND PARTICIPATION INTO THE MINISTRY'S NATIONAL FISHERIES PLANS**

- 20. The Ministry's national fisheries plans will reflect the high level goals and outcomes for fisheries. The plans will guide annual identification of the measures (which may include catch limits, research, planning and compliance services) required to meet these goals and outcomes.
- 21. There are five National Fisheries Plans, which relate to:
  - a. inshore fisheries;
  - b. shellfish;
  - c. freshwater fisheries;



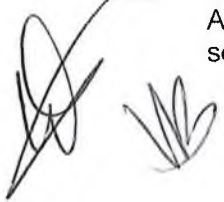
**DOCUMENTS**

**4: PROTOCOLS: PRIMARY INDUSTRIES PROTOCOL**

- d. highly migratory fisheries; and
  - e. deepwater fisheries.
22. The National Fisheries Plans are implemented through an Annual Review Report and Annual Operational Plan.
23. The Annual Review Report presents information on:
- a. the current status of fisheries relative to the performance measures recorded in the National Fisheries Plans; and
  - b. the extent of the delivery of previous and existing services and management actions.
24. The Annual Review Report is developed through engagement with tāngata whenua about what future services are required to meet agreed objectives, address gaps in performance and meet tāngata whenua interests, including research, compliance and special permits. The Ministry will engage with the parties to produce the Annual Review Report.
25. The Annual Operational Plan will record the future services agreed through the Annual Review Report process to be delivered to fisheries for the next financial year (1 July - 30 June). The demand for services is often greater than can be provided by the Ministry. The Ministry undertakes a prioritisation of proposed services to address competing interests.
26. The Ministry will provide for the input and participation of the twelve iwi of Hauraki, Ngāti Maru, Ngāti Paoa, Ngai Tai ki Tāmaki, Ngāti Hei, Hako, Ngāti Porou ki Hauraki, Ngāti Pukenga, Ngāti Tara Tokanui, Ngāti Rāhiri Tumutumu, Ngāti Tamaterā, Ngaati Whanaunga and Te Patukirikiri, which includes Ngāti Maru into national fisheries plans through iwi forum fisheries plans. Iwi forum fisheries plans allow the Ministry to engage and involve iwi in fisheries management activities and national fisheries planning.

***IWI FORUM FISHERIES PLANS***

27. The twelve iwi of Hauraki collectively will have input into the relevant forum fisheries plan. The plan will incorporate:
- a. the objectives of the iwi of Hauraki for the management of their customary, commercial, recreational, and environmental interests;
  - b. views of the iwi of Hauraki on what constitutes the exercise of kaitiakitanga within the Protocol Area;
  - c. how the iwi of Hauraki will participate in fisheries planning and management; and
  - d. how the customary, commercial, and recreational fishing interests of forum members will be managed in an integrated way.
28. The iwi of Hauraki, which includes Ngāti Maru, will have the opportunity to jointly develop an iwi fisheries plan that will inform the content of the relevant forum fisheries plan.
29. Any person exercising functions, powers and duties under sections 12 to 14 of the Fisheries Act 1996 will have particular regard to forum plans interpretation of kaitiakitanga (see section 12(1)(b) of the Fisheries Act 1996).



**DOCUMENTS**

**4: PROTOCOLS: PRIMARY INDUSTRIES PROTOCOL**

***MANAGEMENT OF CUSTOMARY NON-COMMERCIAL FISHERIES***

30. The Ministry, with available resources, undertakes to provide the Governance Entity with such information and assistance as may be necessary for the proper administration of the Fisheries (Kaimoana Customary Fishing) Regulations 1998. This information and assistance may include, but is not limited to:
- a. discussions with the Ministry on the implementation of the Fisheries (Kaimoana Customary Fishing) Regulations 1998 within the Protocol Area; and
  - b. making available existing information, if any, relating to the sustainability, biology, fishing activity and fisheries management within the Protocol Area.

***RĀHUI***

31. The Ministry recognises that rāhui is a traditional use and management practice of Ngāti Maru and supports their rights to place traditional rāhui over their customary fisheries.
32. The Ministry and the Governance Entity acknowledge that a traditional rāhui placed by the Governance Entity over their customary fisheries has no force in law and cannot be enforced by the Ministry, and that adherence to any rāhui is a matter of voluntary choice. The Governance Entity undertakes to inform the Ministry of the placing and the lifting of a rāhui by Ngāti Maru over their customary fisheries, and also the reasons for the rāhui.
33. The Ministry undertakes to inform a representative of any fishery stakeholder groups that fish in the area to which the rāhui has been applied, to the extent that such groups exist, of the placing and the lifting of a rāhui by Ngāti Maru over their customary fisheries, in a manner consistent with the understandings outlined in clause 31 of this Protocol.
34. As far as reasonably practicable, the Ministry undertakes to consider the application of section 186A of the Fisheries Act 1996 to support a rāhui proposed by Ngāti Maru over their customary fisheries for purposes consistent with the legislative requirements for the application of section 186A of the Fisheries Act 1996, noting these requirements preclude the use of section 186A to support rāhui placed in the event of a drowning.

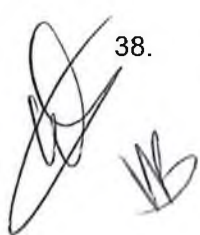
***PROVISION OF FISHERIES SERVICES AND RESEARCH***

35. Each party acknowledges that there is potential for the other to provide services to, or conduct research for, the other.
36. Ngāti Maru input and participation into Ministry fisheries services and research will occur through Ngāti Maru input and participation into the Ministry's national fisheries plans.

**PART FOUR – STRATEGIC PARTNERSHIPS**

***INFORMATION SHARING AND COLLABORATION***

37. The Governance Entity and the Ministry will use reasonable endeavours to exchange and share relevant information of mutual benefit, subject to the provisions of the Settlement Legislation, any other enactment, and the general law.
38. For the purpose of carrying out its function, the Governance Entity may make a reasonable request of the Ministry to:



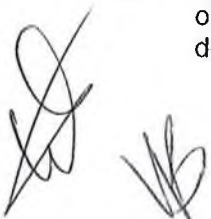
**DOCUMENTS**

**4: PROTOCOLS: PRIMARY INDUSTRIES PROTOCOL**

- a. provide information or advice to the Governance Entity requested by the Governance Entity, but only on matters relating to fisheries, agriculture (agriculture includes animal welfare and horticulture), forestry, food safety and biosecurity; and/or
  - b. provide a Ministry representative to attend a meeting with the Governance Entity.
39. In respect of the above requests for information or advice:
- a. where reasonably practicable, the Ministry will provide the information or advice; and
  - b. in deciding whether it is reasonably practicable to provide the information or advice, the Ministry will have regard to any relevant consideration, including:
    - i. whether, where a request has been made under the Official Information Act 1982, or the Local Government Official Information and Meetings Act 1987, there are permitted reasons for withholding the information;
    - ii. whether making the information available would contravene the provisions of an enactment; and
    - iii. the time and cost involved in researching, collating and providing the information or advice; and
    - iv. whether making the information available would put at risk any of the Ministry's wider stakeholder relationships.
40. In respect of requests for the Ministry to attend a meeting with the Governance Entity:
- a. only where reasonably practicable, the Ministry will comply with the request;
  - b. the Ministry will determine the appropriate representative to attend any meeting; and
  - c. in deciding whether it is reasonably practicable to comply with the request, the Ministry may have regard to any relevant consideration, including:
    - i. the number and frequency of such requests the management agency has received from the Governance Entity;
    - ii. the time and place of the meeting and the adequacy of notice given; and
    - iii. the time and cost involved in complying with the request.

**JOINT WORK PROGRAMMES**

- 41. If agreed to by both parties, the Ministry and the Governance Entity, will work together to develop and implement joint work programmes on matters relating to fisheries, agriculture (agriculture includes animal welfare and horticulture), forestry, food safety and biosecurity.
- 42. The work programme/s must be beneficial to both parties, must align with the parties objectives and priorities relating to the primary sector, and be based on agreed-to terms of delivery.

Handwritten signatures in black ink, appearing to be initials or names, located at the bottom left of the page.

**DOCUMENTS**

**4: PROTOCOLS: PRIMARY INDUSTRIES PROTOCOL**

***PROVISION OF SERVICE AND RESEARCH RELATING TO AGRICULTURE, FORESTRY, FOOD SAFETY AND BIOSECURITY***

43. Each party acknowledges that there is potential for the other to provide services to, or conduct research for, the other.
44. Where the Ministry undertakes or contracts for services or research relating to agriculture (agriculture includes animal welfare and horticulture), forestry, food safety or biosecurity, and where the Ministry considers it to have a direct impact on the Protocol area, the Ministry will:
- a. notify the Governance Entity of its intention to do so and provide the Governance Entity with an opportunity to be involved in the planning for services or research, as appropriate;
  - b. where applicable, invite the Governance Entity to provide a representative to be a member of the tender evaluation panel, subject to the Ministry's conflict of interest policy;
  - c. advise the Governance Entity of the provider it has chosen;
  - d. require any research provider to engage with the Governance Entity; and
  - e. provide the Governance Entity with the results of that research, as appropriate.

***CONSULTATION***

45. Where the Ministry is required to consult in relation to the Protocol, the principles that will be followed by the Ministry in consulting with the Governance Entity in each case are:
- a. ensuring that the Governance Entity is consulted as soon as reasonably practicable following the identification and determination by the Ministry of the proposal or issues to be the subject of the consultation;
  - b. 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;
  - c. 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;
  - d. ensuring that the Ministry will approach the consultation with the Governance Entity with an open mind, and will genuinely consider their submissions in relation to any of the matters that are the subject of the consultation; and
  - e. where the Ministry has consulted with the Governance Entity in relation to this Protocol, the Ministry will report back to the Governance Entity, either in person or in writing, on the decision made as a result of any such consultation.

**DOCUMENTS**

---

**4: PROTOCOLS: PRIMARY INDUSTRIES PROTOCOL**

**PART FIVE – IMPLEMENTATION**

***MAINTAINING THE RELATIONSHIP***

46. Each party will identify a senior representative to oversee the implementation of the Protocol. The senior representatives will be the key point of contact for any matters relating to the Protocol, and will be responsible for ensuring the outcomes and deliverables of the Protocol are monitored, and achieved.
47. Where elements of the Protocol may not be achievable, the parties will communicate this as soon as possible and work towards a common understanding of the issues and a positive way forward for both parties to achieve the outcomes of the Protocol.
48. Representatives of the parties will meet as required, and as agreed to by both parties.

***ESCALATION OF MATTERS***

49. If one party considers that there has been a breach of the Protocol then that party may give notice to the other that they are in dispute.
50. As soon as possible, upon receipt of the notice referred to in clause 49, the Ministry and the Governance Entity representative(s) will meet to work in good faith to resolve the issue.
51. If the dispute has not been resolved within 45 working days despite the process outlined in clauses 49 and 50 having been followed, the Ministry and Governance Entity may seek to resolve the dispute by asking an agreed trusted third party to mediate the dispute with a view to reaching a mutually satisfactory outcome for both parties.

***REVIEW AND AMENDMENT***

52. The parties agree that this Protocol is a living document which should be updated and adapted to take account of any future developments and relationship opportunities.
53. The parties may only vary this or terminate this Protocol by agreement in writing.

**ISSUED on**

**SIGNED** for and on behalf of **THE SOVEREIGN** in right of New Zealand by the Minister for Primary Industries

**WITNESS**

---

Name:

Occupation:

Address:



*Initialling version for presentation to Ngāti Maru for ratification purposes.*

DOCUMENTS

---

4: PROTOCOLS: PRIMARY INDUSTRIES PROTOCOL

ATTACHMENT A: PROTOCOL AREA

*[The Protocol Area map will be inserted prior to the signing of this deed of settlement and following completion of overlapping claims]*

Handwritten initials or signatures, possibly 'SB' and 'VB', located at the bottom left of the page.

DOCUMENTS

4: PROTOCOLS: PRIMARY INDUSTRIES PROTOCOL

**ATTACHMENT B: SUMMARY OF 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 116(3)*).

**2. Noting**

- 2.1 A summary of the terms of this Protocol must be noted in the fisheries plans affecting the Protocol Area, but the noting -

2.1.1 is for the purpose of public notice only; and

2.1.2 does not amend the fisheries plans for the purposes of the Fisheries Act 1996 (*section 119(2)*).

**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 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; or

3.1.2 restrict the responsibilities of the Minister or the Ministry or the legal rights of Ngāti Maru (*section 117(b) and (c)*); or

3.1.3 grant, create, or evidence an estate or interest in, or rights relating to, assets or property rights (including in relation to fish, aquatic life, or seaweed) under -

(a) the Fisheries Act 1996; or

(b) the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992; or

(c) the Maori Commercial Aquaculture Claims Settlement Act 2004; or

(d) the Maori Fisheries Act 2004 (*section 119(3)*).

Two handwritten signatures in black ink, one larger and more stylized than the other, located at the bottom left of the page.

DOCUMENTS

---

4: PROTOCOLS: PRIMARY INDUSTRIES PROTOCOL

4. **Breach**

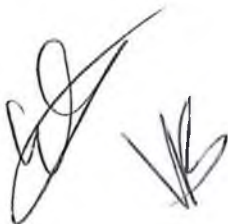
- 4.1 Subject to the Crown Proceedings Act 1950, the Governance Entity may enforce this Protocol if the Crown breaches it without good cause, but damages or monetary compensation will not be awarded (*section 118*).
- 4.2 A breach of this Protocol is not a breach of the Deed of Settlement (*clause 5.37*).



DOCUMENTS

---

**5 ENCUMBRANCES**

Handwritten signature and initials in black ink, located in the bottom left corner of the page.

DOCUMENTS

---

**5.1: MURIWAI SITE B RIGHT TO CONVEY WATER EASEMENT**

---

**5.1 Muriwai site B right to convey water easement**

---

Handwritten initials 'SJ' and 'VB' in black ink.





**SCHEDULE A**

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

Purpose (nature and extent) of easement	Shown (plan reference)	Servient Tenement (Identifier/CT)	Dominant Tenement (identifier CT or in gross)
Right to convey water	[The area marked with the blue pecked line on deed plan OTS- 403-304 [(the easement area will be generally 4 metres wide) Subject to survey.]  The Easement Area	Section 8 SO 513040	In gross

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 the **Annexure Schedule**.

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

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

## RIGHTS AND POWERS

### 1 Right to convey water

- 1.1 Easement facility in relation to this right to convey water means pipes, pumps, pump sheds, storage tanks, water purifying equipment, other equipment suitable for that purpose (whether above or under the ground), and anything in replacement or substitution.
- 1.2 A right to convey water includes the right for the Grantee only to take and convey water in free and unimpeded flow from the source of supply or point of entry through the easement facility and over the servient tenement to the dominant tenement.
- 1.3 The right to take and convey water in free and unimpeded flow is limited to the extent required by any period of necessary cleansing, renewal, modification, or repair of the easement facility.
- 1.4 The easement facility referred to in clause 1.1 is the easement facility laid or to be laid along the stipulated course or stipulated area.
- 1.5 The Grantor must not do and must not allow to be done anything on the Servient Tenement that may cause the purity or flow of water in the water supply system to be diminished or polluted.

### 2 General rights

- 2.1 All the easements referred to in this schedule include—
  - (a) the right to use any easement facility already situated on the stipulated area or course for the purpose of the easement granted; and
  - (b) if no suitable easement facility exists, the right to lay, install, and construct an easement facility reasonably required by the Grantee (including the right to excavate land for the purpose of that construction).
- 2.2 The Grantor must not do and must not allow to be done on the Servient Tenement 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 facility.
- 2.3 Except as provided in this easement the Grantee must not do and must not allow to be done on the Servient Tenement anything that may interfere with or restrict the rights of any other party or interfere with the efficient operation of the Easement Area.
- 2.4 The Grantee may transfer or otherwise assign this easement.

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

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

### 3 Repair, maintenance, and costs

- 3.1 If the Grantee has exclusive use of the easement facility, the Grantee is responsible for arranging the repair and maintenance of the easement facility, and for the associated costs, so as to keep the facility in good order and to prevent it from becoming a danger or nuisance.
- 3.2 If the Grantee and the Grantor share the use of the easement facility, each of them is responsible equally for the repair and maintenance of the easement facility, and for the associated costs, for the purposes set out in clause 3.1.
- 3.3 The parties responsible for maintenance under clause 3.1 or clause 3.2 or clause 3.5 (as the case may be) must meet any associated requirements of the relevant local authority.
- 3.4 The Grantor or Grantee must promptly carry out at that party's sole cost any repair and maintenance of the easement facility that is attributable solely to an act or omission by that party.
- 3.5 However, if the repair and maintenance of the easement facility is only partly attributable to an act or omission by the Grantor or Grantee,—
- (a) that party must pay the portion of the costs of the repair and maintenance that is attributable to that act or omission; and
  - (b) the balance of those costs is payable in accordance with clause 3.2.
- 3.6 The costs of any electric power used for the conveyance of water must be apportioned between users of the water in proportion to their usage of the water.

### 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 Servient Tenement by a reasonable route and with all necessary tools, vehicles, and equipment; and
  - 4.1.2 remain on the Servient Tenement for a reasonable time for the sole purpose of completing the necessary work; and
  - 4.1.3 leave any vehicles or equipment on the Servient Tenement for a reasonable time if work is proceeding.

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

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

- 4.2 The Grantee must ensure that as little damage or disturbance as possible is caused to the Servient Tenement 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 Servient Tenement 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 Servient Tenement.

## 5 Application for Resource Consents

- 5.1 The Grantee may from time to time to apply for any resource consents and any other statutory consents required for the purposes of the exercise of any of the Grantee's rights under this easement in the same manner as if it were a registered proprietor of the Servient Tenement provided that it shall at the time of making the relevant application forward a copy to the Grantor and the Grantor shall provide, upon written request from the Grantee, at the reasonable cost of the Grantee, a reasonable degree of cooperation. Where any relevant application would not result in the Grantee obtaining any additional rights or powers over and above those held by it pursuant to its existing resource consents or other statutory consents or the provisions of this easement then the Grantor must not lodge any objection to such application.

## 6 Equipment Property of Grantee

- 6.1 The equipment constructed or installed by the Grantee on the Servient Tenement shall remain the property of the Grantee and may at any time be removed by it provided that any damage caused by such removal shall immediately be remedied by the Grantee at its cost. If within six months after the date when written notice of such damage is provided to the Grantee it fails to remedy such damage, the Grantor may, after first having given the Grantee at least one month's written notice of its intention to do so, remedy all or any of the damage and recover costs for this from the Grantee.

## 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

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

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

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 Servient Tenement:
- (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.

## 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

## 7 Other conditions

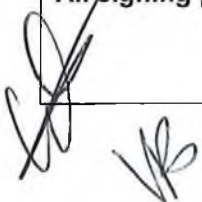
- 7.1 DOC will have the right of access to the grantor's land to undertake work on the relevant part of the grantor's land if something on that land poses an immediate health & safety risk to users of the relevant part of the easement area.

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

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

- 7.2 Where there is matter beyond the control of either grantee or grantor that necessitates the reinstatement of the track outside of the easement area the grantor cannot unreasonably withhold consent to a new location of the easement area (if it is within 10 metres of the original easement area - i.e. 5m on either side from the centre of the easement area).

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

Handwritten signatures and initials in black ink, located below the signing box. One signature is a large, stylized cursive mark, and the other is a smaller, more compact set of initials.

*Initialling version for presentation to Ngāti Maru for ratification purposes.*

**DOCUMENTS**

---

**5.2: MURIWAI SITE B RIGHT OF WAY EASEMENT**

---

**5.2 Muriwai site B right of way easement**

---

Handwritten signature and initials in the bottom left corner.

The terms of the easement document are largely agreed. Only exceptional clauses will be negotiated and agreed between Chair of the Hauraki Collective, Director of the Office of Treaty Settlements and Deputy Director-General Strategy and People of the Department of Conservation prior to ratification of the Ngāti Maru deed of settlement.

EASEMENT INSTRUMENT  
to grant easement

Sections 90A and 90F, Land Transfer Act 1952

Land Registration District

South Auckland

Grantor

*Surname must be underlined*

[the trustees of the Ngāti Maru Settlement Trust]

Grantee

*Surname must be underlined*

Her Majesty the Queen in Right of New Zealand 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(s) set out in Schedule A, with the rights and powers or provisions set out in the Annexure Schedule(s)

Dated this

day of

20

ATTESTATION:

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

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



**SCHEDULE A**

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

Purpose (nature and extent) of easement	Shown (plan reference)	Servient tenement (Identifier/CT)	Dominant Tenement (identifier CT or in gross)
Right of Way and Parking Rights	The area marked [ ] on SO 513040 and generally 4 metres wide Subject to survey.  The Easement Area	Section 10 on SO 513040 Subject to survey.  The Grantor's Land	In gross

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 the **Annexure Schedule**.

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

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

## RIGHTS AND POWERS

### 1 Rights of way and parking rights

- 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, pass and repass on foot, by bicycle or by vehicle over and along the Easement Area and to stop, leave and park vehicles on the area designated as a carpark within the Easement Area ("the carpark").
- 1.2 The right of way includes the right for the public as the Grantee's invitees to pass and repass and go over and along the Easement Area on foot, by bicycle or by vehicle and to park in the carpark and when the Grantee wishes to carry out work to develop, improve or maintain the Easement Area or undertake conservation activities on adjoining land administered by the Grantee, then the Grantee its employees or contractors may proceed along the Easement Area by foot or by vehicle or any other means of transport and with all necessary tools, vehicles, equipment (including firearms) and dogs to carry out the work.
- 1.3 The right of way includes—
- 1.3.1 the right to repair and maintain the existing recreation tracks and access vehicle track ("the 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 track; and
- 1.3.3 the right for the Grantee to improve the Easement Area in any way it considers expedient but consistent with its purposes of recreation and access, including the installation of track markers, stiles but without at any time causing damage to or interfering with the Grantor's use and management of the Grantor's Land; and
- 1.3.4 the right for the Grantee to erect and display notices on the Easement Area and with the Grantor's consent, which must 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 or otherwise occupy 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.

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

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 or other materials 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 of the Grantee under this easement 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 the Grantor under this easement or interfere with the efficient operation of the Easement Area.

2.3 The Grantee may transfer or otherwise assign this easement but only to a Crown body, local authority or other public body.

## 3 Repair, maintenance, and costs

3.1 The Grantee is responsible for arranging the repair and maintenance of the 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 If the Grantee (or grantees if more than one) and the Grantor share the use of the track then each of them is responsible for arranging the repair and maintenance of the track on the Easement Area and for the associated costs, so as to keep the track to a standard suitable for their use.

3.3 The Grantee (or grantees if more than one) must (equally if more than one) meet any associated requirements of the relevant local authority.

3.4 The Grantee must 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.

3.5 The Grantor must repair at its cost all damage caused to the 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 but may be given subject to any reasonable conditions —

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

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

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

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

5.1.1 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:

5.1.2 if, at the expiry of the 7-working-day period, the party in default has not met the obligation, the other party may —

(a) meet the obligation; and

(b) for that purpose, enter the Grantor's Land:

5.1.3 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:

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.**

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

## 6 Disputes

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

6.1.1 the party initiating the dispute must provide full written particulars of the dispute to the other party; and

6.1.2 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

6.1.3 if the dispute is not resolved within 14 working days of the written particulars being given (or any longer period agreed by the parties) —

(a) the dispute must be referred to arbitration in accordance with the Arbitration Act 1996; and

(b) 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.

## 7 Other conditions

7.1 DOC will have the right of access to the grantor's land to undertake work on the relevant part of the grantor's land if something on that land poses an immediate health & safety risk to users of the relevant part of the easement area.

7.2 Where there is matter beyond the control of either grantee or grantor that necessitates the reinstatement of the track outside of the easement area the grantor cannot unreasonably withhold consent to a new location of the easement area (if it is within 10 metres of the original easement area - i.e. 5m on either side from the centre of the easement area).

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



DOCUMENTS

---

**5.3: MURIWAI SITE A RIGHT TO CONVEY WATER EASEMENT**

---

**5.3 Muriwai site A right to convey water easement**

---



The terms of the easement document are largely agreed. Only exceptional clauses will be negotiated and agreed between Chair of the Hauraki Collective, Director of the Office of Treaty Settlements and Deputy Director-General Strategy and People of the Department of Conservation prior to ratification of the Ngāti Maru deed of settlement.

