

NGĀTI TŪWHARETOA

and

TE KOTAHITANGA O NGĀTI TŪWHARETOA

and

THE CROWN

**DEED OF SETTLEMENT SCHEDULE:
DOCUMENTS**

TABLE OF CONTENTS

1.	DEED OF TRUST (TONGARIRO NATIONAL TROUT CENTRE)	1
2.	NGĀTI TŪWHARETOA VALUES	17
3.	PROTECTION PRINCIPLES	22
3.1	PROTECTION PRINCIPLES FOR WHENUAKURA	23
3.2	PROTECTION PRINCIPLES FOR PART PUREORA FOREST PARK (WITHIN THE AREA OF INTEREST)	26
4.	STATEMENTS OF ASSOCIATION	29
4.1	STATEMENTS OF ASSOCIATION FOR PUREORA AND TĪTIRAUPENGA	30
4.2	STATEMENTS OF ASSOCIATION FOR GEOTHERMAL RESOURCES	35
4.3	STATEMENT OF ASSOCIATION FOR LAKE OTAMANGAKAU AND LAKE TE WHAIAU	42
4.4	STATEMENT OF ASSOCIATION FOR WAIOTAKA RIVER AND ITS TRIBUTARIES	45
4.5	STATEMENT OF ASSOCIATION FOR RANGITĀIKI RIVER AND ITS TRIBUTARIES	48
5.	PROTOCOLS	50
5.1	CROWN MINERALS PROTOCOL	51
5.2	PRIMARY INDUSTRIES PROTOCOL	59
5.3	TAONGA TŪTURU PROTOCOL	73
6.	RELATIONSHIP AGREEMENT WITH THE MINISTRY FOR THE ENVIRONMENT	85
7.	TE PIRINGA AGREEMENT WITH THE DEPARTMENT OF CONSERVATION	92
8.	ENCUMBRANCES	120
8.1	KARAPITI PROPERTY EASEMENT IN GROSS FOR A RIGHT OF WAY	121
8.2	PARAKIRI SITE A EASEMENT TO TAUPO DISTRICT COUNCIL	134
8.3	PARAKIRI SITE A LEASE WITH THE CROWN [1]	141
8.4	PARAKIRI SITE A LEASE WITH THE CROWN [2]	156
8.5	PARAKIRI SITE A EASEMENT TO THE CROWN [1]	171
8.6	PARAKIRI SITE A EASEMENT TO THE CROWN [2]	181
8.7	FIVE MILE BAY SITE C COVENANT RESTRICTING BUILDING HEIGHT	191
8.8	TAUHARA MOUNTAIN PROPERTY CONSERVATION COVENANT	197
8.9	TE HUKA SOUTH PROPERTY CONSERVATION COVENANT	210
8.10	TE KOWHAI PROPERTY LICENCE TO OCCUPY	223
8.11	PARAKIRI SITE B LEASE WITH THE CROWN	239
8.12	PARAKIRI SITE B EASEMENT TO THE CROWN	252
8.13	TE HUKA PROPERTY RIGHT OF WAY EASEMENT TO THE CROWN	258

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

8.14 TE HUKA PROPERTY EASEMENT TO THE TAUPO DISTRICT COUNCIL	267
8.15 WAIPAPA ROAD CONSERVATION AREA EASEMENT	272
9. RFR DEED OVER QUOTA.....	280

1. DEED OF TRUST (TONGARIRO NATIONAL TROUT CENTRE)

1: DEED OF TRUST (TONGARIRO NATIONAL TROUT CENTRE)

DEED OF TRUST

DATED

PARTIES

1. *[insert name, address and occupation of initial first Trustee]*
2. *[insert name, address and occupation of initial second Trustee]*
3. *[insert name, address and occupation of initial third Trustee]*
4. *[insert name, address and occupation of initial fourth Trustee]*
5. *[insert name, address and occupation of initial fifth Trustee]*
6. *[insert name, address and occupation of initial sixth Trustee]*

BACKGROUND

Ngāti Tūrangitukua is a hapū of Ngāti Tūwharetoa that holds mana whenua in the Tūrangi area in accordance with their tikanga and whakapapa.

The Downs whānau are members of Ngāti Tūrangitukua and Ngāti Tūwharetoa. By 1926, the lands at Kowhai Flats (i.e. land upon which the Tongariro National Trout Centre is now situated and the subject of this Deed of Trust) had been handed down to Morehu and Hoka Downs. They were successful fishing guides, opening their lands to anglers and operating a thriving business.