EASEMENT INSTRUMENT  
to grant easement

Sections 90A and 90F, Land Transfer Act 1952

Land Registration District

South Auckland

Grantor

Surname must be underlined

[trustees of the Ngāti Maru Settlement Trust]

Grantee

Surname must be underlined

Her Majesty the Queen in Right of New Zealand 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 perpetuity the easement(s) set out in Schedule A, with the rights and powers or provisions set out in the Annexure Schedule(s)

Dated this

day of

20

ATTESTATION:

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

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



**SCHEDULE A**

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

Purpose (nature and extent) of easement	Shown (plan reference)	Servient Tenement (Identifier/CT)	Dominant Tenement (identifier CT or in gross)
Right to convey water	[The area marked with the letter "B" on SO 513040 [(the easement area will be generally 4 metres wide) Subject to survey.]  The Easement Area	Section 5 SO 513040	In gross

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 the **Annexure Schedule**.

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

Handwritten signatures and initials are present in the bottom left corner of the signing box.

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

## RIGHTS AND POWERS

### 1 Right to convey water

- 1.1 Easement facility in relation to this right to convey water means pipes, pumps, pump sheds, storage tanks, water purifying equipment, other equipment suitable for that purpose (whether above or under the ground), and anything in replacement or substitution.
- 1.2 A right to convey water includes the right for the Grantee only to store, take and convey water in free and unimpeded flow from the source of supply or point of entry through the easement facility and over the servient tenement to the dominant tenement.
- 1.3 The right to take and convey water in free and unimpeded flow is limited to the extent required by any period of necessary cleansing, renewal, modification, or repair of the easement facility.
- 1.4 The easement facility referred to in clause 1.1 is the easement facility laid or to be laid along the stipulated course or stipulated area.
- 1.5 The Grantor must not do and must not allow to be done anything on the Servient Tenement that may cause the purity or flow of water in the water supply system to be diminished or polluted.

### 2 General rights

- 2.1 All the easements referred to in this schedule include—
  - (a) the right to use any easement facility already situated on the stipulated area or course for the purpose of the easement granted; and
  - (b) if no suitable easement facility exists, the right to lay, install, and construct an easement facility reasonably required by the Grantee (including the right to excavate land for the purpose of that construction).
- 2.2 The Grantor must not do and must not allow to be done on the Servient Tenement 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 facility.
- 2.3 Except as provided in this easement the Grantee must not do and must not allow to be done on the Servient Tenement anything that may interfere with or restrict the rights of any other party or interfere with the efficient operation of the Easement Area.
- 2.4 The Grantee may transfer or otherwise assign this easement.

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

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

### 3 Repair, maintenance, and costs

- 3.1 If the Grantee has exclusive use of the easement facility, the Grantee is responsible for arranging the repair and maintenance of the easement facility, and for the associated costs, so as to keep the facility in good order and to prevent it from becoming a danger or nuisance.
- 3.2 If the Grantee and the Grantor share the use of the easement facility, each of them is responsible equally for the repair and maintenance of the easement facility, and for the associated costs, for the purposes set out in clause 3.1.
- 3.3 The parties responsible for maintenance under clause 3.1 or clause 3.2 or clause 3.5 (as the case may be) must meet any associated requirements of the relevant local authority.
- 3.4 The Grantor or Grantee must promptly carry out at that party's sole cost any repair and maintenance of the easement facility that is attributable solely to an act or omission by that party.
- 3.5 However, if the repair and maintenance of the easement facility is only partly attributable to an act or omission by the Grantor or Grantee,—
- (a) that party must pay the portion of the costs of the repair and maintenance that is attributable to that act or omission; and
  - (b) the balance of those costs is payable in accordance with clause 3.2.
- 3.6 The costs of any electric power used for the conveyance of water must be apportioned between users of the water in proportion to their usage of the water.

### 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 Servient Tenement by a reasonable route and with all necessary tools, vehicles, and equipment; and
  - 4.1.2 remain on the Servient Tenement for a reasonable time for the sole purpose of completing the necessary work; and
  - 4.1.3 leave any vehicles or equipment on the Servient Tenement for a reasonable time if work is proceeding.

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

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

- 4.2 The Grantee must ensure that as little damage or disturbance as possible is caused to the Servient Tenement 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 Servient Tenement 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 Servient Tenement.

## 5 Application for Resource Consents

- 5.1 The Grantee may from time to time to apply for any resource consents and any other statutory consents required for the purposes of the exercise of any of the Grantee's rights under this easement in the same manner as if it were a registered proprietor of the Servient Tenement provided that it shall at the time of making the relevant application forward a copy to the Grantor and the Grantor shall provide, upon written request from the Grantee, at the reasonable cost of the Grantee, a reasonable degree of cooperation. Where any relevant application would not result in the Grantee obtaining any additional rights or powers over and above those held by it pursuant to its existing resource consents or other statutory consents or the provisions of this easement then the Grantor must not lodge any objection to such application.

## 6 Equipment Property of Grantee

- 6.1 The equipment constructed or installed by the Grantee on the Servient Tenement shall remain the property of the Grantee and may at any time be removed by it provided that any damage caused by such removal shall immediately be remedied by the Grantee at its cost. If within six months after the date when written notice of such damage is provided to the Grantee it fails to remedy such damage, the Grantor may, after first having given the Grantee at least one month's written notice of its intention to do so, remedy all or any of the damage and recover costs for this from the Grantee.

## 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

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

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

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 Servient Tenement:
- (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.

## 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

## 7 Other conditions

- 7.1 DOC will have the right of access to the grantor's land to undertake work on the relevant part of the grantor's land if something on that land poses an immediate health & safety risk to users of the relevant part of the easement area.

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

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

- 7.2 Where there is matter beyond the control of either grantee or grantor that necessitates the reinstatement of the track outside of the easement area the grantor cannot unreasonably withhold consent to a new location of the easement area (if it is within 10 metres of the original easement area - i.e. 5m on either side from the centre of the easement area).

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

Handwritten signatures and initials in the signing box.

*Initialling version for presentation to Ngāti Maru for ratification purposes.*

DOCUMENTS

---

**5.4: MURIWAI SITE A RESTRICTIVE COVENANT**

---

**5.4 Muriwai site A restrictive covenant**

---



## Instrument to grant Restrictive Land Covenant (in gross)

Grantor

[NGĀTI MARU]

Grantee

HER MAJESTY THE QUEEN

### Grant of Restrictive Covenant (in gross)

The Grantor being the registered proprietor of the servient tenement(s) set out in Schedule A grants to the Grantee (and, if so stated, in gross) the covenant(s) set out in Schedule A, with the rights and powers or provisions set out in the Annexure Schedule(s)

### Schedule A

*Continue in additional Annexure Schedule, if required*

Purpose (Nature and extent) of easement; <i>profit</i> or covenant	Shown (plan reference)	Servient Tenement (Computer Register)	Dominant Tenement (Computer Register) or in gross
Restrictive Covenant in Gross pursuant to section [ ] of the [ ] Claims Settlement Act [ ]	[The area edged with a thick black line and shown "Muriwai A" on the OTS plan attached (subject to survey)]	[[ ] hectares more or less being part of the land comprised in Computer Freehold Register SA19B/1495 (subject to survey)].	In Gross

Dated this                      day of                      2017

### Attestation

_____ Signature [common seal] of Grantor	Signed in my presence by the Grantor  _____ <i>Signature of witness</i> <i>Witness to complete in BLOCK letters (unless legibly printed)</i> Witness name Occupation  Address
---	---


Her Majesty the Queen acting by and through the Minister of Conservation  _____ Signature [common seal] of Grantee	Signed in my presence by the Grantee  _____ <i>Signature of witness</i> <i>Witness to complete in BLOCK letters (unless legibly printed)</i> Witness name Occupation  Address
---	---

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

[Solicitor for] the Grantee

**Covenant provisions**

The provisions applying to the specified covenants are those set out in Annexure Schedule 1.



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

## Annexure Schedule 1

Insert type of instrument

Restrictive Land Covenant

Dated

Page

1

of

2

Pages

Continue in additional Annexure Schedule, if required.

### 1 Restrictive Covenant

- 1.1 The Grantor will not carry out or permit to be carried out any development on the Covenant Area (or any part of it) including, without limitation, the erection of any fence, building, structure or other improvement for any purpose with the exception of any development comprising low impact building(s) and related improvements carried out on the Covenant Area for cultural or tourism purposes provided that such development complies with the relevant territorial authority's then operative District Plan and all required consents are granted.
- 1.2 For the purposes of clause 1.1, the term "Covenant Area" means the areas [edged with a thick black line and shown "Muriwai A" on the OTS plan attached (subject to survey)].

### 2 Construction of Covenant in Gross

- 2.1 This restrictive covenant in gross is enforceable by:
- (a) the Grantee;
  - (b) the Grantee's assigns; and
  - (c) persons claiming through the Grantee.
- 2.2 This restrictive covenant in gross binds:
- (a) the Grantor;
  - (b) the Grantor's successors in title; and
  - (c) persons claiming through the Grantor or the Grantor's successors in title.
- 2.3 For the purposes of this clause 2 the Grantor's successors in title include an occupier for the time being of the Servient Tenement.

### 3 Legal Effect of Covenant in Gross

- 3.1 This restrictive covenant in gross is binding in equity on:
- (a) every person who becomes the registered proprietor of the Servient Tenement:
    - (i) whether by acquisition from the Grantor or from any of the Grantor's successors in title;
    - (ii) whether or not for valuable consideration; and
    - (iii) whether by operation of law or in any other manner; and
  - (b) every person who is for the time being the occupier of the Servient Tenement.



## Annexure Schedule 1

Insert type of instrument

Restrictive Land Covenant

Dated

Page

2

of

2

Pages

*Continue in additional Annexure Schedule, if required.*

3.2 This restrictive covenant in gross ceases to be binding on a person referred to in this clause 3 when that person ceases to be the owner or occupier of the Servient Tenement, but without prejudice to that person's liability for breach of the covenant arising before that person ceased to be the owner or occupier of the Servient Land.

3.3 The benefit of this restrictive covenant in gross may be assigned or transferred.

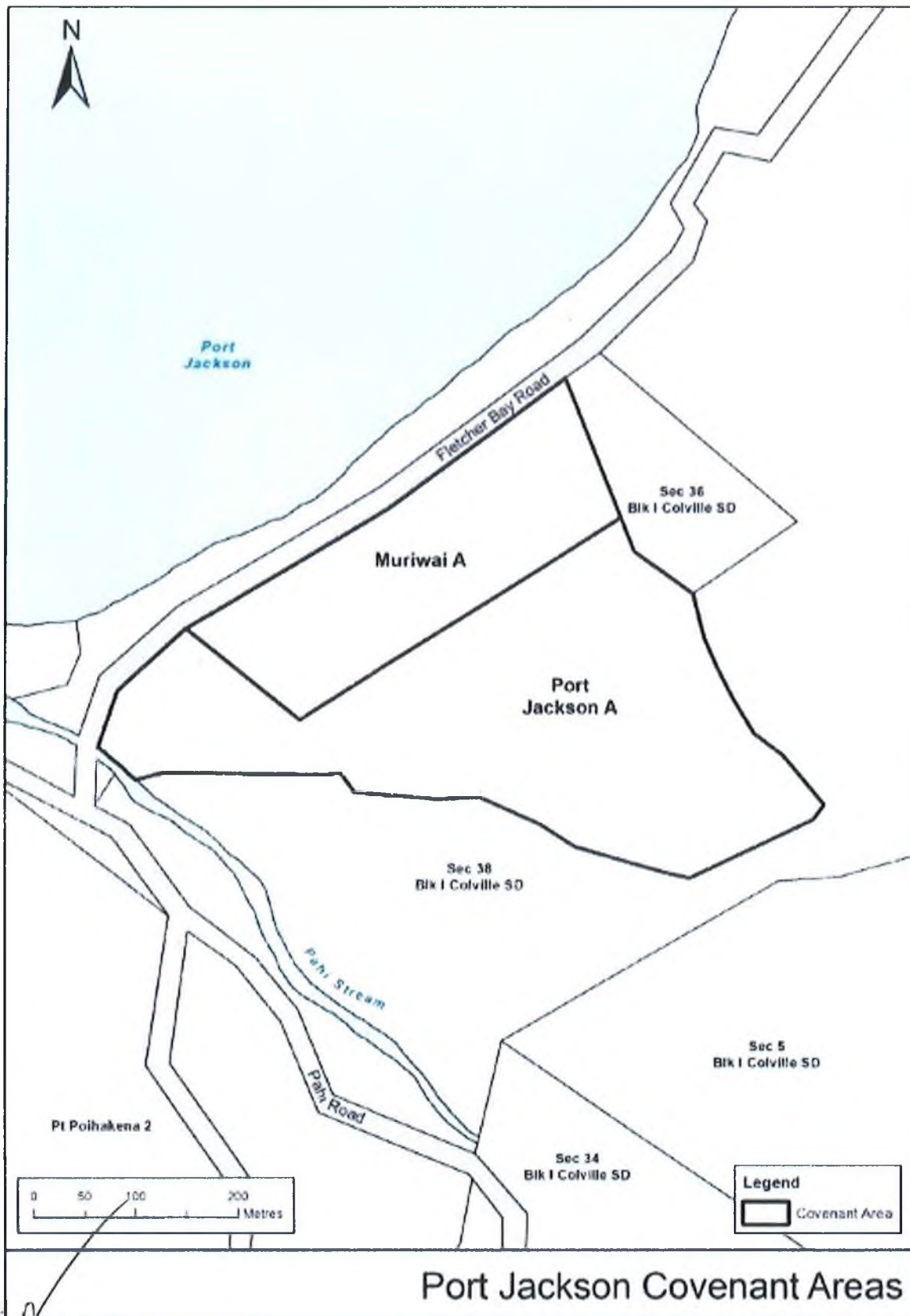
3.4 The provisions of this clause 3 override any other rule of law or equity, but are subject to clause 4.

#### **4 Whether and to what extent, administrator bound by covenant in gross**

4.1 An administrator of the estate of a person who was bound, at the time of that person's death, by this restrictive covenant in gross is bound by this restrictive covenant:

- (a) only if assets of the estate are available in the administrator's hand for meeting the obligation under the restrictive covenant; and
- (b) if so, only to the extent that they are so available.





**DOCUMENTS**


---

**5.5: OKAHAROA MA RAKI RIGHT OF WAY EASEMENT**

---

**5.5 Okaharoa Ma Raki right of way easement**

---

Handwritten signatures in black ink, consisting of two distinct scribbled marks.

The terms of the easement document are largely agreed. Only exceptional clauses will be negotiated and agreed between Chair of the Hauraki Collective, Director of the Office of Treaty Settlements and Deputy Director-General Strategy and People of the Department of Conservation prior to ratification of the Ngāti Maru deed of settlement.

EASEMENT INSTRUMENT  
to grant easement

Sections 90A and 90F, Land Transfer Act 1952

Land Registration District

South Auckland

Grantor

Surname must be underlined

[the trustees of the Ngāti Maru Settlement Trust]

Grantee

Surname must be underlined

Her Majesty the Queen in Right of New Zealand 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(s) **set out** in Schedule A, with the rights and powers or provisions set out in the Annexure Schedule(s)

Dated this

day of

20

ATTESTATION:

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

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

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

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

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

--

**Solicitor for the Grantee**

<p>All signing parties and either their witnesses or solicitors must sign or initial in this box.</p>
---

*[Handwritten signatures/initials]*

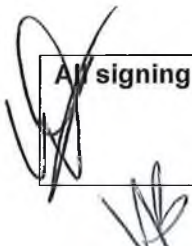
**SCHEDULE A**

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

Purpose (nature and extent) of easement	Shown (plan reference)	Servient tenement (Identifier/CT)	Dominant Tenement (identifier CT or in gross)
Right of Way	[That area coloured red pecked line on deed plan OTS-403-306 (the easement area will be generally 4 metres wide) Subject to survey.]  The Easement Area	Section 2 SO 513349  The Grantor's Land	In gross

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 the **Annexure Schedule**.

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



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 Grantee its employees or contractors to proceed along the Easement Area at Okaharoa Ma Raki by foot or by vehicle or any other means of transport and with all necessary tools, vehicles, equipment (including firearms) and dogs to carry out work to develop, improve or maintain the Easement Area or undertake conservation activities at Okaharoa Ma Raki and Ō Kaharoa ki Waenganui D.
- 1.3 The right of way includes—
- 1.3.1 the right to repair and maintain the existing recreation tracks and access vehicle track ("the 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 track; and
  - 1.3.3 the right for the Grantee to improve the Easement Area in any way it considers expedient but consistent with its purposes of recreation and access, including the installation of track markers, stiles but without at any time causing damage to or interfering with the Grantor's use and management of the Grantor's Land; and
  - 1.3.4 the right for the Grantee to erect and display notices on the Easement Area and with the Grantor's consent, which must not be unreasonably withheld, on the Grantor's Land.

### 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 of the Grantee under this easement 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 the Grantor under this easement or interfere with the efficient operation of the Easement Area.

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

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

- 2.3 The Grantee may transfer or otherwise assign this easement but only to a Crown body, local authority or other public body that has responsibility for species management, or the monitoring and control of pests on land that is part of Okaharoa Ma Raki and Ō Kaharoa ki Waenganui D.

### 3 Repair, maintenance, and costs

- 3.1 The Grantee is responsible for arranging the repair and maintenance of the 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 If the Grantee (or grantees if more than one) and the Grantor share the use of the track then each of them is responsible for arranging the repair and maintenance of the track on the Easement Area and for the associated costs, so as to keep the track to a standard suitable for their use.
- 3.3 The Grantee (or grantees if more than one) must (equally if more than one) meet any associated requirements of the relevant local authority.
- 3.4 The Grantee must 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.
- 3.5 The Grantor must repair at its cost all damage caused to the 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 but may be given subject to any reasonable conditions —
- 4.1.1 enter upon the Grantor's Land by a reasonable route and with all necessary tools, vehicles, and equipment; and
- 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.

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

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

- 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

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

5.1.1 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:

5.1.2 if, at the expiry of the 7-working-day period, the party in default has not met the obligation, the other party may —

(a) meet the obligation; and

(b) for that purpose, enter the Grantor's Land:

5.1.3 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:

the other party may recover from the party in default, as a liquidated debt, any money payable under this clause.

## 6 Disputes

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

6.1.1 the party initiating the dispute must provide full written particulars of the dispute to the other party; and

6.1.2 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

6.1.3 if the dispute is not resolved within 14 working days of the written particulars being given (or any longer period agreed by the parties) —

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

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

- (a) the dispute must be referred to arbitration in accordance with the Arbitration Act 1996; and
- (b) 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.

## 7 Other conditions

- 7.1 DOC will have the right of access to the grantor's land to undertake work on the relevant part of the grantor's land if something on that land poses an immediate health & safety risk to users of the relevant part of the easement area.
- 7.2 Where there is matter beyond the control of either grantee or grantor that necessitates the reinstatement of the track outside of the easement area the grantor cannot unreasonably withhold consent to a new location of the easement area (if it is within 10 metres of the original easement area - i.e. 5m on either side from the centre of the easement area).

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



*Initialling version for presentation to Ngāti Maru for ratification purposes.*

DOCUMENTS

---

**5.6: MANAIA PROPERTY CONSERVATION COVENANT**

---

**5.6 Manaia property conservation covenant**

---



# MANAIA PROPERTY CONSERVATION COVENANT

(Section 27 Conservation Act 1987  
and  
Section 77 Reserves Act 1977)

THIS DEED of COVENANT is made this                    day of

BETWEEN NGĀTI MARU RŪNANGA TRUST (the Owner)

AND MINISTER OF CONSERVATION (the Minister)

## BACKGROUND

- A. Section 27 of the Conservation Act 1987 provides that the Minister may enter into a covenant with the owner of any land to provide for management of that land's Conservation Values; and Section 77 of the Reserves Act 1977 provides that the Minister may enter into a covenant with the owner of any land to provide for management of that land's Reserve Values (both the Conservation Values and the Reserve Values are referred to as the Land's Values).
- B. Management of the Land's Values requires some restrictions on the Owner's use of the Land without the Minister's consent and the enabling of the Minister to undertake certain activities on the Land.
- C. The Owner is the registered proprietor of the Land described in Schedule 1 as a result of a Treaty settlement with the Crown in accordance with a Deed of Settlement dated [ ] and implemented by the Ngāti Maru Claims Settlement Act [ ]
- D. The parties to the Deed of Settlement agree the Land's Values should be subject to a covenant under the Conservation Act 1987 and the Reserves Act 1977 which would provide that the land should be managed to protect those values.
- E. The Owner has therefore agreed to grant the Minister a Covenant over the Land to preserve the Land's Values.

## OPERATIVE PARTS

In accordance with section 27 of the Conservation Act 1987 and section 77 of the Reserves Act 1977 and with the intent that the Covenant run with the Land and bind all subsequent owners of the Land, the Owner and Minister agree as follows.



## 1 INTERPRETATION

1.1 In this Covenant unless the context otherwise requires:

**"Conservation and Reserve Values"** means the preservation and protection of natural, landscape and historic resources including Conservation and Reserve Values on the Land for the purpose of maintaining their intrinsic values, providing for their appreciation and recreational enjoyment by the public, and safeguarding the options of future generations.

**"Director-General"** means the Director-General of Conservation.

**"Fence"** includes a gate.

**"Land's Values"** means the Conservation and Reserve values specified in Schedule 1.

**"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.

**"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.

1.1.1 any obligation not to do anything must be treated to include an obligation not to suffer, permit or cause the thing to be done.

1.1.2 the agreements contained in this Covenant bind and benefit the parties and their administrators and executors, successors and assigns in perpetuity.

1.1.3 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 to preserve and protect the Land's Values;

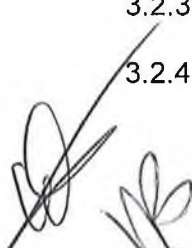
2.1.2 to provide, subject to section 4 and Schedule 3 of this Covenant, freedom of access to the public for the appreciation and recreational enjoyment of the Land.

## 3 IMPLEMENTATION OF OBJECTIVES

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

Handwritten signatures in blue ink, appearing to be initials or names, located at the bottom left of the page.

- 3.1.1 grazing of the Land by livestock;
  - 3.1.2 subject to clauses 3.2.1 and 3.2.3 and Schedule 3, felling, removal or damage of any tree, shrub or other plant;
  - 3.1.3 subject to Schedule 3, the planting of any species of exotic tree, shrub or other plant, or any other plant not endemic to and not sourced from the location in which the Land is situated;
  - 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 subject to Schedule 3, 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 degradation of the natural flow, supply, quantity, or quality of water of any stream, river, lake, pond, marsh, or any other watercourse in or on the Land;
  - 3.1.10 any other activity which might have a more than minor adverse effect on the Land's 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; and
  - 3.1.12 the erection of utility transmission lines across the Land.
- 3.2 Subject to the Owner having no obligation to do anything to improve the land beyond its condition at the date of this Covenant, the Owner must take all reasonable steps to maintain the Land, including:
- 3.2.1 eradicating or controlling all weeds and pests on the Land to the extent required by any statute; and, in particular, complying with the provisions of, and any notices given under, the Biosecurity Act 1993 and in so doing the Owner may undertake minor clearance of vegetation;
  - 3.2.2 co-operating 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 keeping the Land free from exotic tree species;
  - 3.2.4 keeping the Land free from rubbish or other unsightly or offensive material arising from the Owner's use of the Land;

Handwritten signature and initials in the bottom left corner of the page.

3.2.5 subject to consultation between the Owner and the Minister and observance of any reasonable conditions imposed by the Owner, granting 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 keeping all existing 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; and

3.2.7 complying with all requisite statutes, regulations and bylaws in relation to the Land.

#### **4 PUBLIC ACCESS**

4.1 Subject to Schedule 3, the Owner must, subject to this Covenant, permit the public to enter upon the Land for non-commercial purposes without the consent of the Owner provided the public:

4.1.1 only access the Land by foot;

4.1.2 do not take firearms or animals on the Land; and

4.1.3 do not camp on the Land.

#### **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.

#### **6 JOINT OBLIGATIONS**

6.1 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.

Handwritten signature and initials in the bottom left corner of the page.

## **8 OBLIGATIONS ON DISPOSAL 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.

## **10 MISCELLANEOUS MATTERS**

### **10.1 Trespass Act**

- 10.1.1 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.
- 10.1.2 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.

### **10.2 Reserves Act**

- 10.2.1 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.

### **10.3 Registration**

- 10.3.1 This Covenant must be signed by both parties and registered against the Computer Freehold Register for the Land.