Under the Māori Land Claims Adjustment Act 1926 and various Public Works statutes, the Crown took the Kowhai Flats land (Part Ohuanga South 1, South 1A, North 1 and North 1A) to establish a fish hatchery, camping ground and roading. The land also contained springs that were the source of freshwater for the hatchery. The landowners, and their descendants, have long felt a sense of injustice at the taking of their lands, and the ongoing impact on their whānau.

In 1992, by way of Deed between the Crown and the Tūwharetoa Māori Trust Board, the bed of Lake Taupo and its tributaries were returned to ngā hapū o Ngāti Tūwharetoa. The bed of the stream associated with the hatchery was excluded from that Deed.

The return of part of the hatchery land and new collaborative governance arrangements for the Tongariro National Trout Centre were achieved through the settlement of the Ngāti Tūwharetoa comprehensive Treaty claims. The Downs whānau (with the support of Ngāti Tūwharetoa) have generously and graciously agreed that the land should continue to be used for the objects of the Trust created by this Deed.

The parties to this Deed wish to establish a charitable trust in New Zealand for the objects and purposes described in clause 3 of this Deed and are at the same time giving to the Trust the sum of \$10.00 to form the initial Trust Fund.

The commitment and establishment of the Trust under this Deed is recorded by clauses 7.33 to 7.35 of the Deed of Settlement between the Crown and Ngāti Tūwharetoa dated X as empowered by section X of the Ngāti Tūwharetoa Claims Settlement Act 20XX.

1: DEED OF TRUST (TONGARIRO NATIONAL TROUT CENTRE)

INTERPRETATION

In this Deed unless the context otherwise required:

"Board" means the Trustees incorporated as a Board by clause 13 of this Deed.

"Charitable Purpose" has the meaning given to it in the Charitable Trusts Act 1957.

"Financial Year" means the year ending on the 31st day of March and includes the period between the incorporation of the Board and the next 31st day of March.

"Interest in Land" for the purpose of clause 8.8 of this Deed means the creation of an interest such as a licence, lease, easement or any other encumbrance which by its nature would be a registerable interest under the Land Transfer Act 1952.

"The Centre" means the Tongariro National Trout Centre at Turangi, inclusive of the reserve lands, hatchery buildings, raceways, all structures, facilities, amenity spaces, carpark and all other physical aspects associated with the Centre's activities and public recreational enjoyment of the Centre.

"The Trust" means the Tongariro Trout Hatchery and Freshwater Ecology Centre Trust being the charitable trust created by this Deed.

"The Trustees" includes all persons for the time being holding office as Trustee under this Deed by clause 5 of this Deed.

"Trust Fund" means any money, investments or other property paid or given to or acquired or agreed to be acquired by the Trustees after this Deed has been signed with the intention that it be held by the Trustees subject to the trusts and other provisions set out in this Deed.

CONSTRUCTION

In the construction of this Deed, unless the context requires otherwise:

- a. A reference to "Trustees" is a reference to the Trustees for the time being of the Trust Fund, whether original, additional or substituted;
- b. A reference to an enactment is a reference to that enactment as amended, or to any enactment that has been substituted for that enactment;
- c. In the case of any ambiguity between the provisions of this Deed and applicable provisions of the Reserves Act 1977 in relation to the Trust and reserves administered by the Trust, the Reserves Act 1977 shall prevail;
- d. If there is a conflict between any rules or protocol established by the Trustees and the provisions of this Deed, the provisions of this Deed shall prevail; and
- e. Headings appear as a matter of convenience and shall not affect the construction of this Deed.

1: DEED OF TRUST (TONGARIRO NATIONAL TROUT CENTRE)

OPERATIVE PART

1. NAME

- 1.1 The name of the Trust will be **TONGARIRO TROUT HATCHERY AND FRESHWATER ECOLOGY CENTRE TRUST**.

2. OFFICE

- 2.1 The office of the Trust will be such place in New Zealand as the Trustees may determine from time to time. The initial office of the Trust will be *[insert the first registered office of the Trust which should be a physical location]*.