### **10.4 Acceptance of Covenant**

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

## **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 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.

Handwritten signatures in black ink, appearing to be initials or names, located at the bottom left of the page.

**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, by facsimile or by electronic mail addressed to the receiving party at the address, facsimile number or electronic mail address set out in Schedule 2.
- 13.2 A notice given in accordance with clause 13.1 will be deemed to have been received in the case of:
  - 13.2.1 personal delivery, on the date of delivery;
  - 13.2.2 pre-paid post, on the third working day after posting;
  - 13.2.3 facsimile, on the day on which it is dispatched or, if dispatched after 5.00pm, on the next day after the date of dispatch;
  - 13.2.4 electronic mail, on the day of successful delivery of the mail.
- 13.3 The Owner must notify the Minister of any change of ownership or control or all or any part of the Land or change in the particulars in Schedule 2 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 \_\_\_\_\_ 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: \_\_\_\_\_

Handwritten signature and initials in the bottom left corner of the page.

## SCHEDULE 1

### **Description of Land:**

*South Auckland Land District—Thames-Coromandel District*

All those pieces of land containing 104.0 hectares, approximately, being Parts Kakatarahae 2 and Part Section 8 Block XIV Coromandel Survey District. Subject to survey.

As shown on OTS-403-320 and known as Manaia property.

### **Conservation and Reserve Values:**

[The Land is contiguous to the Coromandel Forest Park, which contains extensive and largely continuous tracts of indigenous vegetation. The Park is also used for recreation including tramping, walking and hunting.

The Land has biodiversity, habitat and recreation values due to adjoining the Coromandel Forest Park, as well as being an isolated area of indigenous scrub/regenerating coastal, lowland forest.

The Land consists of moderately steep hill country covered with lowland scrub merging into kauri forest at higher altitudes. Hochstetters frog, kiwi and kaka are likely to be present. The Manaia River passes through the Land.

There is remnant kiwi in the area.]

Two handwritten signatures in black ink, one larger and more stylized than the other, located at the bottom left of the page.

**SCHEDULE 2**

**Address for Service**

The address for service of the Owner is:

The address for service of the Minister is:

Two handwritten signatures in black ink, one larger and more stylized than the other, located in the bottom left corner of the page.

## SCHEDULE 3

### Special Conditions

#### *Recreational facilities*

1. For avoidance of doubt, clause 2.1.2 does not place any obligation on the Owner over and above allowing physical access to and within the Land, and does not include an obligation to provide facilities, recreational or otherwise, for public enjoyment of the Land.

#### *Taking of plant material*

2. Despite clause 3.1.2 the Owner may authorise the taking or removal of materials from native plants, shrubs and trees from the Land in accordance with tikanga Maori for customary purposes, but in granting such authorisations shall ensure that any impact on the Conservation and Reserve Values is minimised.

#### *Propagation*

3. Despite clause 3.1.2, the Owner may take seed or cuttings of plant species from the Land for propagation purposes and planting within the Land. This right to take native plant seed and cuttings does not include harvesting of seed or the taking of cuttings for commercial purposes.

#### *Removal of rock*

4. Despite clause 3.1.11, the Owner may take rock of any kind from the Land for cultural or spiritual purposes.

#### *Plantation trees*

5. Despite clause 3.2.3, the Owner is not required to remove exotic tree species that have been planted as part of a plantation, including in the Area A marked on the map in Schedule 4.

#### *Fencing*

6. For avoidance of doubt, the obligations under clause 3.2.6 do not require the Owner to improve the fences beyond their condition or type at the date of this Covenant.
7. Clause 3.2.6 only applies where boundary fences in place at the time of this Covenant, are required to prevent farm animals on adjoining land from entering the Land.

#### *Managing public access*

8. Despite clause 4.1, the Owner may manage public access (including restrictions) in order to protect the privacy of users of buildings and associated areas, wāhi tapu, the Conservation and Reserve Values, or for the purposes of public safety. However, any restrictions cannot exclude the public from all of the Land indefinitely.
9. For avoidance of doubt, any member of the public when on the land may not undertake an activity in clause 3.1.

Two handwritten signatures in black ink, one larger and more stylized than the other, located at the bottom left of the page.

*Cultural activities*

10. The Owner may undertake cultural activities on the Land, subject to:

(a) consultation with the Department of Conservation; and

(b) any effects on the Conservation and Reserve Values being no more than minor.

Two handwritten signatures in black ink, one larger and more stylized than the other, located in the bottom left corner of the page.

**GRANT OF CONSERVATION COVENANT**

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

---

to

**MINISTER OF CONSERVATION**

Certified correct for the purposes of  
the Land Transfer Act 1952

Solicitor for the Minister of  
Conservation

---

**Legal Services  
Department of Conservation**

Two handwritten signatures in black ink. The first is a large, stylized signature, and the second is a smaller, more compact signature.

DOCUMENTS

---

**5.7: TARARU MAUNGA CONSERVATION COVENANT**

---

**5.7 Tararu Maunga conservation covenant**

---

Two handwritten signatures in black ink, one larger and more stylized than the other, located in the bottom left corner of the page.

# TARARU MAUNGA CONSERVATION COVENANT

(Section 27 Conservation Act 1987  
and  
Section 77 Reserves Act 1977)

THIS DEED of COVENANT is made this            day of

BETWEEN NGĀTI MARU RŪNANGA TRUST (the Owner)

AND MINISTER OF CONSERVATION (the Minister)

## BACKGROUND

- A. Section 27 of the Conservation Act 1987 provides that the Minister may enter into a covenant with the owner of any land to provide for management of that land's Conservation Values; and Section 77 of the Reserves Act 1977 provides that the Minister may enter into a covenant with the owner of any land to provide for management of that land's Reserve Values (both the Conservation Values and the Reserve Values are referred to as the Land's Values).
- B. Management of the Land's Values requires some restrictions on the Owner's use of the Land without the Minister's consent and the enabling of the Minister to undertake certain activities on the Land.
- C. The Owner is the registered proprietor of the Land described in Schedule 1 as a result of a Treaty settlement with the Crown in accordance with a Deed of Settlement dated [ ] and implemented by the Ngāti Maru Claims Settlement [ ].
- D. The parties to the Deed of Settlement agree the Land's Values should be subject to a covenant under the Conservation Act 1987 and the Reserves Act 1977 which would provide that the land should be managed to protect those values.
- E. The Owner has therefore agreed to grant the Minister a Covenant over the Land to preserve the Land's Values.

## OPERATIVE PARTS

In accordance with section 27 of the Conservation Act 1987 and section 77 of the Reserves Act 1977 and with the intent that the Covenant run with the Land and bind all subsequent owners of the Land, the Owner and Minister agree as follows.



**1 INTERPRETATION**

1.1 In this Covenant unless the context otherwise requires:

**"Conservation and Reserve Values"** means the preservation and protection of natural, landscape and historic resources including Conservation and Reserve Values on the Land for the purpose of maintaining their intrinsic values, providing for their appreciation and recreational enjoyment by the public, and safeguarding the options of future generations.

**"Director-General"** means the Director-General of Conservation.

**"Fence"** includes a gate.

**"Land's Values"** means the Conservation and Reserve values specified in Schedule 1.

**"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.

**"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.

1.1.1 any obligation not to do anything must be treated to include an obligation not to suffer, permit or cause the thing to be done.

1.1.2 the agreements contained in this Covenant bind and benefit the parties and their administrators and executors, successors and assigns in perpetuity.

1.1.3 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 to preserve and protect the Land's Values;

2.1.2 to provide, subject to section 4 and Schedule 3 of this Covenant, freedom of access to the public for the appreciation and recreational enjoyment of the Land.

**3 IMPLEMENTATION OF OBJECTIVES**

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

Handwritten signatures in black ink, appearing to be initials or names, located at the bottom left of the page.

- 3.1.1 grazing of the Land by livestock;
  - 3.1.2 subject to clauses 3.2.1 and 3.2.3 and Schedule 3, felling, removal or damage of any tree, shrub or other plant;
  - 3.1.3 subject to Schedule 3, the planting of any species of exotic tree, shrub or other plant, or any other plant not endemic to and not sourced from the location in which the Land is situated;
  - 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 subject to Schedule 3, 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 degradation of the natural flow, supply, quantity, or quality of water of any stream, river, lake, pond, marsh, or any other watercourse in or on the Land;
  - 3.1.10 any other activity which might have a more than minor adverse effect on the Land's 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; and
  - 3.1.12 the erection of utility transmission lines across the Land.
- 3.2 Subject to the Owner having no obligation to do anything to improve the land beyond its condition at the date of this Covenant, the Owner must take all reasonable steps to maintain the Land, including:
- 3.2.1 eradicating or controlling all weeds and pests on the Land to the extent required by any statute; and, in particular, complying with the provisions of, and any notices given under, the Biosecurity Act 1993 and in so doing the Owner may undertake minor clearance of vegetation;
  - 3.2.2 co-operating 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 keeping the Land free from exotic tree species;
  - 3.2.4 keeping the Land free from rubbish or other unsightly or offensive material arising from the Owner's use of the Land;

Handwritten signatures in black ink, appearing to be initials or names, located at the bottom left of the page.

3.2.5 subject to consultation between the Owner and the Minister and observance of any reasonable conditions imposed by the Owner, granting 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 keeping all existing 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; and

3.2.7 complying with all requisite statutes, regulations and bylaws in relation to the Land.

#### **4 PUBLIC ACCESS**

4.1 Subject to Schedule 3, the Owner must, subject to this Covenant, permit the public to enter upon the Land for non-commercial purposes without the consent of the Owner provided the public:

4.1.1 only access the Land by foot;

4.1.2 do not take firearms or animals on the Land; and

4.1.3 do not camp on the Land.

#### **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.

#### **6 JOINT OBLIGATIONS**

6.1 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.

Two handwritten signatures in black ink are located at the bottom left of the page. The first signature is a stylized, cursive 'A' or similar character. The second signature is a stylized 'VB'.

**8 OBLIGATIONS ON DISPOSAL 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.

**10 MISCELLANEOUS MATTERS**

**10.1 Trespass Act**

- 10.1.1 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.
- 10.1.2 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.

**10.2 Reserves Act**

- 10.2.1 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.

**10.3 Registration**

- 10.3.1 This Covenant must be signed by both parties and registered against the Computer Freehold Register for the Land.

**10.4 Acceptance of Covenant**

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

**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 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.

Two handwritten signatures in black ink, one on the left and one on the right, appearing to be initials or names.

**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, by facsimile or by electronic mail addressed to the receiving party at the address, facsimile number or electronic mail address set out in Schedule 2.
- 13.2 A notice given in accordance with clause 13.1 will be deemed to have been received in the case of:
  - 13.2.1 personal delivery, on the date of delivery;
  - 13.2.2 pre-paid post, on the third working day after posting;
  - 13.2.3 facsimile, on the day on which it is dispatched or, if dispatched after 5.00pm, on the next day after the date of dispatch;
  - 13.2.4 electronic mail, on the day of successful delivery of the mail.
- 13.3 The Owner must notify the Minister of any change of ownership or control or all or any part of the Land or change in the particulars in Schedule 2 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 \_\_\_\_\_ as )  
Owner in the presence of: \_\_\_\_\_ )

Witness: \_\_\_\_\_

Address: \_\_\_\_\_

Occupation: \_\_\_\_\_

Two handwritten signatures in black ink are located at the bottom left of the page. The first signature is a cursive 'L' followed by a flourish, and the second is a cursive 'V' followed by a flourish.

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: \_\_\_\_\_

Two handwritten signatures in black ink, one larger and more stylized than the other, located in the bottom left corner of the page.

## SCHEDULE 1

### **Description of Land:**

*South Auckland Land District—Thames-Coromandel District*

All that piece of land containing 10.4 hectares, approximately, being Part Sections 2 and 3 Block II Thames Survey District. Subject to survey.

As shown on OTS-403-310 and known as Tararu Maunga.

### **Conservation and Reserve Values:**

[The Land is contiguous to the Coromandel Forest Park, which contains extensive and largely continuous tracts of indigenous vegetation. The Park is also used for recreation including tramping, walking and hunting.

The Land has scenic values as an elevated site (tihi), with the ridgeline mountain top a prominent landscape and landmark. It also has biodiversity, habitat and recreation values due to the Land adjoining the Coromandel Forest Park, as well as the tihi being an important and unique ecosystem with its own botanical and animal life. The tihi operates as a sanctuary with species able to retreat to this higher altitude area, where the threat of predators is reduced.

North Island brown kiwi, stag beetle and Hochstetters frog are found within the central block of the Coromandel Forest Park (which runs from Manaia to the south of Thames), and may be present in this vicinity. Likewise, common indigenous bird species may be present in this vicinity.]



**SCHEDULE 2**

**Address for Service**

The address for service of the Owner is:

The address for service of the Minister is:

Handwritten signatures in black ink, consisting of two distinct scribbled marks.

## SCHEDULE 3

### Special Conditions

#### *Recreational facilities*

1. For avoidance of doubt, clause 2.1.2 does not place any obligation on the Owner over and above allowing physical access to and within the Land, and does not include an obligation to provide facilities, recreational or otherwise, for public enjoyment of the Land.

#### *Taking of plant material*

2. Despite clause 3.1.2 the Owner may authorise the taking or removal of materials from native plants, shrubs and trees from the Land in accordance with tikanga Maori for customary purposes, but in granting such authorisations shall ensure that any impact on the Conservation and Reserve Values is minimised.

#### *Propagation*

3. Despite clause 3.1.2, the Owner may take seed or cuttings of plant species from the Land for propagation purposes and planting within the Land. This right to take native plant seed and cuttings does not include harvesting of seed or the taking of cuttings for commercial purposes.

#### *Removal of rock*

4. Despite clause 3.1.11, the Owner may take rock of any kind from the Land for cultural or spiritual purposes.

#### *Plantation trees*

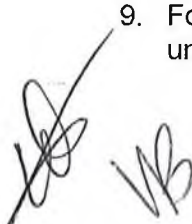
5. Despite clause 3.2.3, the Owner is not required to remove exotic tree species that have been planted as part of a plantation, including in the Area A marked on the map in Schedule 4.

#### *Fencing*

6. For avoidance of doubt, the obligations under clause 3.2.6 do not require the Owner to improve the fences beyond their condition or type at the date of this Covenant.
7. Clause 3.2.6 only applies where boundary fences in place at the time of this Covenant, are required to prevent farm animals on adjoining land from entering the Land.

#### *Managing public access*

8. Despite clause 4.1, the Owner may manage public access (including restrictions) in order to protect the privacy of users of buildings and associated areas, wāhi tapu, the Conservation and Reserve Values, or for the purposes of public safety. However, any restrictions cannot exclude the public from all of the Land indefinitely.
9. For avoidance of doubt, any member of the public when on the land may not undertake an activity in clause 3.1.

Handwritten signatures in black ink, appearing to be initials or names, located at the bottom left of the page.

*Cultural activities*

10. The Owner may undertake cultural activities on the Land, subject to:

(a) consultation with the Department of Conservation; and

(b) any effects on the Conservation and Reserve Values being no more than minor.

Two handwritten signatures in black ink, one on the left and one on the right, both appearing to be initials or short names.

**GRANT OF CONSERVATION COVENANT**

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

---

to

**MINISTER OF CONSERVATION**

Certified correct for the purposes of  
the Land Transfer Act 1952

Solicitor for the Minister of  
Conservation

---

**Legal Services  
Department of Conservation**

Two handwritten signatures in black ink, one larger and more stylized than the other, located at the bottom left of the page.

DOCUMENTS

---

**5.8: DICKSON PARK PROPERTY RIGHT OF WAY EASEMENT**

---

**5.8 Dickson Park property right of way easement**

---



The terms of the easement document are largely agreed. Only exceptional clauses will be negotiated and agreed between Chair of the Hauraki Collective, Director of the Office of Treaty Settlements and Deputy Director-General Strategy and People of the Department of Conservation prior to ratification of the Ngāti Maru deed of settlement.

EASEMENT INSTRUMENT  
to grant easement

Sections 90A and 90F, Land Transfer Act 1952

Land Registration District

South Auckland

Grantor

*Surname must be underlined*

[the trustees of Ngāti Maru Settlement Trust]

Grantee

*Surname must be underlined*

Her Majesty the Queen in Right of New Zealand 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(s) set out in Schedule A, with the rights and powers or provisions set out in the Annexure Schedule(s)

Dated this

day of

20

ATTESTATION:

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

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



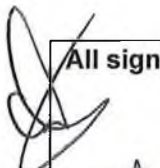
**SCHEDULE A**

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

Purpose (nature and extent) of easement	Shown (plan reference)	Servient tenement (Identifier/CT)	Dominant Tenement (identifier CT or in gross)
Right of Way	As shown marked A, B, C, D, E, F, G, and H on SO 511778  The Easement Area	Lot 2 DP 372272  The Grantor's Land	In gross

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 the **Annexure Schedule**.

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



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 when the Grantee wishes to carry out work to develop, improve or maintain the Easement Area or undertake conservation activities on adjoining land administered by the Grantee, then the Grantee its employees or contractors may proceed along the Easement Area by foot or by vehicle or any other means of transport and with all necessary tools, vehicles, equipment (including firearms) and dogs to carry out the work.
- 1.3 The right of way includes—
- 1.3.1 the right to repair and maintain the existing recreation tracks and access vehicle track ("the 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 track; and
  - 1.3.3 the right for the Grantee to improve the Easement Area in any way it considers expedient but consistent with its purposes of recreation and access, including the installation of track markers, stiles but without at any time causing damage to or interfering with the Grantor's use and management of the Grantor's Land; and
  - 1.3.4 the right for the Grantee to erect and display notices on the Easement Area and with the Grantor's consent, which must 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 or otherwise occupy 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.
- 1.6 No firearm or other weapon may be carried or discharged 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.**

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

1.7 The public may not light any fires or deposit any rubbish or other materials 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 of the Grantee under this easement 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 the Grantor under this easement or interfere with the efficient operation of the Easement Area.

2.3 The Grantee may transfer or otherwise assign this easement but only to a Crown body, local authority or other public body.

## 3 Repair, maintenance, and costs

3.1 The Grantee is responsible for arranging the repair and maintenance of the 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 If the Grantee (or grantees if more than one) and the Grantor share the use of the track then each of them is responsible for arranging the repair and maintenance of the track on the Easement Area and for the associated costs, so as to keep the track to a standard suitable for their use.

3.3 The Grantee (or grantees if more than one) must (equally if more than one) meet any associated requirements of the relevant local authority.

3.4 The Grantee must 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.

3.5 The Grantor must repair at its cost all damage caused to the 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 but may be given subject to any reasonable conditions —

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.

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

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

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

5.1.1 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:

5.1.2 if, at the expiry of the 7-working-day period, the party in default has not met the obligation, the other party may —

(a) meet the obligation; and

(b) for that purpose, enter the Grantor's Land:

5.1.3 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:

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.

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

## 6 Disputes

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



6.1.1 the party initiating the dispute must provide full written particulars of the dispute to the other party; and

6.1.2 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

6.1.3 if the dispute is not resolved within 14 working days of the written particulars being given (or any longer period agreed by the parties) —

(a) the dispute must be referred to arbitration in accordance with the Arbitration Act 1996; and

(b) 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.

DOCUMENTS

---

**5.9: DANBY FIELD PROPERTY RIGHT OF WAY AND DRAINAGE EASEMENT**

---

**5.9 Danby Field property right of way and drainage easement**

---



The terms of this easement are to be finalised before the deed of settlement is initialled.

**Easement instrument to grant easement or *profit à prendre*, or create land covenant**

(Sections 90A and 90F Land Transfer Act 1952)

Grantor

[NGĀTI MARU]

Grantee

THAMES COROMANDEL DISTRICT COUNCIL

**Grant of Easement or *Profit à prendre* or Creation of Covenant**

The Grantor being the registered proprietor of the servient tenement(s) set out in Schedule A grants to the Grantee (and, if so stated, in gross) the easement(s) or *profit(s) à prendre* set out in Schedule A, or creates the covenant(s) set out in Schedule A, with the rights and powers or provisions set out in the Annexure Schedule(s)

**Schedule A**

*Continue in additional Annexure Schedule, if required*

Purpose (Nature and extent) of easement; <i>profit</i> or covenant	Shown (plan reference)	Servient Tenement (Computer Register)	Dominant Tenement (Computer Register) or in gross
Right to drain water	"B", "C", "E", "F" and "G" on SO 511663	Section 1 on SO 511663 CFR [     ]	In gross
Right of Way (Pedestrian only)	"C", "D" and "F" on SO 511663	Section 1 on SO 511663 CFR [     ]	In gross



**Easements or profits à prendre rights and powers (including terms, covenants and conditions)**

*Delete phrases in [ ] and insert memorandum number as required;  
continue in additional Annexure Schedule, if required*

Unless otherwise provided below, the rights and powers implied in specified classes of easement are those prescribed by the Land Transfer Regulations 2002

The implied rights and powers are hereby [~~varied and added to~~] [~~negatived~~] [~~added to~~] or [~~substituted~~] by:

[Memorandum number \_\_\_\_\_, registered under section 155A of the Land Transfer Act 1952]

the provisions set out in Annexure Schedule 1.

**Covenant provisions**

*Delete phrases in [ ] and insert Memorandum number as require;  
continue in additional Annexure Schedule, if required*

~~The provisions applying to the specified covenants are those set out in:~~

[Memorandum number \_\_\_\_\_, registered under section 155A of the Land Transfer Act 1952]

[Annexure Schedule \_\_\_\_\_]



## Annexure Schedule 1

Insert type of instrument

Easement

Dated

Page

1

of

2

Pages

Continue in additional Annexure Schedule, if required.

### 1. Easement Facility

- 1.1 The definition of "easement facility" in clause 1 of Schedule 4 of the Land Transfer Regulations 2002 ("Regulations") is varied by adding the following new sub-clause (g):

*"(g) In relation to a right of way (pedestrian only), means that part of the land described in the stipulated area and includes (for the avoidance of doubt) the pedestrian pathway, any other improvements or structures located in the stipulated area."*

### 2. Additional Provisions Relating to Right of Way (Pedestrian Only)

- 2.1 In respect of the right of way (pedestrian only) easements created pursuant to this easement instrument only, the definition of "grantee" in clause 1 of the Regulations is deleted and replaced with the following:

*"grantee, in relation to an easement creating a right of way (pedestrian only) means Thames Coromandel District Council and (subject to the provisions of this easement instrument) all other persons to the extent permitted by Thames Coromandel District Council either generally or specifically (which may include members of the general public)."*

### 3. Rights and Powers applying to Right of Way (Pedestrian Only)

- 3.1 The Regulations are varied by adding the following rights and powers in respect of the right of way (pedestrian only) easement created by this instrument as set out below:

#### (a) Right of Way (Pedestrian Only)

- (i) A right of way (pedestrian only) includes the right for the grantee in common with the grantor and other persons to who the grantor may grant similar rights, at all times, to pass and re-pass on foot [and/or bicycle] over and along the easement facility.
- (ii) The right to pass and repass on foot [and/or bicycle] over and along the stipulated area with or without any kind of domestic animal.
- (iii) A right of way (pedestrian only) includes:
  - (A) the right to create a pedestrian pathway, to repair and maintain the pedestrian pathway, (and if necessary for any of those purposes) to alter the state of the land over which the easement is granted; and
  - (B) the right to erect and maintain any signs, notices or traffic control devices required for the safe operation of the pedestrian right of way created by this instrument; and



Annexure Schedule 1

Insert type of instrument

Easement

Dated

Page 2 of 2 Pages

Continue in additional Annexure Schedule, if required.

- (C) the right to realign, replace or remove the easement facility anywhere within the stipulated area (and, if necessary for any of those purposes) to alter the state of the land over which the easement is granted; and
- (D) the right to have the easement facility kept clear at all times of obstructions (whether caused by deposit of materials or unreasonable impediment) to the use and enjoyment of the footpath.

4. General

4.1 Clause 10(2) of the Regulations is deleted and replaced with the following:

*"(2) The grantor must not do and must not allow to be done on the servient land anything that interferes with or restricts the rights of the grantee or interferes with the easement facility. For the avoidance of doubt, where an easement facility is buried below the surface of the servient land, the grantor may continue to use the surface of the servient land (including, without limitation, placing or erecting any structure, or planting any plants, on or above the servient land directly above the easement facility) provided that such use does not materially interfere with or restrict the rights of the grantee or materially interfere with the easement facility. Furthermore, the grantor may in consultation with the grantee relocate any easement facility in order to facilitate the use or development of the servient land."*

4.2 The rights and powers implied by section 297 of the Property Law Act 2007 and Schedule 5 to the Property Law Act 2007 do not apply to any of the easements created by this instrument.



DOCUMENTS

---

**5.10: TE IPUOMOEHAU CONSERVATION COVENANT**

---

**5.10 Te Ipuomoehau conservation covenant**

---



# TE IPUOMOEHAU CONSERVATION COVENANT

(Section 27 Conservation Act 1987  
and  
Section 77 Reserves Act 1977)

THIS DEED of COVENANT is made this            day of

BETWEEN NGĀTI MARU RŪNANGA TRUST (the Owner)

AND MINISTER OF CONSERVATION (the Minister)

## BACKGROUND

- A. Section 27 of the Conservation Act 1987 provides that the Minister may enter into a covenant with the owner of any land to provide for management of that land's Conservation Values; and Section 77 of the Reserves Act 1977 provides that the Minister may enter into a covenant with the owner of any land to provide for management of that land's Reserve Values (both the Conservation Values and the Reserve Values are referred to as the Land's Values).
- B. Management of the Land's Values requires some restrictions on the Owner's use of the Land without the Minister's consent and the enabling of the Minister to undertake certain activities on the Land.
- C. The Owner is the registered proprietor of the Land described in Schedule 1 as a result of a Treaty settlement with the Crown in accordance with a Deed of Settlement dated [ ] and implemented by the Ngāti Maru Claims Settlement [ ].
- D. The parties to the Deed of Settlement agree the Land's Values should be subject to a covenant under the Conservation Act 1987 and the Reserves Act 1977 which would provide that the land should be managed to protect those values.
- E. The Owner has therefore agreed to grant the Minister a Covenant over the Land to preserve the Land's Values.

## OPERATIVE PARTS

In accordance with section 27 of the Conservation Act 1987 and section 77 of the Reserves Act 1977 and with the intent that the Covenant run with the Land and bind all subsequent owners of the Land, the Owner and Minister agree as follows.



## 1 INTERPRETATION

1.1 In this Covenant unless the context otherwise requires:

**"Conservation and Reserve Values"** means the preservation and protection of natural, landscape and historic resources including Conservation and Reserve Values on the Land for the purpose of maintaining their intrinsic values, providing for their appreciation and recreational enjoyment by the public, and safeguarding the options of future generations.

**"Director-General"** means the Director-General of Conservation.

**"Fence"** includes a gate.

**"Land's Values"** means the Conservation and Reserve values specified in Schedule 1.

**"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.

**"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.

1.1.1 any obligation not to do anything must be treated to include an obligation not to suffer, permit or cause the thing to be done.

1.1.2 the agreements contained in this Covenant bind and benefit the parties and their administrators and executors, successors and assigns in perpetuity.

1.1.3 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 to preserve and protect the Land's Values;

2.1.2 to provide, subject to section 4 and Schedule 3 of this Covenant, freedom of access to the public for the appreciation and recreational enjoyment of the Land.

Handwritten signature and initials in the bottom left corner of the page.

### 3 IMPLEMENTATION OF OBJECTIVES

- 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 and Schedule 3, felling, removal or damage of any tree, shrub or other plant;
  - 3.1.3 subject to Schedule 3, the planting of any species of exotic tree, shrub or other plant, or any other plant not endemic to and not sourced from the location in which the Land is situated;
  - 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 subject to Schedule 3, 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 degradation of the natural flow, supply, quantity, or quality of water of any stream, river, lake, pond, marsh, or any other watercourse in or on the Land;
  - 3.1.10 any other activity which might have a more than minor adverse effect on the Land's 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; and
  - 3.1.12 the erection of utility transmission lines across the Land.
- 3.2 Subject to the Owner having no obligation to do anything to improve the land beyond its condition at the date of this Covenant, the Owner must take all reasonable steps to maintain the Land, including:
- 3.2.1 eradicating or controlling all weeds and pests on the Land to the extent required by any statute; and, in particular, complying with the provisions of, and any notices given under, the Biosecurity Act 1993 and in so doing the Owner may undertake minor clearance of vegetation;
  - 3.2.2 co-operating 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;

Handwritten signature and initials in the bottom left corner of the page.

- 3.2.3 keeping the Land free from exotic tree species;
- 3.2.4 keeping 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, granting 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 keeping all existing 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; and
- 3.2.7 complying with all requisite statutes, regulations and bylaws in relation to the Land.

#### **4 PUBLIC ACCESS**

- 4.1 Subject to Schedule 3, the Owner must, subject to this Covenant, permit the public to enter upon the Land for non-commercial purposes without the consent of the Owner provided the public:
  - 4.1.1 only access the Land by foot;
  - 4.1.2 do not take firearms or animals on the Land; and
  - 4.1.3 do not camp on the Land.

#### **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.

#### **6 JOINT OBLIGATIONS**

- 6.1 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 DISPOSAL 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.

## **10 MISCELLANEOUS MATTERS**

### **10.1 Trespass Act**

10.1.1 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.

10.1.2 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.

### **10.2 Reserves Act**

10.2.1 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.

### **10.3 Registration**

10.3.1 This Covenant must be signed by both parties and registered against the Computer Freehold Register for the Land.

### **10.4 Acceptance of Covenant**

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

## **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:

Handwritten signatures in black ink, appearing to be initials or names, located at the bottom left of the page.

- 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 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.



**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, by facsimile or by electronic mail addressed to the receiving party at the address, facsimile number or electronic mail address set out in Schedule 2.
- 13.2 A notice given in accordance with clause 13.1 will be deemed to have been received in the case of:
  - 13.2.1 personal delivery, on the date of delivery;
  - 13.2.2 pre-paid post, on the third working day after posting;
  - 13.2.3 facsimile, on the day on which it is dispatched or, if dispatched after 5.00pm, on the next day after the date of dispatch;
  - 13.2.4 electronic mail, on the day of successful delivery of the mail.
- 13.3 The Owner must notify the Minister of any change of ownership or control or all or any part of the Land or change in the particulars in Schedule 2 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 \_\_\_\_\_ 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: \_\_\_\_\_

Handwritten signatures in black ink, consisting of two distinct scribbled marks.

## SCHEDULE 1

### **Description of Land:**

*South Auckland Land District—Thames-Coromandel District*

All that piece of land containing 10.1 hectares, approximately, being Part Section 20 Block I Thames Survey District. Subject to survey.

As shown on OTS-403-309 and known as Te Ipuomoehau.

### **Conservation and Reserve Values:**

[The Land is contiguous to the Coromandel Forest Park, which contains extensive and largely continuous tracts of indigenous vegetation. The Park is also used for recreation including tramping, walking and hunting.

The Land has scenic values as an elevated site (tihi), with the ridgeline mountain top a prominent landscape and landmark. It also has biodiversity, habitat and recreation values due to the Land adjoining the Coromandel Forest Park, as well as the tihi being an important and unique ecosystem with its own botanical and animal life. The tihi operates as a sanctuary with species able to retreat to this higher altitude area, where the threat of predators is reduced.

North Island brown kiwi, stag beetle and Hochstetters frog are found within the central block of the Coromandel Forest Park (which runs from Manaia to the south of Thames), and may be present in this vicinity. Likewise, common indigenous bird species may be present in this vicinity.]

Handwritten signature and initials in the bottom left corner of the page.

**SCHEDULE 2**

**Address for Service**

The address for service of the Owner is:

The address for service of the Minister is:

Two handwritten signatures in black ink, one larger and more stylized than the other, located in the bottom left corner of the page.

## SCHEDULE 3

### Special Conditions

#### *Recreational facilities*

1. For avoidance of doubt, clause 2.1.2 does not place any obligation on the Owner over and above allowing physical access to and within the Land, and does not include an obligation to provide facilities, recreational or otherwise, for public enjoyment of the Land.

#### *Taking of plant material*

2. Despite clause 3.1.2 the Owner may authorise the taking or removal of materials from native plants, shrubs and trees from the Land in accordance with tikanga Maori for customary purposes, but in granting such authorisations shall ensure that any impact on the Conservation and Reserve Values is minimised.

#### *Propagation*

3. Despite clause 3.1.2, the Owner may take seed or cuttings of plant species from the Land for propagation purposes and planting within the Land. This right to take native plant seed and cuttings does not include harvesting of seed or the taking of cuttings for commercial purposes.

#### *Removal of rock*

4. Despite clause 3.1.11, the Owner may take rock of any kind from the Land for cultural or spiritual purposes.

#### *Plantation trees*

5. Despite clause 3.2.3, the Owner is not required to remove exotic tree species that have been planted as part of a plantation, including in the Area A marked on the map in Schedule 4.

#### *Fencing*

6. For avoidance of doubt, the obligations under clause 3.2.6 do not require the Owner to improve the fences beyond their condition or type at the date of this Covenant.
7. Clause 3.2.6 only applies where boundary fences in place at the time of this Covenant, are required to prevent farm animals on adjoining land from entering the Land.

#### *Managing public access*

8. Despite clause 4.1, the Owner may manage public access (including restrictions) in order to protect the privacy of users of buildings and associated areas, wāhi tapu, the Conservation and Reserve Values, or for the purposes of public safety. However, any restrictions cannot exclude the public from all of the Land indefinitely.
9. For avoidance of doubt, any member of the public when on the land may not undertake an activity in clause 3.1.

Two handwritten signatures in black ink, one larger and more stylized, and one smaller and simpler, located at the bottom left of the page.

*Cultural activities*

10. The Owner may undertake cultural activities on the Land, subject to:

(a) consultation with the Department of Conservation; and

(b) any effects on the Conservation and Reserve Values being no more than minor.

Two handwritten signatures in black ink, one larger and more stylized than the other, located at the bottom left of the page.

**GRANT OF CONSERVATION COVENANT**

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

---

to

**MINISTER OF CONSERVATION**

Certified correct for the purposes of  
the Land Transfer Act 1952

Solicitor for the Minister of  
Conservation

---

**Legal Services  
Department of Conservation**

Two handwritten signatures in black ink, one larger and more stylized than the other, located at the bottom left of the page.

DOCUMENTS

---

**5.11: TE WHAKAIRI CONSERVATION COVENANT**

---

**5.11 Te Whakairi conservation covenant**

---



# TE WHAKAIRI CONSERVATION COVENANT

(Section 27 Conservation Act 1987  
and  
Section 77 Reserves Act 1977)

THIS DEED of COVENANT is made this            day of

BETWEEN NGĀTI MARU RŪNANGA TRUST (the Owner)

AND MINISTER OF CONSERVATION (the Minister)

## BACKGROUND

- A. Section 27 of the Conservation Act 1987 provides that the Minister may enter into a covenant with the owner of any land to provide for management of that land's Conservation Values; and Section 77 of the Reserves Act 1977 provides that the Minister may enter into a covenant with the owner of any land to provide for management of that land's Reserve Values (both the Conservation Values and the Reserve Values are referred to as the Land's Values).
- B. Management of the Land's Values requires some restrictions on the Owner's use of the Land without the Minister's consent and the enabling of the Minister to undertake certain activities on the Land.
- C. The Owner is the registered proprietor of the Land described in Schedule 1 as a result of a Treaty settlement with the Crown in accordance with a Deed of Settlement dated [ ] and implemented by the Ngāti Maru Claims Settlement [ ].
- D. The parties to the Deed of Settlement agree the Land's Values should be subject to a covenant under the Conservation Act 1987 and the Reserves Act 1977 which would provide that the land should be managed to protect those values.
- E. The Owner has therefore agreed to grant the Minister a Covenant over the Land to preserve the Land's Values.

## OPERATIVE PARTS

In accordance with section 27 of the Conservation Act 1987 and section 77 of the Reserves Act 1977 and with the intent that the Covenant run with the Land and bind all subsequent owners of the Land, the Owner and Minister agree as follows.



## 1 INTERPRETATION

1.1 In this Covenant unless the context otherwise requires:

**"Conservation and Reserve Values"** means the preservation and protection of natural, landscape and historic resources including Conservation and Reserve Values on the Land for the purpose of maintaining their intrinsic values, providing for their appreciation and recreational enjoyment by the public, and safeguarding the options of future generations.

**"Director-General"** means the Director-General of Conservation.

**"Fence"** includes a gate.

**"Land's Values"** means the Conservation and Reserve values specified in Schedule 1.

**"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.

**"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.

1.1.1 any obligation not to do anything must be treated to include an obligation not to suffer, permit or cause the thing to be done.

1.1.2 the agreements contained in this Covenant bind and benefit the parties and their administrators and executors, successors and assigns in perpetuity.

1.1.3 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 to preserve and protect the Land's Values;

2.1.2 to provide, subject to section 4 and Schedule 3 of this Covenant, freedom of access to the public for the appreciation and recreational enjoyment of the Land.

## 3 IMPLEMENTATION OF OBJECTIVES

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 and Schedule 3, felling, removal or damage of any tree, shrub or other plant;
  - 3.1.3 subject to Schedule 3, the planting of any species of exotic tree, shrub or other plant, or any other plant not endemic to and not sourced from the location in which the Land is situated;
  - 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 subject to Schedule 3, 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 degradation of the natural flow, supply, quantity, or quality of water of any stream, river, lake, pond, marsh, or any other watercourse in or on the Land;
  - 3.1.10 any other activity which might have a more than minor adverse effect on the Land's 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; and
  - 3.1.12 the erection of utility transmission lines across the Land.
- 3.2 Subject to the Owner having no obligation to do anything to improve the land beyond its condition at the date of this Covenant, the Owner must take all reasonable steps to maintain the Land, including:
- 3.2.1 eradicating or controlling all weeds and pests on the Land to the extent required by any statute; and, in particular, complying with the provisions of, and any notices given under, the Biosecurity Act 1993 and in so doing the Owner may undertake minor clearance of vegetation;
  - 3.2.2 co-operating 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 keeping the Land free from exotic tree species;
  - 3.2.4 keeping the Land free from rubbish or other unsightly or offensive material arising from the Owner's use of the Land;



DOCUMENTS

---

**5.20: TE WHAREPOHA Ō MAHU CONSERVATION COVENANT**

---

**5.20 Te Wharepoha ō Mahu conservation covenant**

---



# TE WHAREPOHA O MAHU CONSERVATION COVENANT

(Section 27 Conservation Act 1987  
and  
Section 77 Reserves Act 1977)

THIS DEED of COVENANT is made this            day of

BETWEEN NGĀTI MARU RUNANGA TRUST (the Owner)

AND MINISTER OF CONSERVATION (the Minister)

## BACKGROUND

- A. Section 27 of the Conservation Act 1987 provides that the Minister may enter into a covenant with the owner of any land to provide for management of that land's Conservation Values; and Section 77 of the Reserves Act 1977 provides that the Minister may enter into a covenant with the owner of any land to provide for management of that land's Reserve Values (both the Conservation Values and the Reserve Values are referred to as the Land's Values).
- B. Management of the Land's Values requires some restrictions on the Owner's use of the Land without the Minister's consent and the enabling of the Minister to undertake certain activities on the Land.
- B. The Owner is the registered proprietor of the Land described in Schedule 1 as a result of a Treaty settlement with the Crown in accordance with a Deed of Settlement dated [ ] and implemented by the Ngāti Maru Redress Act [ ].
- C. The parties to the Deed of Settlement agree the Land's Values should be subject to a covenant under the Conservation Act 1987 and the Reserves Act 1977 which would provide that the land should be managed to protect those values.
- D. The Owner has therefore agreed to grant the Minister a Covenant over the Land to preserve the Land's Values.

## OPERATIVE PARTS

In accordance with section 27 of the Conservation Act 1987 and section 77 of the Reserves Act 1977 and with the intent that the Covenant run with the Land and bind all subsequent owners of the Land, the Owner and Minister agree as follows.

3



## 1 INTERPRETATION

1.1 In this Covenant unless the context otherwise requires:

**"Conservation and Reserve Values"** means the preservation and protection of natural, landscape and historic resources including Conservation and Reserve Values on the Land for the purpose of maintaining their intrinsic values, providing for their appreciation and recreational enjoyment by the public, and safeguarding the options of future generations.

**"Director-General"** means the Director-General of Conservation.

**"Fence"** includes a gate.

**"Land's Values"** means the Conservation and Reserve values specified in Schedule 1.

**"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.

**"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.

1.1.1 any obligation not to do anything must be treated to include an obligation not to suffer, permit or cause the thing to be done.

1.1.2 the agreements contained in this Covenant bind and benefit the parties and their administrators and executors, successors and assigns in perpetuity.

1.1.3 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 to preserve and protect the Land's Values;

2.1.2 to provide, subject to section 4 and Schedule 3 of this Covenant, freedom of access to the public for the appreciation and recreational enjoyment of the Land.

## 3 IMPLEMENTATION OF OBJECTIVES

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 and Schedule 3, felling, removal or damage of any tree, shrub or other plant;
  - 3.1.3 subject to Schedule 3, the planting of any species of exotic tree, shrub or other plant, or any other plant not endemic to and not sourced from the location in which the Land is situated;
  - 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 subject to Schedule 3, 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 degradation of the natural flow, supply, quantity, or quality of water of any stream, river, lake, pond, marsh, or any other watercourse in or on the Land;
  - 3.1.10 any other activity which might have a more than minor adverse effect on the Land's 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; and
  - 3.1.12 the erection of utility transmission lines across the Land.
- 3.2 Subject to the Owner having no obligation to do anything to improve the land beyond its condition at the date of this Covenant, the Owner must take all reasonable steps to maintain the Land, including:
- 3.2.1 eradicating or controlling all weeds and pests on the Land to the extent required by any statute; and, in particular, complying with the provisions of, and any notices given under, the Biosecurity Act 1993 and in so doing the Owner may undertake minor clearance of vegetation;
  - 3.2.2 co-operating 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 keeping the Land free from exotic tree species;
  - 3.2.4 keeping 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, granting 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 keeping all existing 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; and
- 3.2.7 complying with all requisite statutes, regulations and bylaws in relation to the Land.

#### **4 PUBLIC ACCESS**

- 4.1 Subject to Schedule 3, the Owner must, subject to this Covenant, permit the public to enter upon the Land for non-commercial purposes without the consent of the Owner provided the public:
- 4.1.1 only access the Land by foot;
- 4.1.2 do not take firearms or animals on the Land; and
- 4.1.3 do not camp on the Land.

#### **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.

#### **6 JOINT OBLIGATIONS**

- 6.1 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.

A 

## **8 OBLIGATIONS ON DISPOSAL 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.

## **10 MISCELLANEOUS MATTERS**

### **10.1 Trespass Act**

- 10.1.1 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.
- 10.1.2 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.

### **10.2 Reserves Act**

- 10.2.1 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.

### **10.3 Registration**

- 10.3.1 This Covenant must be signed by both parties and registered against the Computer Freehold Register for the Land.

### **10.4 Acceptance of Covenant**

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

## **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 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.

**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, by facsimile or by electronic mail addressed to the receiving party at the address, facsimile number or electronic mail address set out in Schedule 2.
- 13.2 A notice given in accordance with clause 13.1 will be deemed to have been received in the case of:
  - 13.2.1 personal delivery, on the date of delivery;
  - 13.2.2 pre-paid post, on the third working day after posting;
  - 13.2.3 facsimile, on the day on which it is dispatched or, if dispatched after 5.00pm, on the next day after the date of dispatch;
  - 13.2.4 electronic mail, on the day of successful delivery of the mail.
- 13.3 The Owner must notify the Minister of any change of ownership or control or all or any part of the Land or change in the particulars in Schedule 2 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 \_\_\_\_\_ 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: \_\_\_\_\_

## SCHEDULE 1

### Description of Land:

*South Auckland Land District- Thames-Coromandel District*

All that piece of land containing 41.6 hectares, approximately, being Part Section 19 Block I Ohinemuri Survey District and Part Omahu West 2A and Parts Omahu West 1. Subject to survey.

As shown on OTS Deed Plan OTS-403-317 and known as Te Wharepoha ō Mahu.

### Conservation and Reserve Values:

[The land has habitat values from vegetation cover in areas of lowland broadleaf forest which include towai, mahoe and the occasional rewarewa, as well as areas of nikau and tree ferns. The understory is made up of rangiora, hangehange, kawakawa, kanono, karamu and shining karamu. Bird species noted in the area include tui, bellbird, fantail, grey warbler and kingfisher. The vegetation present is suitable habitat for skink and gecko species with the copper skink likely to be the most common native species. Stream margins also provide habitat suitable for Hochstetter's frog which have been recorded within a few kilometres of the site. Koaro (*Galaxias brevipinnis*) are present in the Omahu stream and may also be present in tributary streams than run through the site.]



**SCHEDULE 2**

**Address for Service**

The address for service of the Owner is:

The address for service of the Minister is:

Handwritten signature or initials in the bottom left corner of the page.

## SCHEDULE 3

### Special Conditions

#### *Recreational facilities*

1. For avoidance of doubt, clause 2.1.2 does not place any obligation on the Owner over and above allowing physical access to and within the Land, and does not include an obligation to provide facilities, recreational or otherwise, for public enjoyment of the Land.

#### *Grazing*

2. Despite clause 3.1.1, grazing of the Land by livestock is permitted subject to the terms and conditions set out in attachment A.

#### *Taking of plant material*

3. Despite clause 3.1.2 the Owner may authorise the taking or removal of materials from native plants, shrubs and trees from the Land in accordance with tikanga Maori for customary purposes, but in granting such authorisations shall ensure that any impact on the Conservation and Reserve Values is minimised.

#### *Propagation*

4. Despite clause 3.1.2, the Owner may take seed or cuttings of plant species from the Land for propagation purposes and planting within the Land. This right to take native plant seed and cuttings does not include harvesting of seed or the taking of cuttings for commercial purposes.

#### *Removal of rock*

5. Despite clause 3.1.11, the Owner may take rock of any kind from the Land for cultural or spiritual purposes.

#### *Fencing*

6. For avoidance of doubt, the obligations under clause 3.2.6 do not require the Owner to improve the fences beyond their condition or type at the date of this Covenant.
7. Clause 3.2.6 only applies where boundary fences in place at the time of this Covenant, are required to prevent farm animals on adjoining land from entering the Land.

#### *Managing public access*

8. Despite clause 4.1, the Owner may manage public access (including restrictions) in order to protect the privacy of users of buildings and associated areas, wāhi tapu, the Conservation and Reserve Values, or for the purposes of public safety. However, any restrictions cannot exclude the public from all of the Land indefinitely.
9. For avoidance of doubt, any member of the public when on the land may not undertake an activity in clause 3.1.



*Cultural activities*

10. The Owner may undertake cultural activities on the Land, subject to:

(a) consultation with the Department of Conservation; and

(b) any effects on the Conservation and Reserve Values being no more than minor.

Handwritten initials or signature, possibly 'M/B', located at the bottom left of the page.

## ATTACHMENT A

### Terms and conditions governing the grazing of land

1. The Owner may graze or make silage from that part of the Land hatched in blue on the attached Map A comprising approximately 8 ha ("the Grazing Site") subject to the following conditions:
  - 1.1. The owner must monitor stock at regular intervals to ensure that:
    - 1.1.1. the stock are contained within the Grazing Site, and
    - 1.1.2. there is sufficient feed available on the Grazing Site to discourage stock from grazing land outside of the Grazing Site.
  - 1.2. The Owner must not develop wintering pads or silage pits on the Grazing Site or shall not supplementary feed stock on the Grazing Site without the express permission of the Director-General.
  - 1.3. The Owner will not store hazardous materials on the Grazing Site, nor dispose of general farm or household refuse, or store other materials on the Grazing Site where they may obstruct the public or create a nuisance.

M VB

**GRANT OF CONSERVATION COVENANT**

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

---

to

**MINISTER OF CONSERVATION**

Certified correct for the purposes of  
the Land Transfer Act 1952

Solicitor for the Minister of  
Conservation

---

**Legal Services  
Department of Conservation**

M 

DOCUMENTS

---

**5.21: MAUNGAKAWA RIGHT OF WAY EASEMENT**

---

**5.21 Maungakawa right of way easement**

---

VB

The terms of the easement document are largely agreed. Only exceptional clauses will be negotiated and agreed between Chair of the Hauraki Collective, Director of the Office of Treaty Settlements and Deputy Director-General Strategy and People of the Department of Conservation prior to ratification of the Ngāti Maru deed of settlement.