3. OBJECTS AND PURPOSES

- 3.1 The charitable objects and purposes of the Trust ("the Trust Purposes") are as follows:
- (a) Develop and promote the Tongariro National Trout Centre ("the Centre") at Turangi;
 - (b) Administration, control and management of the recreation reserves associated with the Centre;
 - (c) Recognise Ngāti Tūwharetoa as tāngata whenua and to respect the relationships of Ngāti Tūwharetoa with their ancestral lands and waterways at the Centre;
 - (d) Recognise the contribution of the Downs whānau and provide, where possible, for their ongoing involvement in the Centre;
 - (e) Inform New Zealanders and other visitors to the Centre about trout, the Taupō fishery, freshwater fisheries and ecology, other endemic native species, and encourage recreational trout fishing in the Taupō Fishing District;
 - (f) Recognise and support the traditional and cultural freshwater fisheries tikanga (customs and practices) and mātauranga (knowledge) of Ngāti Tūwharetoa; and
 - (g) Give effect to the cultural redress arrangements set out in clause 7.5 of this Deed.

4. TRUSTEES' POWERS

- 4.1 The Trust has been appointed as an administering body under the Reserves Act 1977 to administer, control and manage the recreation reserves associated with the Tongariro National Trout Centre.
- 4.2 The Trustees have the applicable powers, functions and duties set out for an administering body under the Reserves Act 1987 (including the responsibility for various Crown-owned structures and facilities on the recreation reserves).
- 4.3 In addition to all other powers under that legislation or under any other law, the Trustees shall have the following powers to:
- (a) (a) Adopt such means of making known the objects, purposes and activities of the Trust as they may deem expedient;

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

1: DEED OF TRUST (TONGARIRO NATIONAL TROUT CENTRE)

- (b) (b) Promote community volunteer participation in the objects and purposes of the Trust;
- (c) (c) Seek, raise, accept and receive donations, sponsorships, subsidies, grants, endowments, gifts, legacies and bequests either in money or in kind or partly in money and partly in kind for all or any of the Trust Purposes;
- (d) (d) Set reasonable charges for access to the Centre corresponding with the public recreation or enjoyment or facilities and amenities necessary for the public using the reserve;
- (e) (e) Enter into any partnership, union of interest, co-operation, joint venture, or reciprocal arrangements with any person, group, organisation, society or company conducting or participating in similar objects and purposes of the Trust;
- (f) (f) Borrow, raise or secure the payment of money for the furtherance of the objects and purposes of the Trust in such manner and on such terms as the Trustees think fit;
- (g) (g) Invest surplus funds in any way permitted by law for the investment of Trust Fund and upon such terms as the Trustees think fit;
- (h) (h) Pay all of the Trust's proper expenses and outgoings including the employment of professional advisers, agents, officers and staff the Trustees consider necessary or expedient;
- (i) (i) Determine from time to time the amount which is to be made available for distribution out of the income or the capital of the Trust Fund or out of both the income and the capital and to pay or apply that amount for the furtherance of the objects and purposes of the Trust;
- (j) (j) Purchase, erect, build, take on lease or otherwise obtain the use or occupation of and to manage, extend, improve, develop, alter, modify, pull down, demolish, maintain and repair and to sell, exchange, let, lease, or otherwise dispose of real and personal property of every description;
- (k) (k) Carry on any business associated with the objects and purposes of the Trust;
- (l) (l) Institute, initiate, or take and to defend, compromise, or abandon legal proceedings involving the property or affairs of the Trust;
- (m) (m) Employ officers and staff and obtain professional and other advice and services to assist in the objects and purposes of the Trust for such reasonable remuneration and on such terms as may be deemed expedient;
- (n) (n) Utilise alternative dispute resolution techniques (such as mediation, conciliation and arbitration) to settle any internal dispute between Trustees or to settle any external dispute between the Trustees or the Trust and third parties;
- (o) (o) Exercise all or any of the powers conferred on Trustees by the Trustee Act 1956;

1: DEED OF TRUST (TONGARIRO NATIONAL TROUT CENTRE)

- (p) (p) Seek incorporation in accordance with the provisions of the Charitable Trusts Act 1957 as recognised in clause 13 of this Deed; and
 - (q) (q) Undertake all other acts incidental to or conducive to the attainment of the Trust Purposes.
- 4.4 It is declared that the foregoing Trustees' powers are to be conducted only in furtherance of the charitable objects and purposes of the Trust set out in clause 3 of this Deed and are not to be construed as to authorise the pursuit of any non-charitable purpose.