EASEMENT INSTRUMENT  
to grant easement

Sections 90A and 90F, Land Transfer Act 1952

Land Registration District

South Auckland

Grantor

*Surname must be underlined*

[the Trustees of Ngāti Maru Settlement Trust], [the Trustees of Ngāti Tamaterā Treaty Settlement Trust] and [the Trustees of the Ngāti Tumutumu/ Ngāti Rāhiri Tumutumu Settlement Trust]

Grantee

*Surname must be underlined*

Her Majesty the Queen in Right of New Zealand 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(s) set out in Schedule A, with the rights and powers or provisions set out in the Annexure Schedule(s)

Dated this

day of

20

ATTESTATION:

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

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



**SCHEDULE A**

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

Purpose (nature and extent) of easement	Shown (plan reference)	Servient tenement (Identifier/CT)	Dominant Tenement (identifier CT or in gross)
Right of Way	The 4m strip marked [] on SO 48402.  [currently dotted red on OTS-403-326]  The Easement Area	[That part of the Crown Land on SO 48402 as edged orange on OTS-403-326]  The Grantor's Land	In gross

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 the **Annexure Schedule**.

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

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 when the Grantee wishes to carry out work to develop, improve or maintain the Easement Area or undertake conservation activities on adjoining land administered by the Grantee, then the Grantee its employees or contractors may proceed along the Easement Area by foot or by vehicle or any other means of transport and with all necessary tools, vehicles, equipment (including firearms) and dogs to carry out the work.
- 1.3 The right of way includes—
- 1.3.1 the right to repair and maintain the existing recreation tracks and access vehicle track ("the 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 track; and
  - 1.3.3 the right for the Grantee to improve the Easement Area in any way it considers expedient but consistent with its purposes of recreation and access, including the installation of track markers, stiles but without at any time causing damage to or interfering with the Grantor's use and management of the Grantor's Land; and
  - 1.3.4 the right for the Grantee to erect and display notices on the Easement Area and with the Grantor's consent, which must 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 or otherwise occupy 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.
- 1.6 No firearm or other weapon may be carried or discharged 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.

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

1.7 The public may not light any fires or deposit any rubbish or other materials 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 of the Grantee under this easement 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 the Grantor under this easement or interfere with the efficient operation of the Easement Area.

2.3 The Grantee may transfer or otherwise assign this easement but only to a Crown body, local authority or other public body.

## 3 Repair, maintenance, and costs

3.1 The Grantee is responsible for arranging the repair and maintenance of the 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 If the Grantee (or grantees if more than one) and the Grantor share the use of the track then each of them is responsible for arranging the repair and maintenance of the track on the Easement Area and for the associated costs, so as to keep the track to a standard suitable for their use.

3.3 The Grantee (or grantees if more than one) must (equally if more than one) meet any associated requirements of the relevant local authority.

3.4 The Grantee must 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.

3.5 The Grantor must repair at its cost all damage caused to the 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 but may be given subject to any reasonable conditions —

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.

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

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

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

5.1.1 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:

5.1.2 if, at the expiry of the 7-working-day period, the party in default has not met the obligation, the other party may —

(a) meet the obligation; and

(b) for that purpose, enter the Grantor's Land:

5.1.3 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:

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.**

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

## 6 Disputes

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

6.1.1 the party initiating the dispute must provide full written particulars of the dispute to the other party; and

6.1.2 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

6.1.3 if the dispute is not resolved within 14 working days of the written particulars being given (or any longer period agreed by the parties) —

(a) the dispute must be referred to arbitration in accordance with the Arbitration Act 1996; and


(b) 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.

## 7 Other conditions

7.1 DOC will have the right of access to the grantor's land to undertake work on the relevant part of the grantor's land if something on that land poses an immediate health & safety risk to users of the relevant part of the easement area.

7.2 Where there is matter beyond the control of either grantee or grantor that necessitates the reinstatement of the track outside of the easement area the grantor cannot unreasonably withhold consent to a new location of the easement area (if it is within 10 metres of the original easement area - i.e. 5m on either side from the centre of the easement area).

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



DOCUMENTS

---

**5.22: TE TIHI O HAUTURU CONSERVATION COVENANT**

---

**5.22 Te Tihi o Hauturu conservation covenant**

---

17/18

# TE TIHI O HAUTURU CONSERVATION COVENANT

(Section 27 Conservation Act 1987  
and  
Section 77 Reserves Act 1977)

THIS DEED of COVENANT is made this            day of  
  
BETWEEN NGĀTI MARU RŪNANGA TRUST; and  
  
NGĀTI TAMATERĀ TREATY SETTLEMENT TRUST; and  
  
TE TĀWHARAU O NGĀTI PŪKENGA (the Owners)  
  
AND MINISTER OF CONSERVATION (the Minister)

## BACKGROUND

- A. Section 27 of the Conservation Act 1987 provides that the Minister may enter into a covenant with the owner of any land to provide for management of that land's Conservation Values; and Section 77 of the Reserves Act 1977 provides that the Minister may enter into a covenant with the owner of any land to provide for management of that land's Reserve Values (both the Conservation Values and the Reserve Values are referred to as the Land's Values).
- B. Management of the Land's Values requires some restrictions on the Owners' use of the Land without the Minister's consent and the enabling of the Minister to undertake certain activities on the Land.
- C. The Owners are the registered proprietor of the Land described in Schedule 1 as a result of Treaty settlements with the Crown in accordance with Deeds of Settlement dated [ ] and implemented by the Ngāti Maru Claims Settlement Act [ ], Ngāti Tamaterā Claims Settlement Act [ ] and the Ngāti Pukenga Claims Settlement Act [ ].
- D. The parties to the Deed of Settlement agree the Land's Values should be subject to a covenant under the Conservation Act 1987 and the Reserves Act 1977 which would provide that the land should be managed to protect those values.
- E. The Owners have therefore agreed to grant the Minister a Covenant over the Land to preserve the Land's Values.

## OPERATIVE PARTS

In accordance with section 27 of the Conservation Act 1987 and section 77 of the Reserves Act 1977 and with the intent that the Covenant run with the Land and bind all subsequent owners of the Land, the Owners and Minister agree as follows.



## 1 INTERPRETATION

1.1 In this Covenant unless the context otherwise requires:

**"Conservation and Reserve Values"** means the preservation and protection of natural, landscape and historic resources including Conservation and Reserve Values on the Land for the purpose of maintaining their intrinsic values, providing for their appreciation and recreational enjoyment by the public, and safeguarding the options of future generations.

**"Director-General"** means the Director-General of Conservation.

**"Fence"** includes a gate.

**"Land's Values"** means the Conservation and Reserve values specified in Schedule 1.

**"Natural Water"** includes water contained in streams the banks of which have, from time to time, been re-aligned.

**"Owners"** means the person or persons who, from time to time, is or are registered as the proprietor(s) of the Land.

**"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.

1.1.1 any obligation not to do anything must be treated to include an obligation not to suffer, permit or cause the thing to be done.

1.1.2 the agreements contained in this Covenant bind and benefit the parties and their administrators and executors, successors and assigns in perpetuity.

1.1.3 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 to preserve and protect the Land's Values;

2.1.2 to provide, subject to section 4 and Schedule 3 of this Covenant, freedom of access to the public for the appreciation and recreational enjoyment of the Land.

7/15

### 3 IMPLEMENTATION OF OBJECTIVES

3.1 Unless agreed in writing by the parties the Owners 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 and Schedule 3, felling, removal or damage of any tree, shrub or other plant;
- 3.1.3 subject to Schedule 3, the planting of any species of exotic tree, shrub or other plant, or any other plant not endemic to and not sourced from the location in which the Land is situated;
- 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 subject to Schedule 3, 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 degradation of the natural flow, supply, quantity, or quality of water of any stream, river, lake, pond, marsh, or any other watercourse in or on the Land;
- 3.1.10 any other activity which might have a more than minor adverse effect on the Land's 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; and
- 3.1.12 the erection of utility transmission lines across the Land.

3.2 Subject to the Owners having no obligation to do anything to improve the land beyond its condition at the date of this Covenant, the Owners must take all reasonable steps to maintain the Land, including:

- 3.2.1 eradicating or controlling all weeds and pests on the Land to the extent required by any statute; and, in particular, complying with the provisions of, and any notices given under, the Biosecurity Act 1993 and in so doing the Owners may undertake minor clearance of vegetation;
- 3.2.2 co-operating 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 keeping the Land free from exotic tree species;
- 3.2.4 keeping the Land free from rubbish or other unsightly or offensive material arising from the Owners' use of the Land;
- 3.2.5 subject to consultation between the Owners and the Minister and observance of any reasonable conditions imposed by the Owners, granting 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 keeping all existing 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; and
- 3.2.7 complying with all requisite statutes, regulations and bylaws in relation to the Land.

#### **4 PUBLIC ACCESS**

- 4.1 Subject to Schedule 3, the Owners must, subject to this Covenant, permit the public to enter upon the Land for non-commercial purposes without the consent of the Owners provided the public:
  - 4.1.1 only access the Land by foot;
  - 4.1.2 do not take firearms or animals on the Land; and
  - 4.1.3 do not camp on the Land.

#### **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.

#### **6 JOINT OBLIGATIONS**

- 6.1 The Owners 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 DISPOSAL OF LAND**

- 8.1 If the Owners sell, lease, or part with possession of the Land, the Owners must ensure that the Owners obtain 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 Owners fail to obtain the agreement of a purchaser, lessee, or assignee to comply with the terms of this Covenant, the Owners will continue to be liable in damages to the Minister for any breach of the Covenant committed after the Owners has parted with all interest in the Land in respect of which a breach occurs.

## **9 CONSENTS**

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

## **10 MISCELLANEOUS MATTERS**

### **10.1 Trespass Act**

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

### **10.2 Reserves Act**

- 10.2.1 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.

### **10.3 Registration**

- 10.3.1 This Covenant must be signed by both parties and registered against the Computer Freehold Register for the Land.

### **10.4 Acceptance of Covenant**

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

## **11 DEFAULT**

- 11.1 Where either the Owners 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 Owners 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 Owners 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 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.



**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, by facsimile or by electronic mail addressed to the receiving party at the address, facsimile number or electronic mail address set out in Schedule 2.
- 13.2 A notice given in accordance with clause 13.1 will be deemed to have been received in the case of:
  - 13.2.1 personal delivery, on the date of delivery;
  - 13.2.2 pre-paid post, on the third working day after posting;
  - 13.2.3 facsimile, on the day on which it is dispatched or, if dispatched after 5.00pm, on the next day after the date of dispatch;
  - 13.2.4 electronic mail, on the day of successful delivery of the mail.
- 13.3 The Owners must notify the Minister of any change of ownership or control or all or any part of the Land or change in the particulars in Schedule 2 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 )  
Owners in the presence of: )

Witness: \_\_\_\_\_

Address: \_\_\_\_\_

Occupation: \_\_\_\_\_

Signed by \_\_\_\_\_ as )  
Owners in the presence of: )

Witness: \_\_\_\_\_

Address: \_\_\_\_\_

Occupation: \_\_\_\_\_

Signed by \_\_\_\_\_ as )  
Owners 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: \_\_\_\_\_

## SCHEDULE 1

### **Description of Land:**

*South Auckland Land District—Thames-Coromandel District*

All that piece of land containing 301.000 hectares, approximately, being Part Section 31 Block II

Hastings Survey District. Part *Gazette* 1971, p 847.

As shown on OTS-403-41 and known as Te Tihi o Hauturu.

### **Conservation and Reserve Values:**

[The Land is contiguous to the Coromandel Forest Park, which contains extensive and largely continuous tracts of indigenous vegetation. The Park is also used for recreation including tramping, walking and hunting.

The Land has scenic values as an elevated site (tihi), with the ridgeline mountain top a prominent landscape and landmark. It also has biodiversity, habitat and recreation values due to the Land adjoining the Coromandel Forest Park, as well as the tihi being an important and unique ecosystem with its own botanical and animal life. The tihi operates as a sanctuary with species able to retreat to this higher altitude area, where the threat of predators is reduced.

North Island brown kiwi, stag beetle and Hochstetters frog are found within the central block of the Coromandel Forest Park (which runs from Manaia to the south of Thames), and may be present in this vicinity. Likewise, common indigenous bird species may be present in this vicinity.]



**SCHEDULE 2**

**Address for Service**

The address for service of the Owners is:

The address for service of the Minister is:

7 18

## SCHEDULE 3

### Special Conditions

#### *Recreational facilities*

1. For avoidance of doubt, clause 2.1.2 does not place any obligation on the Owners over and above allowing physical access to and within the Land, and does not include an obligation to provide facilities, recreational or otherwise, for public enjoyment of the Land.

#### *Taking of plant material*

2. Despite clause 3.1.2 the Owners may authorise the taking or removal of materials from native plants, shrubs and trees from the Land in accordance with tikanga Maori for customary purposes, but in granting such authorisations shall ensure that any impact on the Conservation and Reserve Values is minimised.

#### *Propagation*

3. Despite clause 3.1.2, the Owners may take seed or cuttings of plant species from the Land for propagation purposes and planting within the Land. This right to take native plant seed and cuttings does not include harvesting of seed or the taking of cuttings for commercial purposes.

#### *Removal of rock*

4. Despite clause 3.1.11, the Owners may take rock of any kind from the Land for cultural or spiritual purposes.

#### *Fencing*

5. For avoidance of doubt, the obligations under clause 3.2.6 do not require the Owners to improve the fences beyond their condition or type at the date of this Covenant.
6. Clause 3.2.6 only applies where boundary fences in place at the time of this Covenant, are required to prevent farm animals on adjoining land from entering the Land.

#### *Managing public access*

7. Despite clause 4.1, the Owners may manage public access (including restrictions) in order to protect the privacy of users of buildings and associated areas, wāhi tapu, the Conservation and Reserve Values, or for the purposes of public safety. However, any restrictions cannot exclude the public from all of the Land indefinitely.
8. For avoidance of doubt, any member of the public when on the land may not undertake an activity in clause 3.1.

#### *Cultural activities*

9. The Owners may undertake cultural activities on the Land, subject to:



(a) consultation with the Department of Conservation; and

(b) any effects on the Conservation and Reserve Values being no more than minor.

7/13

**GRANT OF CONSERVATION COVENANT**

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

---

to

**MINISTER OF CONSERVATION**

Certified correct for the purposes of  
the Land Transfer Act 1952

Solicitor for the Minister of  
Conservation

---

**Legal Services**  
**Department of Conservation**



*Initialling version for presentation to Ngāti Maru for ratification purposes.*

DOCUMENTS

---

**5.23: PUKEHANGI MAUNGA CONSERVATION COVENANT**

---

**5.23 Pukehangi Maunga conservation covenant**

---

*Handwritten initials or marks.*

# PUKEHANGI MAUNGA CONSERVATION COVENANT

(Section 27 Conservation Act 1987  
and  
Section 77 Reserves Act 1977)

THIS DEED of COVENANT is made this            day of

BETWEEN NGĀTI MARU RŪNANGA TRUST; and

HAKO TŪPUNA TRUST (the Owners)

AND MINISTER OF CONSERVATION (the Minister)

## BACKGROUND

- A. Section 27 of the Conservation Act 1987 provides that the Minister may enter into a covenant with the owner of any land to provide for management of that land's Conservation Values; and Section 77 of the Reserves Act 1977 provides that the Minister may enter into a covenant with the owner of any land to provide for management of that land's Reserve Values (both the Conservation Values and the Reserve Values are referred to as the Land's Values).
- B. Management of the Land's Values requires some restrictions on the Owners' use of the Land without the Minister's consent and the enabling of the Minister to undertake certain activities on the Land.
- C. The Owners are the registered proprietor of the Land described in Schedule 1 as a result of Treaty settlements with the Crown in accordance with a Deeds of Settlement dated [ ] and implemented by the Ngāti Maru Settlement Act and the Hako Settlement Act [ ].
- D. The parties to the Deeds of Settlement agree the Land's Values should be subject to a covenant under the Conservation Act 1987 and the Reserves Act 1977 which would provide that the land should be managed to protect those values.
- E. The Owners have therefore agreed to grant the Minister a Covenant over the Land to preserve the Land's Values.

## OPERATIVE PARTS

In accordance with section 27 of the Conservation Act 1987 and section 77 of the Reserves Act 1977 and with the intent that the Covenant run with the Land and bind all subsequent owners of the Land, the Owners and Minister agree as follows.



## 1 INTERPRETATION

1.1 In this Covenant unless the context otherwise requires:

**"Conservation and Reserve Values"** means the preservation and protection of natural, landscape and historic resources including Conservation and Reserve Values on the Land for the purpose of maintaining their intrinsic values, providing for their appreciation and recreational enjoyment by the public, and safeguarding the options of future generations.

**"Director-General"** means the Director-General of Conservation.

**"Fence"** includes a gate.

**"Land's Values"** means the Conservation and Reserve values specified in Schedule 1.

**"Natural Water"** includes water contained in streams the banks of which have, from time to time, been re-aligned.

**"Owners"** means the person or persons who, from time to time, is or are registered as the proprietor(s) of the Land.

**"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.

1.1.1 any obligation not to do anything must be treated to include an obligation not to suffer, permit or cause the thing to be done.

1.1.2 the agreements contained in this Covenant bind and benefit the parties and their administrators and executors, successors and assigns in perpetuity.

1.1.3 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 to preserve and protect the Land's Values;

2.1.2 to provide, subject to section 4 and Schedule 3 of this Covenant, freedom of access to the public for the appreciation and recreational enjoyment of the Land.

## 3 IMPLEMENTATION OF OBJECTIVES

3.1 Unless agreed in writing by the parties the Owners 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 and Schedule 3, felling, removal or damage of any tree, shrub or other plant;
  - 3.1.3 subject to Schedule 3, the planting of any species of exotic tree, shrub or other plant, or any other plant not endemic to and not sourced from the location in which the Land is situated;
  - 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 subject to Schedule 3, 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 degradation of the natural flow, supply, quantity, or quality of water of any stream, river, lake, pond, marsh, or any other watercourse in or on the Land;
  - 3.1.10 any other activity which might have a more than minor adverse effect on the Land's 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; and
  - 3.1.12 the erection of utility transmission lines across the Land.
- 3.2 Subject to the Owners having no obligation to do anything to improve the land beyond its condition at the date of this Covenant, the Owners must take all reasonable steps to maintain the Land, including:
- 3.2.1 eradicating or controlling all weeds and pests on the Land to the extent required by any statute; and, in particular, complying with the provisions of, and any notices given under, the Biosecurity Act 1993 and in so doing the Owners may undertake minor clearance of vegetation;
  - 3.2.2 co-operating 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 keeping the Land free from exotic tree species;
  - 3.2.4 keeping the Land free from rubbish or other unsightly or offensive material arising from the Owners' use of the Land;

M/B

- 3.2.5 subject to consultation between the Owners and the Minister and observance of any reasonable conditions imposed by the Owners, granting 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 keeping all existing 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; and
- 3.2.7 complying with all requisite statutes, regulations and bylaws in relation to the Land.

#### **4 PUBLIC ACCESS**

- 4.1 Subject to Schedule 3, the Owners must, subject to this Covenant, permit the public to enter upon the Land for non-commercial purposes without the consent of the Owners provided the public:
  - 4.1.1 only access the Land by foot;
  - 4.1.2 do not take firearms or animals on the Land; and
  - 4.1.3 do not camp on the Land.

#### **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.

#### **6 JOINT OBLIGATIONS**

- 6.1 The Owners 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.

7 VB

## **8 OBLIGATIONS ON DISPOSAL OF LAND**

- 8.1 If the Owners sell, lease, or part with possession of the Land, the Owners must ensure that the Owners obtain 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 Owners fail to obtain the agreement of a purchaser, lessee, or assignee to comply with the terms of this Covenant, the Owners will continue to be liable in damages to the Minister for any breach of the Covenant committed after the Owners have parted with all interest in the Land in respect of which a breach occurs.

## **9 CONSENTS**

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

## **10 MISCELLANEOUS MATTERS**

### **10.1 Trespass Act**

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

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

### **10.2 Reserves Act**

10.2.1 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.

### **10.3 Registration**

10.3.1 This Covenant must be signed by both parties and registered against the Computer Freehold Register for the Land.

### **10.4 Acceptance of Covenant**

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

## **11 DEFAULT**

- 11.1 Where either the Owners 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 Owners 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 Owners 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 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.



**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, by facsimile or by electronic mail addressed to the receiving party at the address, facsimile number or electronic mail address set out in Schedule 2.
- 13.2 A notice given in accordance with clause 13.1 will be deemed to have been received in the case of:
  - 13.2.1 personal delivery, on the date of delivery;
  - 13.2.2 pre-paid post, on the third working day after posting;
  - 13.2.3 facsimile, on the day on which it is dispatched or, if dispatched after 5.00pm, on the next day after the date of dispatch;
  - 13.2.4 electronic mail, on the day of successful delivery of the mail.
- 13.3 The Owners must notify the Minister of any change of ownership or control or all or any part of the Land or change in the particulars in Schedule 2 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 )  
Owners in the presence of: \_\_\_\_\_ )

Witness: \_\_\_\_\_

Address: \_\_\_\_\_

Occupation: \_\_\_\_\_

Signed by \_\_\_\_\_ as )  
Owners 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: \_\_\_\_\_

M B

## SCHEDULE 1

### **Description of Land:**

*South Auckland Land District— Hauraki District*

All that piece of land containing 14.3 hectares, approximately, being Part Whangamata 3. Subject to survey.

As shown on OTS-403-324 and known as Pukehangi Maunga.

### **Conservation and Reserve Values:**

[The Land is contiguous to the Coromandel Forest Park, which contains extensive and largely continuous tracts of indigenous vegetation. The Park is also used for recreation including tramping, walking and hunting.

The Land has scenic values as an elevated site (tihi), with the ridgeline mountain top a prominent landscape and landmark. It also has biodiversity, habitat and recreation values due to the Land adjoining the Coromandel Forest Park, as well as the tihi being an important and unique ecosystem with its own botanical and animal life. The tihi operates as a sanctuary with species able to retreat to this higher altitude area, where the threat of predators is reduced.

Common indigenous bird species may be present including brown kiwi and kokako and Archeys frogs are evident in this vicinity.]



**SCHEDULE 2**

**Address for Service**

The address for service of the Owners is:

The address for service of the Minister is:



## SCHEDULE 3

### Special Conditions

#### *Recreational facilities*

1. For avoidance of doubt, clause 2.1.2 does not place any obligation on the Owners over and above allowing physical access to and within the Land, and does not include an obligation to provide facilities, recreational or otherwise, for public enjoyment of the Land.

#### *Taking of plant material*

2. Despite clause 3.1.2 the Owners may authorise the taking or removal of materials from native plants, shrubs and trees from the Land in accordance with tikanga Maori for customary purposes, but in granting such authorisations shall ensure that any impact on the Conservation and Reserve Values is minimised.

#### *Propagation*

3. Despite clause 3.1.2, the Owners may take seed or cuttings of plant species from the Land for propagation purposes and planting within the Land. This right to take native plant seed and cuttings does not include harvesting of seed or the taking of cuttings for commercial purposes.

#### *Removal of rock*

4. Despite clause 3.1.11, the Owners may take rock of any kind from the Land for cultural or spiritual purposes.

#### *Managing public access*

5. Despite clause 4.1, the Owners may manage public access (including restrictions) in order to protect the privacy of users of buildings and associated areas, wāhi tapu, the Conservation and Reserve Values, or for the purposes of public safety. However, any restrictions cannot exclude the public from all of the Land indefinitely.
6. For avoidance of doubt, any member of the public when on the land may not undertake an activity in clause 3.1.

#### *Cultural activities*

7. The Owners may undertake cultural activities on the Land, subject to:
  - (a) consultation with the Department of Conservation; and
  - (b) any effects on the Conservation and Reserve Values being no more than minor.



**GRANT OF CONSERVATION COVENANT**

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

---

to

**MINISTER OF CONSERVATION**

Certified correct for the purposes of  
the Land Transfer Act 1952

Solicitor for the Minister of  
Conservation

---

**Legal Services  
Department of Conservation**



DOCUMENTS

---

**5.24: NGĀ TUKITUKI A HIKAWERA CONSERVATION COVENANT**

---

**5.24 Ngā Tukituki a Hikawera conservation covenant**

---

M [Signature]

# NGĀ TUKITUKI A HIKAWERA CONSERVATION COVENANT

(Section 27 Conservation Act 1987  
and  
Section 77 Reserves Act 1977)

THIS DEED of COVENANT is made this                      day of

**BETWEEN NGĀTI MARU RŪNANGA TRUST; and**

**NGĀTI TAMATERĀ TREATY SETTLEMENT TRUST; and**

**NGĀTI TUMUTUMU TRUST**(the Owners)

**AND MINISTER OF CONSERVATION** (the Minister)

## BACKGROUND

- A. Section 27 of the Conservation Act 1987 provides that the Minister may enter into a covenant with the owner of any land to provide for management of that land's Conservation Values; and Section 77 of the Reserves Act 1977 provides that the Minister may enter into a covenant with the owner of any land to provide for management of that land's Reserve Values (both the Conservation Values and the Reserve Values are referred to as the Land's Values).
- B Management of the Land's Values requires some restrictions on the Owners' use of the Land without the Minister's consent and the enabling of the Minister to undertake certain activities on the Land.
- C The Owners are the registered proprietor of the Land described in Schedule 1 as a result of Treaty settlements with the Crown in accordance with Deeds of Settlement dated [ ] and implemented by the Ngāti Maru Settlement Act [ ], Ngāti Tamaterā Settlement Act [ ] and Ngāti Rāhiri Tumutumu Settlement Act [ ].
- D The parties to the Deeds of Settlement agree the Land's Values should be subject to a covenant under the Conservation Act 1987 and the Reserves Act 1977 which would provide that the land should be managed to protect those values.
- E The Owners have therefore agreed to grant the Minister a Covenant over the Land to preserve the Land's Values.



## OPERATIVE PARTS

In accordance with section 27 of the Conservation Act 1987 and section 77 of the Reserves Act 1977 and with the intent that the Covenant run with the Land and bind all subsequent owners of the Land, the Owners and Minister agree as follows.

### 1 INTERPRETATION

1.1 In this Covenant unless the context otherwise requires:

**"Conservation and Reserve Values"** means the preservation and protection of natural, landscape and historic resources including Conservation and Reserve Values on the Land for the purpose of maintaining their intrinsic values, providing for their appreciation and recreational enjoyment by the public, and safeguarding the options of future generations.

**"Director-General"** means the Director-General of Conservation.

**"Fence"** includes a gate.

**"Land's Values"** means the Conservation and Reserve values specified in Schedule 1.

**"Natural Water"** includes water contained in streams the banks of which have, from time to time, been re-aligned.

**"Owners"** means the person or persons who, from time to time, is or are registered as the proprietor(s) of the Land.

**"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.

1.1.1 any obligation not to do anything must be treated to include an obligation not to suffer, permit or cause the thing to be done.

1.1.2 the agreements contained in this Covenant bind and benefit the parties and their administrators and executors, successors and assigns in perpetuity.

1.1.3 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 to preserve and protect the Land's Values;



2.1.2 to provide, subject to section 4 and Schedule 3 of this Covenant, freedom of access to the public for the appreciation and recreational enjoyment of the Land.

### 3 IMPLEMENTATION OF OBJECTIVES

3.1 Unless agreed in writing by the parties the Owners 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 and Schedule 3, felling, removal or damage of any tree, shrub or other plant;

3.1.3 subject to Schedule 3, the planting of any species of exotic tree, shrub or other plant, or any other plant not endemic to and not sourced from the location in which the Land is situated;

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 subject to Schedule 3, 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 degradation of the natural flow, supply, quantity, or quality of water of any stream, river, lake, pond, marsh, or any other watercourse in or on the Land;

3.1.10 any other activity which might have a more than minor adverse effect on the Land's 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; and

3.1.12 the erection of utility transmission lines across the Land.

3.2 Subject to the Owners having no obligation to do anything to improve the land beyond its condition at the date of this Covenant, the Owners must take all reasonable steps to maintain the Land, including:

3.2.1 eradicating or controlling all weeds and pests on the Land to the extent required by any statute; and, in particular, complying with the provisions of, and any notices given under, the Biosecurity Act 1993 and in so doing the Owners may undertake minor clearance of vegetation;



- 3.2.2 co-operating 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 keeping the Land free from exotic tree species;
- 3.2.4 keeping the Land free from rubbish or other unsightly or offensive material arising from the Owners' use of the Land;
- 3.2.5 subject to consultation between the Owners and the Minister and observance of any reasonable conditions imposed by the Owners, granting 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 keeping all existing 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; and
- 3.2.7 complying with all requisite statutes, regulations and bylaws in relation to the Land.

#### **4 PUBLIC ACCESS**

- 4.1 Subject to Schedule 3, the Owners must, subject to this Covenant, permit the public to enter upon the Land for non-commercial purposes without the consent of the Owners provided the public:
  - 4.1.1 only access the Land by foot;
  - 4.1.2 do not take firearms or animals on the Land; and
  - 4.1.3 do not camp on the Land.

#### **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.

#### **6 JOINT OBLIGATIONS**

- 6.1 The Owners 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 DISPOSAL OF LAND**

- 8.1 If the Owners sell, lease, or part with possession of the Land, the Owners must ensure that the Owners obtain 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 Owners fail to obtain the agreement of a purchaser, lessee, or assignee to comply with the terms of this Covenant, the Owners will continue to be liable in damages to the Minister for any breach of the Covenant committed after the Owners have parted with all interest in the Land in respect of which a breach occurs.

## **9 CONSENTS**

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

## **10 MISCELLANEOUS MATTERS**

### **10.1 Trespass Act**

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

### **10.2 Reserves Act**

- 10.2.1 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.

### **10.3 Registration**

- 10.3.1 This Covenant must be signed by both parties and registered against the Computer Freehold Register for the Land.

### **10.4 Acceptance of Covenant**

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



## **11 DEFAULT**

11.1 Where either the Owners 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 Owners 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 Owners 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 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.

**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, by facsimile or by electronic mail addressed to the receiving party at the address, facsimile number or electronic mail address set out in Schedule 2.

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

- 13.2.1 personal delivery, on the date of delivery;
- 13.2.2 pre-paid post, on the third working day after posting;
- 13.2.3 facsimile, on the day on which it is dispatched or, if dispatched after 5.00pm, on the next day after the date of dispatch;
- 13.2.4 electronic mail, on the day of successful delivery of the mail.

13.3 The Owners must notify the Minister of any change of ownership or control or all or any part of the Land or change in the particulars in Schedule 2 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 )  
Owners in the presence of: \_\_\_\_\_ )

Witness: \_\_\_\_\_

Address: \_\_\_\_\_

Occupation: \_\_\_\_\_

Signed by \_\_\_\_\_ as )  
Owners in the presence of: \_\_\_\_\_ )

Witness: \_\_\_\_\_

Address: \_\_\_\_\_

Occupation: \_\_\_\_\_



Signed by \_\_\_\_\_ as )  
Owners 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: \_\_\_\_\_



## SCHEDULE 1

### **Description of Land:**

*South Auckland Land District— Western Bay of Plenty District*

All that piece of land containing 8.7 hectares, approximately, being Part Crown land (SO 48402). Subject to survey.

As shown on OTS-403-50 and known as Ngā Tukituki a Hikawera.

### **Conservation and Reserve Values:**

[The Land adjoins, and is part of the wider habitat associated with, the Kaimai - Mamaku Conservation Park. The Park provides some of the most contiguous areas of native forest in the Bay of Plenty including New Zealand's most northern stands of kamahi, red and silver beech. The main spine of the Kaimai Range is a prominent feature of the area. Extensive ancient volcanic outcrops on the main Kaimai Range provide habitat for a diverse range of plants.

Faunal values within the Kaimai - Mamaku Conservation Park include native bird species such as the whitehead, kākā, kōkako, kiwi, long-tailed cuckoo and kārearea. More common native bird such as tūī and bellbirds are readily seen within the Park. Hochstetter's Frogs are also found in the vicinity of this site. There is a diverse range of invertebrates in the Park including the Te Aroha stag beetle.

In addition to the above, the Land (Ngā Tukituki a Hikawera) is within Nga Tukituki Forest Sanctuary. The Sanctuary is unique botanically with Beach trees, Rimu, Tawa and Tawari, which are unusual at the levels of elevation which exist on the site. The Land is part of a wider area which as a whole, is a good example of sequence change based on elevation.

The Land (Ngā Tukituki a Hikawera) has recreational values with the North South Track running along the Land's south west boundary. The Land has scenic values with its ridgeline a prominent landmark.]

**SCHEDULE 2**

**Address for Service**

The address for service of the Owners is:

The address for service of the Minister is:

M B

## SCHEDULE 3

### Special Conditions

#### *Recreational facilities*

1. For avoidance of doubt, clause 2.1.2 does not place any obligation on the Owners over and above allowing physical access to and within the Land, and does not include an obligation to provide facilities, recreational or otherwise, for public enjoyment of the Land.

#### *Taking of plant material*

2. Despite clause 3.1.2 the Owners may authorise the taking or removal of materials from native plants, shrubs and trees from the Land in accordance with tikanga Maori for customary purposes, but in granting such authorisations shall ensure that any impact on the Conservation and Reserve Values is minimised.

#### *Propagation*

3. Despite clause 3.1.2, the Owners may take seed or cuttings of plant species from the Land for propagation purposes and planting within the Land. This right to take native plant seed and cuttings does not include harvesting of seed or the taking of cuttings for commercial purposes.

#### *Removal of rock*

4. Despite clause 3.1.11, the Owners may take rock of any kind from the Land for cultural or spiritual purposes.

#### *Managing public access*

5. Despite clause 4.1, the Owners may manage public access (including restrictions) in order to protect the privacy of users of buildings and associated areas, wāhi tapu, the Conservation and Reserve Values, or for the purposes of public safety. However, any restrictions cannot exclude the public from all of the Land indefinitely.
6. For avoidance of doubt, any member of the public when on the land may not undertake an activity in clause 3.1.

#### *Cultural activities*

7. The Owners may undertake cultural activities on the Land, subject to:
  - (a) consultation with the Department of Conservation; and
  - (b) any effects on the Conservation and Reserve Values being no more than minor.



**GRANT OF CONSERVATION COVENANT**

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

---

to

**MINISTER OF CONSERVATION**

Certified correct for the purposes of  
the Land Transfer Act 1952

Solicitor for the Minister of  
Conservation

---

**Legal Services  
Department of Conservation**

7 18

DOCUMENTS

---

**5.25: TANGITŪ CONSERVATION COVENANT**

---

**5.25 Tangitū conservation covenant**

---



# TANGITU CONSERVATION COVENANT

(Section 27 Conservation Act 1987  
and  
Section 77 Reserves Act 1977)

THIS DEED of COVENANT is made this                      day of

BETWEEN NGĀTI MARU RŪNANGA TRUST; and

NGĀTI TAMATERĀ TREATY SETTLEMENT TRUST; and

NGĀTI TUMUTUMU TRUST (the Owners)

AND MINISTER OF CONSERVATION (the Minister)

## BACKGROUND

- A. Section 27 of the Conservation Act 1987 provides that the Minister may enter into a covenant with the owner of any land to provide for management of that land's Conservation Values; and Section 77 of the Reserves Act 1977 provides that the Minister may enter into a covenant with the owner of any land to provide for management of that land's Reserve Values (both the Conservation Values and the Reserve Values are referred to as the Land's Values).
- B. Management of the Land's Values requires some restrictions on the Owners' use of the Land without the Minister's consent and the enabling of the Minister to undertake certain activities on the Land.
- C. The Owners are the registered proprietor of the Land described in Schedule 1 as a result of Treaty settlements with the Crown in accordance with Deeds of Settlement dated [ ] and implemented by the Ngāti Maru Settlement Act [ ], the Ngāti Tamaterā Settlement Act [ ] and the Ngāti Rahiri Tumutumu Settlement Act [ ].
- D. The parties to the Deeds of Settlement agree the Land's Values should be subject to a covenant under the Conservation Act 1987 and the Reserves Act 1977 which would provide that the land should be managed to protect those values.
- E. The Owners have therefore agreed to grant the Minister a Covenant over the Land to preserve the Land's Values.



## OPERATIVE PARTS

In accordance with section 27 of the Conservation Act 1987 and section 77 of the Reserves Act 1977 and with the intent that the Covenant run with the Land and bind all subsequent owners of the Land, the Owners and Minister agree as follows.

### 1 INTERPRETATION

1.1 In this Covenant unless the context otherwise requires:

**"Conservation and Reserve Values"** means the preservation and protection of natural, landscape and historic resources including Conservation and Reserve Values on the Land for the purpose of maintaining their intrinsic values, providing for their appreciation and recreational enjoyment by the public, and safeguarding the options of future generations.

**"Director-General"** means the Director-General of Conservation.

**"Fence"** includes a gate.

**"Land's Values"** means the Conservation and Reserve values specified in Schedule 1.

**"Natural Water"** includes water contained in streams the banks of which have, from time to time, been re-aligned.

**"Owners"** means the person or persons who, from time to time, is or are registered as the proprietor(s) of the Land.

**"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.

1.1.1 any obligation not to do anything must be treated to include an obligation not to suffer, permit or cause the thing to be done.

1.1.2 the agreements contained in this Covenant bind and benefit the parties and their administrators and executors, successors and assigns in perpetuity.

1.1.3 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 to preserve and protect the Land's Values;

2.1.2 to provide, subject to section 4 and Schedule 3 of this Covenant, freedom of access to the public for the appreciation and recreational enjoyment of the Land.

### 3 IMPLEMENTATION OF OBJECTIVES

3.1 Unless agreed in writing by the parties the Owners 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 and Schedule 3, felling, removal or damage of any tree, shrub or other plant;

3.1.3 subject to Schedule 3, the planting of any species of exotic tree, shrub or other plant, or any other plant not endemic to and not sourced from the location in which the Land is situated;

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 subject to Schedule 3, 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 degradation of the natural flow, supply, quantity, or quality of water of any stream, river, lake, pond, marsh, or any other watercourse in or on the Land;

3.1.10 any other activity which might have a more than minor adverse effect on the Land's 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; and

3.1.12 the erection of utility transmission lines across the Land.

3.2 Subject to the Owners having no obligation to do anything to improve the land beyond its condition at the date of this Covenant, the Owners must take all reasonable steps to maintain the Land, including:

3.2.1 eradicating or controlling all weeds and pests on the Land to the extent required by any statute; and, in particular, complying with the provisions of, and any notices given under, the Biosecurity Act 1993 and in so doing the Owners may undertake minor clearance of vegetation;



- 3.2.2 co-operating 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 keeping the Land free from exotic tree species;
- 3.2.4 keeping the Land free from rubbish or other unsightly or offensive material arising from the Owners' use of the Land;
- 3.2.5 subject to consultation between the Owners and the Minister and observance of any reasonable conditions imposed by the Owners, granting 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 keeping all existing 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; and
- 3.2.7 complying with all requisite statutes, regulations and bylaws in relation to the Land.

#### **4 PUBLIC ACCESS**

- 4.1 Subject to Schedule 3, the Owners must, subject to this Covenant, permit the public to enter upon the Land for non-commercial purposes without the consent of the Owners provided the public:
  - 4.1.1 only access the Land by foot;
  - 4.1.2 do not take firearms or animals on the Land; and
  - 4.1.3 do not camp on the Land.

#### **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.

#### **6 JOINT OBLIGATIONS**

- 6.1 The Owners 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 DISPOSAL OF LAND**

- 8.1 If the Owners sell, lease, or part with possession of the Land, the Owners must ensure that the Owners obtain 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 Owners fail to obtain the agreement of a purchaser, lessee, or assignee to comply with the terms of this Covenant, the Owners will continue to be liable in damages to the Minister for any breach of the Covenant committed after the Owners have parted with all interest in the Land in respect of which a breach occurs.

## **9 CONSENTS**

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

## **10 MISCELLANEOUS MATTERS**

### **10.1 Trespass Act**

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

### **10.2 Reserves Act**

- 10.2.1 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.

### **10.3 Registration**

- 10.3.1 This Covenant must be signed by both parties and registered against the Computer Freehold Register for the Land.

### **10.4 Acceptance of Covenant**

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



## **11 DEFAULT**

11.1 Where either the Owners 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 Owners 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 Owners 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 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.

**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, by facsimile or by electronic mail addressed to the receiving party at the address, facsimile number or electronic mail address set out in Schedule 2.

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

13.2.1 personal delivery, on the date of delivery;

13.2.2 pre-paid post, on the third working day after posting;

13.2.3 facsimile, on the day on which it is dispatched or, if dispatched after 5.00pm, on the next day after the date of dispatch;

13.2.4 electronic mail, on the day of successful delivery of the mail.

13.3 The Owners must notify the Minister of any change of ownership or control or all or any part of the Land or change in the particulars in Schedule 2 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 )  
Owners in the presence of: \_\_\_\_\_ )

Witness: \_\_\_\_\_

Address: \_\_\_\_\_

Occupation: \_\_\_\_\_

Signed by \_\_\_\_\_ as )  
Owners in the presence of: \_\_\_\_\_ )

Witness: \_\_\_\_\_

Address: \_\_\_\_\_

Occupation: \_\_\_\_\_

Signed by \_\_\_\_\_ as )  
Owners 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: \_\_\_\_\_



## SCHEDULE 1

### **Description of Land:**

*South Auckland Land District— Western Bay of Plenty District and Matamata-Piako District*

All that piece of land containing 7.5 hectares, approximately, being Part Crown land (SO 48402). Subject to survey.

As shown on OTS-403-51 and known as Tangitu.

### **Conservation and Reserve Values:**

[The Land adjoins, and is part of the wider habitat associated with, the Kaimai - Mamaku Conservation Park. The Park provides some of the most contiguous areas of native forest in the Bay of Plenty including New Zealand's most northern stands of kamahi, red and silver beech. The main spine of the Kaimai Range is a prominent feature of the area. Extensive ancient volcanic outcrops on the main Kaimai Range provide habitat for a diverse range of plants.

Faunal values within the Kaimai - Mamaku Conservation Park include native bird species such as the whitehead, kākā, kōkako, kiwi, long-tailed cuckoo and kārearea. More common native bird such as tūī and bellbirds are readily seen within the Park. Hochstetter's Frogs are also found in the vicinity of this site. There is a diverse range of invertebrates in the Park including the Te Aroha stag beetle.

In addition to the above, the Land (Tangitu) has scenic values with its ridgeline a prominent landmark. The Land is unique botanically, with vegetation including kauri, beech and hard woods.]



**SCHEDULE 2**

**Address for Service**

The address for service of the Owners is:

The address for service of the Minister is:



## SCHEDULE 3

### Special Conditions

#### *Recreational facilities*

1. For avoidance of doubt, clause 2.1.2 does not place any obligation on the Owners over and above allowing physical access to and within the Land, and does not include an obligation to provide facilities, recreational or otherwise, for public enjoyment of the Land.

#### *Taking of plant material*

2. Despite clause 3.1.2 the Owners may authorise the taking or removal of materials from native plants, shrubs and trees from the Land in accordance with tikanga Maori for customary purposes, but in granting such authorisations shall ensure that any impact on the Conservation and Reserve Values is minimised.

#### *Propagation*

3. Despite clause 3.1.2, the Owners may take seed or cuttings of plant species from the Land for propagation purposes and planting within the Land. This right to take native plant seed and cuttings does not include harvesting of seed or the taking of cuttings for commercial purposes.

#### *Removal of rock*

4. Despite clause 3.1.11, the Owners may take rock of any kind from the Land for cultural or spiritual purposes.

#### *Managing public access*

5. Despite clause 4.1, the Owners may manage public access (including restrictions) in order to protect the privacy of users of buildings and associated areas, wāhi tapu, the Conservation and Reserve Values, or for the purposes of public safety. However, any restrictions cannot exclude the public from all of the Land indefinitely.
6. For avoidance of doubt, any member of the public when on the land may not undertake an activity in clause 3.1.

#### *Cultural activities*

7. The Owners may undertake cultural activities on the Land, subject to:
  - (a) consultation with the Department of Conservation; and
  - (b) any effects on the Conservation and Reserve Values being no more than minor.



**GRANT OF CONSERVATION COVENANT**

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

---

to

**MINISTER OF CONSERVATION**

Certified correct for the purposes of  
the Land Transfer Act 1952

Solicitor for the Minister of  
Conservation

---

**Legal Services  
Department of Conservation**



DOCUMENTS

---

**5.26: TANGITŪ RIGHT OF WAY EASEMENT**

---

**5.26 Tangitū right of way easement**

---

MVB

The terms of the easement document are largely agreed. Only exceptional clauses will be negotiated and agreed between Chair of the Hauraki Collective, Director of the Office of Treaty Settlements and Deputy Director-General Strategy and People of the Department of Conservation prior to ratification of the Ngāti Maru deed of settlement.

EASEMENT INSTRUMENT  
to grant easement

Sections 90A and 90F, Land Transfer Act 1952

Land Registration District

South Auckland

Grantor

*Surname must be underlined*

[the Trustees of Ngāti Maru Settlement Trust]. [the Trustees of Ngāti Tamaterā Treaty Settlement Trust] and [the Trustees of the Ngāti Tumutumu/ Ngāti Rāhiri Tumutumu Settlement Trust]

Grantee

*Surname must be underlined*

Her Majesty the Queen in Right of New Zealand 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(s) **set out** in Schedule A, with the rights and powers or provisions set out in the Annexure Schedule(s)

Dated this

day of

20

ATTESTATION:

<hr/> Signature of Grantor	<b>Signed in my presence by the Grantor:</b>
	<hr/> Signature of Witness Witness Name: Occupation: Address:

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




**SCHEDULE A**

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

Purpose (nature and extent) of easement	Shown (plan reference)	Servient tenement (Identifier/CT)	Dominant Tenement (identifier CT or in gross)
Right of Way	The 4m strip marked [] on SO 48402.  [currently dotted red on OTS-403-326]  The Easement Area	[That part of the Crown Land on SO 48402 as edged orange on OTS-403-326]  The Grantor's Land	In gross

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 the **Annexure Schedule**.

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



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 when the Grantee wishes to carry out work to develop, improve or maintain the Easement Area or undertake conservation activities on adjoining land administered by the Grantee, then the Grantee its employees or contractors may proceed along the Easement Area by foot or by vehicle or any other means of transport and with all necessary tools, vehicles, equipment (including firearms) and dogs to carry out the work.
- 1.3 The right of way includes—
- 1.3.1 the right to repair and maintain the existing recreation tracks and access vehicle track ("the 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 track; and
  - 1.3.3 the right for the Grantee to improve the Easement Area in any way it considers expedient but consistent with its purposes of recreation and access, including the installation of track markers, stiles but without at any time causing damage to or interfering with the Grantor's use and management of the Grantor's Land; and
  - 1.3.4 the right for the Grantee to erect and display notices on the Easement Area and with the Grantor's consent, which must 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 or otherwise occupy 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.
- 1.6 No firearm or other weapon may be carried or discharged 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.

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

1.7 The public may not light any fires or deposit any rubbish or other materials 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 of the Grantee under this easement 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 the Grantor under this easement or interfere with the efficient operation of the Easement Area.

2.3 The Grantee may transfer or otherwise assign this easement but only to a Crown body, local authority or other public body.

## 3 Repair, maintenance, and costs

3.1 The Grantee is responsible for arranging the repair and maintenance of the 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 If the Grantee (or grantees if more than one) and the Grantor share the use of the track then each of them is responsible for arranging the repair and maintenance of the track on the Easement Area and for the associated costs, so as to keep the track to a standard suitable for their use.

3.3 The Grantee (or grantees if more than one) must (equally if more than one) meet any associated requirements of the relevant local authority.

3.4 The Grantee must 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.

3.5 The Grantor must repair at its cost all damage caused to the 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 but may be given subject to any reasonable conditions —

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.

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

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

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

5.1.1 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:

5.1.2 if, at the expiry of the 7-working-day period, the party in default has not met the obligation, the other party may —

(a) meet the obligation; and

(b) for that purpose, enter the Grantor's Land:

5.1.3 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:

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.**

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

## 6 Disputes

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

6.1.1 the party initiating the dispute must provide full written particulars of the dispute to the other party; and

6.1.2 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

6.1.3 if the dispute is not resolved within 14 working days of the written particulars being given (or any longer period agreed by the parties) —



(a) the dispute must be referred to arbitration in accordance with the Arbitration Act 1996; and

(b) 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.

## 7 Other conditions

7.1 DOC will have the right of access to the grantor's land to undertake work on the relevant part of the grantor's land if something on that land poses an immediate health & safety risk to users of the relevant part of the easement area.

7.2 Where there is matter beyond the control of either grantee or grantor that necessitates the reinstatement of the track outside of the easement area the grantor cannot unreasonably withhold consent to a new location of the easement area (if it is within 10 metres of the original easement area - i.e. 5m on either side from the centre of the easement area).

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

DOCUMENTS

---

**5.27: WHAKAMOEHAU CONSERVATION COVENANT**

---

**5.27 Whakamoehau conservation covenant**

---



# WHAKAMOEHAU CONSERVATION COVENANT

(Section 27 Conservation Act 1987  
and  
Section 77 Reserves Act 1977)

THIS DEED of COVENANT is made this                      day of

BETWEEN NGĀTI MARU RŪNANGA TRUST; and

NGĀTI TAMATERĀ TREATY SETTLEMENT TRUST (the Owners)

AND MINISTER OF CONSERVATION (the Minister)

## BACKGROUND

- A. Section 27 of the Conservation Act 1987 provides that the Minister may enter into a covenant with the owner of any land to provide for management of that land's Conservation Values; and Section 77 of the Reserves Act 1977 provides that the Minister may enter into a covenant with the owner of any land to provide for management of that land's Reserve Values (both the Conservation Values and the Reserve Values are referred to as the Land's Values).
- B. Management of the Land's Values requires some restrictions on the Owners' use of the Land without the Minister's consent and the enabling of the Minister to undertake certain activities on the Land.
- C. The Owners are the registered proprietor of the Land described in Schedule 1 as a result of a Treaty settlement with the Crown in accordance with Deeds of Settlement dated [ ] and implemented by the Ngāti Maru Claims Settlement Act [ ] and Ngāti Tamaterā Claims Settlement Act [ ].
- D. The parties to the Deeds of Settlement agree the Land's Values should be subject to a covenant under the Conservation Act 1987 and the Reserves Act 1977 which would provide that the land should be managed to protect those values.
- E. The Owners have therefore agreed to grant the Minister a Covenant over the Land to preserve the Land's Values.

## OPERATIVE PARTS

In accordance with section 27 of the Conservation Act 1987 and section 77 of the Reserves Act 1977 and with the intent that the Covenant run with the Land and bind all subsequent owners of the Land, the Owners and Minister agree as follows.



## 1 INTERPRETATION

1.1 In this Covenant unless the context otherwise requires:

**“Conservation and Reserve Values”** means the preservation and protection of natural, landscape and historic resources including Conservation and Reserve Values on the Land for the purpose of maintaining their intrinsic values, providing for their appreciation and recreational enjoyment by the public, and safeguarding the options of future generations.

**“Director-General”** means the Director-General of Conservation.

**“Fence”** includes a gate.

**“Land’s Values”** means the Conservation and Reserve values specified in Schedule 1.

**“Natural Water”** includes water contained in streams the banks of which have, from time to time, been re-aligned.

**“Owners”** means the person or persons who, from time to time, is or are registered as the proprietor(s) of the Land.

**“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.

1.1.1 any obligation not to do anything must be treated to include an obligation not to suffer, permit or cause the thing to be done.

1.1.2 the agreements contained in this Covenant bind and benefit the parties and their administrators and executors, successors and assigns in perpetuity.

1.1.3 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 to preserve and protect the Land’s Values;

2.1.2 to provide, subject to section 4 and Schedule 3 of this Covenant, freedom of access to the public for the appreciation and recreational enjoyment of the Land.

## 3 IMPLEMENTATION OF OBJECTIVES

3.1 Unless agreed in writing by the parties the Owners 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 and Schedule 3, felling, removal or damage of any tree, shrub or other plant;
- 3.1.3 subject to Schedule 3, the planting of any species of exotic tree, shrub or other plant, or any other plant not endemic to and not sourced from the location in which the Land is situated;
- 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 subject to Schedule 3, 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 degradation of the natural flow, supply, quantity, or quality of water of any stream, river, lake, pond, marsh, or any other watercourse in or on the Land;
- 3.1.10 any other activity which might have a more than minor adverse effect on the Land's 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; and
- 3.1.12 the erection of utility transmission lines across the Land.

3.2 Subject to the Owners having no obligation to do anything to improve the land beyond its condition at the date of this Covenant, the Owners must take all reasonable steps to maintain the Land, including:

- 3.2.1 eradicating or controlling all weeds and pests on the Land to the extent required by any statute; and, in particular, complying with the provisions of, and any notices given under, the Biosecurity Act 1993 and in so doing the Owners may undertake minor clearance of vegetation;
- 3.2.2 co-operating 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 keeping the Land free from exotic tree species;

- 3.2.4 keeping the Land free from rubbish or other unsightly or offensive material arising from the Owners' use of the Land;
- 3.2.5 subject to consultation between the Owners and the Minister and observance of any reasonable conditions imposed by the Owners, granting 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 keeping all existing 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; and
- 3.2.7 complying with all requisite statutes, regulations and bylaws in relation to the Land.

#### **4 PUBLIC ACCESS**

- 4.1 Subject to Schedule 3, the Owners must, subject to this Covenant, permit the public to enter upon the Land for non-commercial purposes without the consent of the Owners provided the public:
  - 4.1.1 only access the Land by foot;
  - 4.1.2 do not take firearms or animals on the Land; and
  - 4.1.3 do not camp on the Land.

#### **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.

#### **6 JOINT OBLIGATIONS**

- 6.1 The Owners 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 DISPOSAL OF LAND**

- 8.1 If the Owners sell, lease, or part with possession of the Land, the Owners must ensure that the Owners obtain 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 Owners fail to obtain the agreement of a purchaser, lessee, or assignee to comply with the terms of this Covenant, the Owners will continue to be liable in damages to the Minister for any breach of the Covenant committed after the Owners has parted with all interest in the Land in respect of which a breach occurs.

## **9 CONSENTS**

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

## **10 MISCELLANEOUS MATTERS**

### **10.1 Trespass Act**

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

### **10.2 Reserves Act**

- 10.2.1 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.

### **10.3 Registration**

- 10.3.1 This Covenant must be signed by both parties and registered against the Computer Freehold Register for the Land.

### **10.4 Acceptance of Covenant**

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

## **11 DEFAULT**

- 11.1 Where either the Owners 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 Owners 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 Owners 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 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.



**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, by facsimile or by electronic mail addressed to the receiving party at the address, facsimile number or electronic mail address set out in Schedule 2.
- 13.2 A notice given in accordance with clause 13.1 will be deemed to have been received in the case of:
  - 13.2.1 personal delivery, on the date of delivery;
  - 13.2.2 pre-paid post, on the third working day after posting;
  - 13.2.3 facsimile, on the day on which it is dispatched or, if dispatched after 5.00pm, on the next day after the date of dispatch;
  - 13.2.4 electronic mail, on the day of successful delivery of the mail.
- 13.3 The Owners must notify the Minister of any change of ownership or control or all or any part of the Land or change in the particulars in Schedule 2 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 )  
Owners in the presence of: \_\_\_\_\_ )

Witness: \_\_\_\_\_

Address: \_\_\_\_\_

Occupation: \_\_\_\_\_

Signed by \_\_\_\_\_ as )  
Owners in the presence of: \_\_\_\_\_ )

Witness: \_\_\_\_\_

Address: \_\_\_\_\_

Occupation: \_\_\_\_\_

Signed by \_\_\_\_\_ as )  
Owners 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: \_\_\_\_\_



## SCHEDULE 1

### **Description of Land:**

*South Auckland Land District— Hauraki District*

All that piece of land containing 22.2 hectares, approximately, being Part Ohinemuri 20. Subject to survey.

As shown on OTS-403-49 and known as Whakamoehau.

### **Conservation and Reserve Values:**

[The Land is contiguous to the Coromandel Forest Park, which contains extensive and largely continuous tracts of indigenous vegetation. The Park is also used for recreation including tramping, walking and hunting.

The Land has scenic values as an elevated site (tihi), with the ridgeline mountain top a prominent landscape and landmark. It also has biodiversity, habitat and recreation values due to the Land adjoining the Coromandel Forest Park, as well as the tihi being an important and unique ecosystem with its own botanical and animal life. The tihi operates as a sanctuary with species able to retreat to this higher altitude area, where the threat of predators is reduced.

Common indigenous bird species may be present and Hochstetters and Archeys frogs are evident in this vicinity (with these frogs recorded at nearby Golden Cross). The last remnant kokako were also recorded around Golden Cross. Remnant brown kiwi also exists as does bats.]



**SCHEDULE 2**

**Address for Service**

The address for service of the Owners is:

The address for service of the Minister is:

Handwritten signature or initials consisting of a stylized 'M' followed by a series of vertical lines.

## SCHEDULE 3

### Special Conditions

#### *Recreational facilities*

1. For avoidance of doubt, clause 2.1.2 does not place any obligation on the Owners over and above allowing physical access to and within the Land, and does not include an obligation to provide facilities, recreational or otherwise, for public enjoyment of the Land.

#### *Taking of plant material*

2. Despite clause 3.1.2 the Owners may authorise the taking or removal of materials from native plants, shrubs and trees from the Land in accordance with tikanga Maori for customary purposes, but in granting such authorisations shall ensure that any impact on the Conservation and Reserve Values is minimised.

#### *Propagation*

3. Despite clause 3.1.2, the Owners may take seed or cuttings of plant species from the Land for propagation purposes and planting within the Land. This right to take native plant seed and cuttings does not include harvesting of seed or the taking of cuttings for commercial purposes.

#### *Removal of rock*

4. Despite clause 3.1.11, the Owners may take rock of any kind from the Land for cultural or spiritual purposes.

#### *Managing public access*

5. Despite clause 4.1, the Owners may manage public access (including restrictions) in order to protect the privacy of users of buildings and associated areas, wāhi tapu, the Conservation and Reserve Values, or for the purposes of public safety. However, any restrictions cannot exclude the public from all of the Land indefinitely.
6. For avoidance of doubt, any member of the public when on the land may not undertake an activity in clause 3.1.

#### *Cultural activities*

7. The Owners may undertake cultural activities on the Land, subject to:
  - (a) consultation with the Department of Conservation; and
  - (b) any effects on the Conservation and Reserve Values being no more than minor.



**GRANT OF CONSERVATION COVENANT**

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

---

to

**MINISTER OF CONSERVATION**

Certified correct for the purposes of  
the Land Transfer Act 1952

Solicitor for the Minister of  
Conservation

---

**Legal Services  
Department of Conservation**



DOCUMENTS

---

**5.28: PUKEWHAKATARATARA CONSERVATION COVENANT**

---

**5.28 Pukewhakatara conservation covenant**

---

VB

# PUKEWHAKATARATARA CONSERVATION COVENANT

(Section 27 Conservation Act 1987  
and  
Section 77 Reserves Act 1977)

THIS DEED of COVENANT is made this                      day of

BETWEEN NGĀTI MARU RŪNANGA TRUST; and

NGĀTI TAMATERĀ TREATY SETTLEMENT TRUST (the Owners)

AND MINISTER OF CONSERVATION (the Minister)

## BACKGROUND

- A. Section 27 of the Conservation Act 1987 provides that the Minister may enter into a covenant with the owner of any land to provide for management of that land's Conservation Values; and Section 77 of the Reserves Act 1977 provides that the Minister may enter into a covenant with the owner of any land to provide for management of that land's Reserve Values (both the Conservation Values and the Reserve Values are referred to as the Land's Values).
- B. Management of the Land's Values requires some restrictions on the Owners' use of the Land without the Minister's consent and the enabling of the Minister to undertake certain activities on the Land.
- C. The Owners are the registered proprietor of the Land described in Schedule 1 as a result of Treaty settlements with the Crown in accordance with Deeds of Settlement dated [ ] and implemented by the Ngāti Maru Settlement Act [ ] and the Ngāti Tamaterā Settlement Act [ ].
- D. The parties to the Deeds of Settlement agree the Land's Values should be subject to a covenant under the Conservation Act 1987 and the Reserves Act 1977 which would provide that the land should be managed to protect those values.
- R. The Owners have therefore agreed to grant the Minister a Covenant over the Land to preserve the Land's Values.

## OPERATIVE PARTS

In accordance with section 27 of the Conservation Act 1987 and section 77 of the Reserves Act 1977 and with the intent that the Covenant run with the Land and bind all subsequent owners of the Land, the Owners and Minister agree as follows.



## 1 INTERPRETATION

1.1 In this Covenant unless the context otherwise requires:

**"Conservation and Reserve Values"** means the preservation and protection of natural, landscape and historic resources including Conservation and Reserve Values on the Land for the purpose of maintaining their intrinsic values, providing for their appreciation and recreational enjoyment by the public, and safeguarding the options of future generations.

**"Director-General"** means the Director-General of Conservation.

**"Fence"** includes a gate.

**"Land's Values"** means the Conservation and Reserve values specified in Schedule 1.

**"Natural Water"** includes water contained in streams the banks of which have, from time to time, been re-aligned.

**"Owners"** means the person or persons who, from time to time, is or are registered as the proprietor(s) of the Land.

**"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.

1.1.1 any obligation not to do anything must be treated to include an obligation not to suffer, permit or cause the thing to be done.

1.1.2 the agreements contained in this Covenant bind and benefit the parties and their administrators and executors, successors and assigns in perpetuity.

1.1.3 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 to preserve and protect the Land's Values;

2.1.2 to provide, subject to section 4 and Schedule 3 of this Covenant, freedom of access to the public for the appreciation and recreational enjoyment of the Land.



### 3 IMPLEMENTATION OF OBJECTIVES

- 3.1 Unless agreed in writing by the parties the Owners 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 and Schedule 3, felling, removal or damage of any tree, shrub or other plant;
  - 3.1.3 subject to Schedule 3, the planting of any species of exotic tree, shrub or other plant, or any other plant not endemic to and not sourced from the location in which the Land is situated;
  - 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 subject to Schedule 3, 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 degradation of the natural flow, supply, quantity, or quality of water of any stream, river, lake, pond, marsh, or any other watercourse in or on the Land;
  - 3.1.10 any other activity which might have a more than minor adverse effect on the Land's 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; and
  - 3.1.12 the erection of utility transmission lines across the Land.
- 3.2 Subject to the Owners having no obligation to do anything to improve the land beyond its condition at the date of this Covenant, the Owners must take all reasonable steps to maintain the Land, including:
- 3.2.1 eradicating or controlling all weeds and pests on the Land to the extent required by any statute; and, in particular, complying with the provisions of, and any notices given under, the Biosecurity Act 1993 and in so doing the Owners may undertake minor clearance of vegetation;
  - 3.2.2 co-operating 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 keeping the Land free from exotic tree species;
- 3.2.4 keeping the Land free from rubbish or other unsightly or offensive material arising from the Owners' use of the Land;
- 3.2.5 subject to consultation between the Owners and the Minister and observance of any reasonable conditions imposed by the Owners, granting 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 keeping all existing 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; and
- 3.2.7 complying with all requisite statutes, regulations and bylaws in relation to the Land.

#### **4 PUBLIC ACCESS**

- 4.1 Subject to Schedule 3, the Owners must, subject to this Covenant, permit the public to enter upon the Land for non-commercial purposes without the consent of the Owners provided the public:
  - 4.1.1 only access the Land by foot;
  - 4.1.2 do not take firearms or animals on the Land; and
  - 4.1.3 do not camp on the Land.

#### **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.

#### **6 JOINT OBLIGATIONS**

- 6.1 The Owners 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 DISPOSAL OF LAND**

- 8.1 If the Owners sell, lease, or part with possession of the Land, the Owners must ensure that the Owners obtain 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 Owners fail to obtain the agreement of a purchaser, lessee, or assignee to comply with the terms of this Covenant, the Owners will continue to be liable in damages to the Minister for any breach of the Covenant committed after the Owners have parted with all interest in the Land in respect of which a breach occurs.

## **9 CONSENTS**

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

## **10 MISCELLANEOUS MATTERS**

### **10.1 Trespass Act**

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

### **10.2 Reserves Act**

- 10.2.1 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.

### **10.3 Registration**

- 10.3.1 This Covenant must be signed by both parties and registered against the Computer Freehold Register for the Land.

### **10.4 Acceptance of Covenant**

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



## **11 DEFAULT**

- 11.1 Where either the Owners 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 Owners 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 Owners 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 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.

**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, by facsimile or by electronic mail addressed to the receiving party at the address, facsimile number or electronic mail address set out in Schedule 2.

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

- 13.2.1 personal delivery, on the date of delivery;
- 13.2.2 pre-paid post, on the third working day after posting;
- 13.2.3 facsimile, on the day on which it is dispatched or, if dispatched after 5.00pm, on the next day after the date of dispatch;
- 13.2.4 electronic mail, on the day of successful delivery of the mail.

13.3 The Owners must notify the Minister of any change of ownership or control or all or any part of the Land or change in the particulars in Schedule 2 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 )  
Owners in the presence of: \_\_\_\_\_ )

Witness: \_\_\_\_\_

Address: \_\_\_\_\_

Occupation: \_\_\_\_\_

Signed by \_\_\_\_\_ as )  
Owners 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: \_\_\_\_\_



## SCHEDULE 1

### **Description of Land:**

*South Auckland Land District— Western Bay of Plenty District and Matamata-Piako District*

All that piece of land containing 20.0 hectares, approximately, being Part Crown land (SO 48402) and Part Lot 5 DP 25781. Subject to survey.

As shown on OTS-403-52 and known as Pukewhakataratara.

### **Conservation and Reserve Values:**

[The Land adjoins, and is part of the wider habitat associated with, the Kaimai - Mamaku Conservation Park. The Park provides some of the most contiguous areas of native forest in the Bay of Plenty including New Zealand's most northern stands of kamahi, red and silver beech. The main spine of the Kaimai Range is a prominent feature of the area. Extensive ancient volcanic outcrops on the main Kaimai Range provide habitat for a diverse range of plants.

Faunal values within the Kaimai - Mamaku Conservation Park include native bird species such as the whitehead, kākā, kōkako, kiwi, long-tailed cuckoo and kārearea. More common native bird such as tūī and bellbirds are readily seen within the Park. Hochstetter's Frogs are also found in the vicinity of this site. There is a diverse range of invertebrates in the Park including the Te Aroha stag beetle.

In addition to the above, the Land (Pukewhakataratara) has recreational values with the North South Track running through it. The Land has scenic values with its ridgeline a prominent landmark. The Land is unique botanically, with vegetation including kauri, beech and hard woods.]



**SCHEDULE 2**

**Address for Service**

The address for service of the Owners is:

The address for service of the Minister is:

Handwritten initials or signature in the bottom left corner of the page.

## SCHEDULE 3

### Special Conditions

#### *Recreational facilities*

1. For avoidance of doubt, clause 2.1.2 does not place any obligation on the Owners over and above allowing physical access to and within the Land, and does not include an obligation to provide facilities, recreational or otherwise, for public enjoyment of the Land.

#### *Taking of plant material*

2. Despite clause 3.1.2 the Owners may authorise the taking or removal of materials from native plants, shrubs and trees from the Land in accordance with tikanga Maori for customary purposes, but in granting such authorisations shall ensure that any impact on the Conservation and Reserve Values is minimised.

#### *Propagation*

3. Despite clause 3.1.2, the Owners may take seed or cuttings of plant species from the Land for propagation purposes and planting within the Land. This right to take native plant seed and cuttings does not include harvesting of seed or the taking of cuttings for commercial purposes.

#### *Removal of rock*

4. Despite clause 3.1.11, the Owners may take rock of any kind from the Land for cultural or spiritual purposes.

#### *Managing public access*

5. Despite clause 4.1, the Owners may manage public access (including restrictions) in order to protect the privacy of users of buildings and associated areas, wāhi tapu, the Conservation and Reserve Values, or for the purposes of public safety. However, any restrictions cannot exclude the public from all of the Land indefinitely.
6. For avoidance of doubt, any member of the public when on the land may not undertake an activity in clause 3.1.

#### *Cultural activities*

7. The Owners may undertake cultural activities on the Land, subject to:
  - (a) consultation with the Department of Conservation; and
  - (b) any effects on the Conservation and Reserve Values being no more than minor.



**GRANT OF CONSERVATION COVENANT**

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

---

to

**MINISTER OF CONSERVATION**

Certified correct for the purposes of  
the Land Transfer Act 1952

Solicitor for the Minister of  
Conservation

---

**Legal Services  
Department of Conservation**

14

DOCUMENTS

---

**5.29: PUKEWHAKATARATARA RIGHT OF WAY EASEMENT**

---

**5.29 Pukewhakatara right of way easement**

---

3 B

The terms of the easement document are largely agreed. Only exceptional clauses will be negotiated and agreed between Chair of the Hauraki Collective, Director of the Office of Treaty Settlements and Deputy Director-General Strategy and People of the Department of Conservation prior to ratification of the Ngāti Maru deed of settlement.

EASEMENT INSTRUMENT  
to grant easement

Sections 90A and 90F, Land Transfer Act 1952

Land Registration District

South Auckland

Grantor

Surname must be underlined

[the trustees of Ngāti Maru Settlement Trust] and [the trustees of Ngāti Tamaterā Treaty Settlement Trust]

Grantee

Surname must be underlined

Her Majesty the Queen in Right of New Zealand 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(s) set out in Schedule A, with the rights and powers or provisions set out in the Annexure Schedule(s)

Dated this

day of

20

ATTESTATION:

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

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



**SCHEDULE A**

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

Purpose (nature and extent) of easement	Shown (plan reference)	Servient tenement (Identifier/CT)	Dominant Tenement (identifier CT or in gross)
Right of Way	The 4m strip marked [] on SO []  [currently dotted red on OTS-403-327]  The Easement Area	[That part of the Crown Land on SO 48402 and Part Lot 5 DP 25781 as edged orange on OTS-403-327]  The Grantor's Land	In gross

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 the **Annexure Schedule**.

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

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 when the Grantee wishes to carry out work to develop, improve or maintain the Easement Area or undertake conservation activities on adjoining land administered by the Grantee, then the Grantee its employees or contractors may proceed along the Easement Area by foot or by vehicle or any other means of transport and with all necessary tools, vehicles, equipment (including firearms) and dogs to carry out the work.
- 1.3 The right of way includes—
- 1.3.1 the right to repair and maintain the existing recreation tracks and access vehicle track ("the 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 track; and
  - 1.3.3 the right for the Grantee to improve the Easement Area in any way it considers expedient but consistent with its purposes of recreation and access, including the installation of track markers, stiles but without at any time causing damage to or interfering with the Grantor's use and management of the Grantor's Land; and
  - 1.3.4 the right for the Grantee to erect and display notices on the Easement Area and with the Grantor's consent, which must 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 or otherwise occupy 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.
- 1.6 No firearm or other weapon may be carried or discharged 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.**

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

1.7 The public may not light any fires or deposit any rubbish or other materials 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 of the Grantee under this easement 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 the Grantor under this easement or interfere with the efficient operation of the Easement Area.

2.3 The Grantee may transfer or otherwise assign this easement but only to a Crown body, local authority or other public body.

## 3 Repair, maintenance, and costs

3.1 The Grantee is responsible for arranging the repair and maintenance of the 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 If the Grantee (or grantees if more than one) and the Grantor share the use of the track then each of them is responsible for arranging the repair and maintenance of the track on the Easement Area and for the associated costs, so as to keep the track to a standard suitable for their use.

3.3 The Grantee (or grantees if more than one) must (equally if more than one) meet any associated requirements of the relevant local authority.

3.4 The Grantee must 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.

3.5 The Grantor must repair at its cost all damage caused to the 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 but may be given subject to any reasonable conditions —

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.

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

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

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

5.1.1 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:

5.1.2 if, at the expiry of the 7-working-day period, the party in default has not met the obligation, the other party may —

(a) meet the obligation; and

(b) for that purpose, enter the Grantor's Land:

5.1.3 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:

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.

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

## 6 Disputes

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

6.1.1 the party initiating the dispute must provide full written particulars of the dispute to the other party; and

6.1.2 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

6.1.3 if the dispute is not resolved within 14 working days of the written particulars being given (or any longer period agreed by the parties) —

(a) the dispute must be referred to arbitration in accordance with the Arbitration Act 1996; and

(b) 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.

## 7 Other conditions

7.1 DOC will have the right of access to the grantor's land to undertake work on the relevant part of the grantor's land if something on that land poses an immediate health & safety risk to users of the relevant part of the easement area.

7.2 Where there is matter beyond the control of either grantee or grantor that necessitates the reinstatement of the track outside of the easement area the grantor cannot unreasonably withhold consent to a new location of the easement area (if it is within 10 metres of the original easement area - i.e. 5m on either side from the centre of the easement area).

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



DOCUMENTS

---

**5.30: TAKAIHUEHUE CONSERVATION COVENANT**

---

**5.30 Takaihuehue conservation covenant**

---



# TAKAIHUEHUE CONSERVATION COVENANT

(Section 27 Conservation Act 1987  
and  
Section 77 Reserves Act 1977)

THIS DEED of COVENANT is made this                      day of

BETWEEN NGĀTI MARU RŪNANGA TRUST; and

NGĀTI TAMATERĀ TREATY SETTLEMENT TRUST (the Owners)

AND MINISTER OF CONSERVATION (the Minister)

## BACKGROUND

- A. Section 27 of the Conservation Act 1987 provides that the Minister may enter into a covenant with the owner of any land to provide for management of that land's Conservation Values; and Section 77 of the Reserves Act 1977 provides that the Minister may enter into a covenant with the owner of any land to provide for management of that land's Reserve Values (both the Conservation Values and the Reserve Values are referred to as the Land's Values).
- B. Management of the Land's Values requires some restrictions on the Owners' use of the Land without the Minister's consent and the enabling of the Minister to undertake certain activities on the Land.
- C. The Owners are the registered proprietor of the Land described in Schedule 1 as a result of a Treaty settlements with the Crown in accordance with Deeds of Settlement dated [ ] and implemented by the Ngāti Maru Settlement Act [ ] and the Ngāti Tamaterā Settlement Act [ ].
- D. The parties to the Deeds of Settlement agree the Land's Values should be subject to a covenant under the Conservation Act 1987 and the Reserves Act 1977 which would provide that the land should be managed to protect those values.
- E. The Owners have therefore agreed to grant the Minister a Covenant over the Land to preserve the Land's Values.

## OPERATIVE PARTS

In accordance with section 27 of the Conservation Act 1987 and section 77 of the Reserves Act 1977 and with the intent that the Covenant run with the Land and bind all subsequent owners of the Land, the Owners and Minister agree as follows.

Handwritten signatures in blue ink, consisting of a simple wavy line and a more complex scribble.

## 1 INTERPRETATION

1.1 In this Covenant unless the context otherwise requires:

**"Conservation and Reserve Values"** means the preservation and protection of natural, landscape and historic resources including Conservation and Reserve Values on the Land for the purpose of maintaining their intrinsic values, providing for their appreciation and recreational enjoyment by the public, and safeguarding the options of future generations.

**"Director-General"** means the Director-General of Conservation.

**"Fence"** includes a gate.

**"Land's Values"** means the Conservation and Reserve values specified in Schedule 1.

**"Natural Water"** includes water contained in streams the banks of which have, from time to time, been re-aligned.

**"Owners"** means the person or persons who, from time to time, is or are registered as the proprietor(s) of the Land.

**"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.

1.1.1 any obligation not to do anything must be treated to include an obligation not to suffer, permit or cause the thing to be done.

1.1.2 the agreements contained in this Covenant bind and benefit the parties and their administrators and executors, successors and assigns in perpetuity.

1.1.3 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 to preserve and protect the Land's Values;

2.1.2 to provide, subject to section 4 and Schedule 3 of this Covenant, freedom of access to the public for the appreciation and recreational enjoyment of the Land.

## 3 IMPLEMENTATION OF OBJECTIVES

3.1 Unless agreed in writing by the parties the Owners 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 and Schedule 3, felling, removal or damage of any tree, shrub or other plant;
  - 3.1.3 subject to Schedule 3, the planting of any species of exotic tree, shrub or other plant, or any other plant not endemic to and not sourced from the location in which the Land is situated;
  - 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 subject to Schedule 3, 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 degradation of the natural flow, supply, quantity, or quality of water of any stream, river, lake, pond, marsh, or any other watercourse in or on the Land;
  - 3.1.10 any other activity which might have a more than minor adverse effect on the Land's 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; and
  - 3.1.12 the erection of utility transmission lines across the Land.
- 3.2 Subject to the Owners having no obligation to do anything to improve the land beyond its condition at the date of this Covenant, the Owners must take all reasonable steps to maintain the Land, including:
- 3.2.1 eradicating or controlling all weeds and pests on the Land to the extent required by any statute; and, in particular, complying with the provisions of, and any notices given under, the Biosecurity Act 1993 and in so doing the Owners may undertake minor clearance of vegetation;
  - 3.2.2 co-operating 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 keeping the Land free from exotic tree species;
  - 3.2.4 keeping the Land free from rubbish or other unsightly or offensive material arising from the Owners' use of the Land;



- 3.2.5 subject to consultation between the Owners and the Minister and observance of any reasonable conditions imposed by the Owners, granting 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 keeping all existing 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; and
- 3.2.7 complying with all requisite statutes, regulations and bylaws in relation to the Land.

#### **4 PUBLIC ACCESS**

- 4.1 Subject to Schedule 3, the Owners must, subject to this Covenant, permit the public to enter upon the Land for non-commercial purposes without the consent of the Owners provided the public:
  - 4.1.1 only access the Land by foot;
  - 4.1.2 do not take firearms or animals on the Land; and
  - 4.1.3 do not camp on the Land.

#### **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.

#### **6 JOINT OBLIGATIONS**

- 6.1 The Owners 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 DISPOSAL OF LAND**

- 8.1 If the Owners sell, lease, or part with possession of the Land, the Owners must ensure that the Owners obtain 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 Owners fail to obtain the agreement of a purchaser, lessee, or assignee to comply with the terms of this Covenant, the Owners will continue to be liable in damages to the Minister for any breach of the Covenant committed after the Owners have parted with all interest in the Land in respect of which a breach occurs.

## **9 CONSENTS**

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

## **10 MISCELLANEOUS MATTERS**

### **10.1 Trespass Act**

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

### **10.2 Reserves Act**

- 10.2.1 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.

### **10.3 Registration**

- 10.3.1 This Covenant must be signed by both parties and registered against the Computer Freehold Register for the Land.

### **10.4 Acceptance of Covenant**

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

## **11 DEFAULT**

- 11.1 Where either the Owners 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 Owners 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 Owners 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 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.



**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, by facsimile or by electronic mail addressed to the receiving party at the address, facsimile number or electronic mail address set out in Schedule 2.
- 13.2 A notice given in accordance with clause 13.1 will be deemed to have been received in the case of:
  - 13.2.1 personal delivery, on the date of delivery;
  - 13.2.2 pre-paid post, on the third working day after posting;
  - 13.2.3 facsimile, on the day on which it is dispatched or, if dispatched after 5.00pm, on the next day after the date of dispatch;
  - 13.2.4 electronic mail, on the day of successful delivery of the mail.
- 13.3 The Owners must notify the Minister of any change of ownership or control or all or any part of the Land or change in the particulars in Schedule 2 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 )  
Owners in the presence of: \_\_\_\_\_ )

Witness: \_\_\_\_\_

Address: \_\_\_\_\_

Occupation: \_\_\_\_\_

Signed by \_\_\_\_\_ as )  
Owners 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: \_\_\_\_\_

## SCHEDULE 1

### **Description of Land:**

*South Auckland Land District— Western Bay of Plenty District*

All that piece of land containing 2.9 hectares, approximately, being Part Crown land (SO 48402). Subject to survey.

As shown on OTS-403-328 and known as Takaihuehue.

### **Conservation and Reserve Values:**

[The Land adjoins, and is part of the wider habitat associated with, the Kaimai - Mamaku Conservation Park. The Park provides some of the most contiguous areas of native forest in the Bay of Plenty including New Zealand's most northern stands of kamahi, red and silver beech. The main spine of the Kaimai Range is a prominent feature of the area. Extensive ancient volcanic outcrops on the main Kaimai Range provide habitat for a diverse range of plants.

Faunal values within the Kaimai - Mamaku Conservation Park include native bird species such as the whitehead, kākā, kōkako, kiwi, long-tailed cuckoo and kārearea. More common native bird such as tūī and bellbirds are readily seen within the Park. Hochstetter's Frogs are also found in the vicinity of this site. There is a diverse range of invertebrates in the Park including the Te Aroha stag beetle.

In addition to the above, the Land (Takaihuehue) has recreational values with the North South Track running through it. The Land has scenic values with its ridgeline a prominent landmark. The Land is unique botanically, with vegetation including kauri, beech and hard woods.]

**SCHEDULE 2**

**Address for Service**

The address for service of the Owners is:

The address for service of the Minister is:

2/18

## SCHEDULE 3

### Special Conditions

#### *Recreational facilities*

1. For avoidance of doubt, clause 2.1.2 does not place any obligation on the Owners over and above allowing physical access to and within the Land, and does not include an obligation to provide facilities, recreational or otherwise, for public enjoyment of the Land.

#### *Taking of plant material*

2. Despite clause 3.1.2 the Owners may authorise the taking or removal of materials from native plants, shrubs and trees from the Land in accordance with tikanga Maori for customary purposes, but in granting such authorisations shall ensure that any impact on the Conservation and Reserve Values is minimised.

#### *Propagation*

3. Despite clause 3.1.2, the Owners may take seed or cuttings of plant species from the Land for propagation purposes and planting within the Land. This right to take native plant seed and cuttings does not include harvesting of seed or the taking of cuttings for commercial purposes.

#### *Removal of rock*

4. Despite clause 3.1.11, the Owners may take rock of any kind from the Land for cultural or spiritual purposes.

#### *Managing public access*

5. Despite clause 4.1, the Owners may manage public access (including restrictions) in order to protect the privacy of users of buildings and associated areas, wāhi tapu, the Conservation and Reserve Values, or for the purposes of public safety. However, any restrictions cannot exclude the public from all of the Land indefinitely.
6. For avoidance of doubt, any member of the public when on the land may not undertake an activity in clause 3.1.

#### *Cultural activities*

7. The Owners may undertake cultural activities on the Land, subject to:
  - (a) consultation with the Department of Conservation; and
  - (b) any effects on the Conservation and Reserve Values being no more than minor.



**GRANT OF CONSERVATION COVENANT**

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

---

to

**MINISTER OF CONSERVATION**

Certified correct for the purposes of  
the Land Transfer Act 1952

Solicitor for the Minister of  
Conservation

---

**Legal Services  
Department of Conservation**



*Initialling version for presentation to Ngāti Maru for ratification purposes.*

DOCUMENTS

---

**5.31: PAEWAI CONSERVATION COVENANT**

---

**5.31 Paewai conservation covenant**

---

2/18

# PAEWAI CONSERVATION COVENANT

(Section 27 Conservation Act 1987  
and  
Section 77 Reserves Act 1977)

THIS DEED of COVENANT is made this                      day of

BETWEEN NGĀTI MARU RŪNANGA TRUST; and

NGĀTI TAMATERĀ TREATY SETTLEMENT TRUST (the Owners)

AND MINISTER OF CONSERVATION (the Minister)

## BACKGROUND

- A. Section 27 of the Conservation Act 1987 provides that the Minister may enter into a covenant with the owner of any land to provide for management of that land's Conservation Values; and Section 77 of the Reserves Act 1977 provides that the Minister may enter into a covenant with the owner of any land to provide for management of that land's Reserve Values (both the Conservation Values and the Reserve Values are referred to as the Land's Values).
- B. Management of the Land's Values requires some restrictions on the Owners' use of the Land without the Minister's consent and the enabling of the Minister to undertake certain activities on the Land.
- C. The Owners are the registered proprietor of the Land described in Schedule 1 as a result of Treaty settlements with the Crown in accordance with Deeds of Settlement dated [ ] and implemented by the Ngāti Maru Settlement Act [ ] and Ngāti Tamaterā Settlement Act [ ].
- D. The parties to the Deeds of Settlement agree the Land's Values should be subject to a covenant under the Conservation Act 1987 and the Reserves Act 1977 which would provide that the land should be managed to protect those values.
- E. The Owners have therefore agreed to grant the Minister a Covenant over the Land to preserve the Land's Values.

## OPERATIVE PARTS

In accordance with section 27 of the Conservation Act 1987 and section 77 of the Reserves Act 1977 and with the intent that the Covenant run with the Land and bind all subsequent owners of the Land, the Owners and Minister agree as follows.



## 1 INTERPRETATION

1.1 In this Covenant unless the context otherwise requires:

**"Conservation and Reserve Values"** means the preservation and protection of natural, landscape and historic resources including Conservation and Reserve Values on the Land for the purpose of maintaining their intrinsic values, providing for their appreciation and recreational enjoyment by the public, and safeguarding the options of future generations.

**"Director-General"** means the Director-General of Conservation.

**"Fence"** includes a gate.

**"Land's Values"** means the Conservation and Reserve values specified in Schedule 1.

**"Natural Water"** includes water contained in streams the banks of which have, from time to time, been re-aligned.

**"Owners"** means the person or persons who, from time to time, is or are registered as the proprietor(s) of the Land.

**"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.

1.1.1 any obligation not to do anything must be treated to include an obligation not to suffer, permit or cause the thing to be done.

1.1.2 the agreements contained in this Covenant bind and benefit the parties and their administrators and executors, successors and assigns in perpetuity.

1.1.3 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 to preserve and protect the Land's Values;

2.1.2 to provide, subject to section 4 and Schedule 3 of this Covenant, freedom of access to the public for the appreciation and recreational enjoyment of the Land.

## 3 IMPLEMENTATION OF OBJECTIVES

3.1 Unless agreed in writing by the parties the Owners 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 and Schedule 3, felling, removal or damage of any tree, shrub or other plant;
  - 3.1.3 subject to Schedule 3, the planting of any species of exotic tree, shrub or other plant, or any other plant not endemic to and not sourced from the location in which the Land is situated;
  - 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 subject to Schedule 3, 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 degradation of the natural flow, supply, quantity, or quality of water of any stream, river, lake, pond, marsh, or any other watercourse in or on the Land;
  - 3.1.10 any other activity which might have a more than minor adverse effect on the Land's 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; and
  - 3.1.12 the erection of utility transmission lines across the Land.
- 3.2 Subject to the Owners having no obligation to do anything to improve the land beyond its condition at the date of this Covenant, the Owners must take all reasonable steps to maintain the Land, including:
- 3.2.1 eradicating or controlling all weeds and pests on the Land to the extent required by any statute; and, in particular, complying with the provisions of, and any notices given under, the Biosecurity Act 1993 and in so doing the Owners may undertake minor clearance of vegetation;
  - 3.2.2 co-operating 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 keeping the Land free from exotic tree species;
  - 3.2.4 keeping the Land free from rubbish or other unsightly or offensive material arising from the Owners' use of the Land;



- 3.2.5 subject to consultation between the Owners and the Minister and observance of any reasonable conditions imposed by the Owners, granting 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 keeping all existing 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; and
- 3.2.7 complying with all requisite statutes, regulations and bylaws in relation to the Land.

#### **4 PUBLIC ACCESS**

- 4.1 Subject to Schedule 3, the Owners must, subject to this Covenant, permit the public to enter upon the Land for non-commercial purposes without the consent of the Owners provided the public:
- 4.1.1 only access the Land by foot;
- 4.1.2 do not take firearms or animals on the Land; and
- 4.1.3 do not camp on the Land.

#### **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.

#### **6 JOINT OBLIGATIONS**

- 6.1 The Owners 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.

Handwritten signature and initials at the bottom left of the page.

## **8 OBLIGATIONS ON DISPOSAL OF LAND**

- 8.1 If the Owners sell, lease, or part with possession of the Land, the Owners must ensure that the Owners obtain 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 Owners fail to obtain the agreement of a purchaser, lessee, or assignee to comply with the terms of this Covenant, the Owners will continue to be liable in damages to the Minister for any breach of the Covenant committed after the Owners have parted with all interest in the Land in respect of which a breach occurs.

## **9 CONSENTS**

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

## **10 MISCELLANEOUS MATTERS**

### **10.1 Trespass Act**

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

### **10.2 Reserves Act**

- 10.2.1 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.

### **10.3 Registration**

- 10.3.1 This Covenant must be signed by both parties and registered against the Computer Freehold Register for the Land.

### **10.4 Acceptance of Covenant**

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

## **11 DEFAULT**

- 11.1 Where either the Owners 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 Owners 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 Owners 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 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.



**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, by facsimile or by electronic mail addressed to the receiving party at the address, facsimile number or electronic mail address set out in Schedule 2.
- 13.2 A notice given in accordance with clause 13.1 will be deemed to have been received in the case of:
  - 13.2.1 personal delivery, on the date of delivery;
  - 13.2.2 pre-paid post, on the third working day after posting;
  - 13.2.3 facsimile, on the day on which it is dispatched or, if dispatched after 5.00pm, on the next day after the date of dispatch;
  - 13.2.4 electronic mail, on the day of successful delivery of the mail.
- 13.3 The Owners must notify the Minister of any change of ownership or control or all or any part of the Land or change in the particulars in Schedule 2 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 )  
Owners in the presence of: \_\_\_\_\_ )

Witness: \_\_\_\_\_

Address: \_\_\_\_\_

Occupation: \_\_\_\_\_

Signed by \_\_\_\_\_ as )  
Owners 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: \_\_\_\_\_

Handwritten initials or marks.

## SCHEDULE 1

### Description of Land:

*South Auckland Land District— Western Bay of Plenty District*

All that piece of land containing 2 hectares, approximately, being Part Section 8, Block IV Aongatete Survey District. Subject to survey.

As shown on OTS-403-54 and known as Paewai.

### Conservation and Reserve Values:

[The Land adjoins, and is part of the wider habitat associated with, the Kaimai - Mamaku Conservation Park. The Park provides some of the most contiguous areas of native forest in the Bay of Plenty including New Zealand's most northern stands of kamahi, red and silver beech. The main spine of the Kaimai Range is a prominent feature of the area. Extensive ancient volcanic outcrops on the main Kaimai Range provide habitat for a diverse range of plants.

Faunal values within the Kaimai - Mamaku Conservation Park include native bird species such as the whitehead, kākā, kōkako, kiwi, long-tailed cuckoo and kārearea. More common native bird such as tūi and bellbirds are readily seen within the Park. Hochstetter's Frogs are also found in the vicinity of this site. There is a diverse range of invertebrates in the Park including the Te Aroha stag beetle.

In addition to the above, the Land (Paewai) has scenic values with its ridgeline a prominent landmark. The Land is unique botanically, with vegetation including kauri, beech and hard woods.]



**SCHEDULE 2**

**Address for Service**

The address for service of the Owners is:

The address for service of the Minister is:

7 VB

## SCHEDULE 3

### Special Conditions

#### *Recreational facilities*

1. For avoidance of doubt, clause 2.1.2 does not place any obligation on the Owners over and above allowing physical access to and within the Land, and does not include an obligation to provide facilities, recreational or otherwise, for public enjoyment of the Land.

#### *Taking of plant material*

2. Despite clause 3.1.2 the Owners may authorise the taking or removal of materials from native plants, shrubs and trees from the Land in accordance with tikanga Maori for customary purposes, but in granting such authorisations shall ensure that any impact on the Conservation and Reserve Values is minimised.

#### *Propagation*

3. Despite clause 3.1.2, the Owners may take seed or cuttings of plant species from the Land for propagation purposes and planting within the Land. This right to take native plant seed and cuttings does not include harvesting of seed or the taking of cuttings for commercial purposes.

#### *Removal of rock*

4. Despite clause 3.1.11, the Owners may take rock of any kind from the Land for cultural or spiritual purposes.

#### *Managing public access*

5. Despite clause 4.1, the Owners may manage public access (including restrictions) in order to protect the privacy of users of buildings and associated areas, wāhi tapu, the Conservation and Reserve Values, or for the purposes of public safety. However, any restrictions cannot exclude the public from all of the Land indefinitely.
6. For avoidance of doubt, any member of the public when on the land may not undertake an activity in clause 3.1.

#### *Cultural activities*

7. The Owners may undertake cultural activities on the Land, subject to:
  - (a) consultation with the Department of Conservation; and
  - (b) any effects on the Conservation and Reserve Values being no more than minor.



**GRANT OF CONSERVATION COVENANT**

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

---

to

**MINISTER OF CONSERVATION**

Certified correct for the purposes of  
the Land Transfer Act 1952

Solicitor for the Minister of  
Conservation

---

**Legal Services  
Department of Conservation**

7 VB

DOCUMENTS

---

**5.32: DANBY FIELD SCHOOL SITE (LAND ONLY) RIGHT OF WAY AND DRAINAGE EASEMENT**

---

**5.32 Danby Field School site (land only) right of way and drainage easement**

---

7 VB

The terms of this easement are to be finalised before the deed of settlement is initialled.

**Easement instrument to grant easement or *profit à prendre*, or create land covenant**

(Sections 90A and 90F Land Transfer Act 1952)

Grantor

[NGĀTI MARU]

Grantee

THAMES COROMANDEL DISTRICT COUNCIL

**Grant of Easement or *Profit à prendre* or Creation of Covenant**

The Grantor being the registered proprietor of the servient tenement(s) set out in Schedule A grants to the Grantee (and, if so stated, in gross) the easement(s) or *profit(s) à prendre* set out in Schedule A, or creates the covenant(s) set out in Schedule A, with the rights and powers or provisions set out in the Annexure Schedule(s)

**Schedule A**

*Continue in additional Annexure Schedule, if required*

Purpose (Nature and extent) of easement; <i>profit</i> or covenant	Shown (plan reference)	Servient Tenement (Computer Register)	Dominant Tenement (Computer Register) or in gross
Right to drain water	"A", "H", "I" and "J" on SO 511663	Section 2 on SO 511663 CFR [     ]	In gross
Right of Way	"J" and "K" on SO 511663	Section 2 on SO 511663 CFR [     ]	In gross

**Easements or profits à prendre rights and powers (including terms, covenants and conditions)**

*Delete phrases in [ ] and insert memorandum number as required;  
continue in additional Annexure Schedule, if required*

Unless otherwise provided below, the rights and powers implied in specified classes of easement are those prescribed by the Land Transfer Regulations 2002

The implied rights and powers are hereby [**varied and added to**] [~~negatived~~] [~~added to~~] or [**substituted**] by:

[Memorandum number \_\_\_\_\_, registered under section 155A of the Land Transfer Act 1952]

the provisions set out in Annexure Schedule 1.

**Covenant provisions**

*Delete phrases in [ ] and insert Memorandum number as require;  
continue in additional Annexure Schedule, if required*

The provisions applying to the specified covenants are those set out in:

[Memorandum number \_\_\_\_\_, registered under section 155A of the Land Transfer Act 1952]

[Annexure Schedule \_\_\_\_\_]

Annexure Schedule 1

Insert type of instrument

Easement

Dated

Page

1

of

1

Pages

Continue in additional Annexure Schedule, if required.

1. Additional Provisions Relating to Right of Way

- 1.1 In respect of the right of way easements created pursuant to this easement instrument only, the definition of "grantee" in clause 1 of Schedule 4 of the Land Transfer Regulations 2002 ("Regulations") is deleted and replaced with the following:

*"grantee, in relation to an easement creating a right of way means Thames Coromandel District Council and (subject to the provisions of this easement instrument) all other persons to the extent permitted by Thames Coromandel District Council either generally or specifically (which may include members of the general public)."*

2. General

- 2.1 Clause 10(2) of the Regulations is deleted and replaced with the following:

*"(2) The grantor must not do and must not allow to be done on the servient land anything that interferes with or restricts the rights of the grantee or interferes with the easement facility. For the avoidance of doubt, where an easement facility is buried below the surface of the servient land, the grantor may continue to use the surface of the servient land (including, without limitation, placing or erecting any structure, or planting any plants, on or above the servient land directly above the easement facility) provided that such use does not materially interfere with or restrict the rights of the grantee or materially interfere with the easement facility. Furthermore, the grantor may in consultation with the grantee relocate any easement facility in order to facilitate the use or development of the servient land."*

- 2.2 Notwithstanding any other provisions contained in this easement instrument or the Regulations, the Grantor or the Grantee may at any time (upon obtaining the agreement of the other party) reconfigure or relocate the right to drain water easement shown "A" on SO Plan 511663 in order to minimise the extent of the said easement and maximise useable land on the servient land. Upon such agreement, the parties agree, at the Grantees cost, to do all things necessary and sign all documents necessary (including, without limitation, the relevant easement surrender and replacement easement instrument) to give effect to the reconfiguration and/or relocation of the said right to drain water easement.

- 2.3 The rights and powers implied by section 297 of the Property Law Act 2007 and Schedule 5 to the Property Law Act 2007 do not apply to any of the easements created by this instrument.

DOCUMENTS

---

5.33: PORT JACKSON SITE A RESTRICTIVE COVENANT

---

**5.33 Port Jackson site A restrictive covenant**

---

3 VB