5. APPOINTMENT OF TRUSTEES & TERM OF OFFICE

- 5.1 There shall be six (6) Trustees of the Trust with the initial Trustees being the signatories to this Deed.
- 5.2 In exercising their power to appoint Trustees to the Trust in any circumstances, the respective organisations set out in clause 5.3, must have regard to the need to appoint persons interested in the objects and purposes of the Trust and that persons capability to assist to carry out the Trust Purposes by their skill, expertise, profession, standing in the community or other qualifications.
- 5.3 The following organisations shall each have the power to appoint two (2) Trustees (the "nominated trustees") and each Trustee so appointed shall hold office, subject to clause 6 of this Deed, as the appointee of that organisation:
- (a) Te Kotahitanga o Ngāti Tūwharetoa being the post-settlement governance entity for Ngāti Tūwharetoa (at least one of whose Trustees shall be nominated by the Downs whānau);
 - (b) The Tongariro National Trout Centre Society Incorporated; and
 - (c) The Minister of Conservation.
- 5.4 The Trustee appointments by each organisation under clause 5.3 shall be made in writing and with copies provided to the other organisations.
- 5.5 Each of these organisations shall have the following powers in respect of their appointee or when their term of office expires:
- (a) To remove such appointee and replace him or her with another representative in accordance with clause 6.2;
 - (b) To re-appoint an existing or retiring appointee;
 - (c) To approve a proxy or delegate to attend meetings and to act and vote in place of an appointee in the event that an appointee is unavailable for any reason;
 - (d) Of the nominated trustees, one (1) Trustee shall retire on 31 March [2019], another Trustee from a different organisation retiring on 31 March [2020], and a further Trustee from the remaining organisation retiring on 31 March [2021]. *[These dates to be confirmed having regard to formal establishment date of the Trust, settlement date and with the first retirement date being three (3) years from that date and with other dates following one year on]*

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

1: DEED OF TRUST (TONGARIRO NATIONAL TROUT CENTRE)

- (e) The nominated trustee to retire on each date specified above shall be decided by ballot (unless the nominated trustees agree unanimously). Thereafter one nominated trustee will retire in rotation on 31 March in each year after serving a term of three (3) years; and
- (f) Prior to the expiry of the term of office of each nominated trustee, each organisation appointing a nominated trustee will make an appointment or re-appointment of their respective appointee to take effect from 1 April following the expiry of the term of the previous nominated trustee of that organisation.

6. VACANCY OF TRUSTEE

6.1 A Trustee will cease to hold office if he or she:

- (a) dies;
- (b) becomes bankrupt or makes any composition or arrangement with his or her creditors;
- (c) becomes physically or mentally incapacitated to the extent that in the opinion of the other Trustees, expressed by resolution, the person is unable to perform the duties as Trustee;
- (d) becomes convicted of an indictable offence;
- (e) is absent from three consecutive meetings of the Board without reasonable cause or leave of absence granted by the Board;
- (f) resigns in writing addressed to the Board; or
- (g) on the expiration of his or her term of appointment.

6.2 A vacancy so caused shall be filled in the same way as if the term of office falling vacant had expired but the new appointee shall hold office only for the residue of the term of office of the Trustee whose place is taken.

7. FUNCTIONS AND DUTIES AND INTERESTS OF TRUSTEES

General

- 7.1 The management, control and administration of the Trust property shall be vested in the Trustees.
- 7.2 The management, control and administration of the Centre shall be undertaken by the Trustees in a holistic, collective and one integrated site manner.
- 7.3 The Trustees may exercise all or any of the powers of the Trust as set out in this Deed or otherwise conferred by law.
- 7.4 The Trustees will be responsible for furthering the objects and purposes of the Trust and declaring general policy relating to the implementation of the Trust Purposes.

1: DEED OF TRUST (TONGARIRO NATIONAL TROUT CENTRE)

Cultural Redress Arrangements

- 7.5 For the purpose of raising trout to harvest for significant Ngāti Tūwharetoa hui, tangi and other occasions all being non-commercial purposes, the Trustees will provide for the following arrangements with respect to the recreation reserves and associated structures and facilities at the Centre:
- (a) allow Ngāti Tūwharetoa to utilise a raceway;
 - (b) allow Ngāti Tūwharetoa to utilise any other existing structure or facility that the Department of Conservation considers is not required for its own purposes;
 - (c) at the request of Ngāti Tūwharetoa, to investigate arrangements to enable them to construct and manage any new structures and facilities; and
 - (d) support the capacity building of Ngāti Tūwharetoa selected and sponsored cadets to work with the Department of Conservation staff to acquire the knowledge and develop the skills required to successfully raise and harvest trout for the purpose set out in clause 7.5.

Interests of a Trustee

- 7.6 Having first declared his or her interest to a meeting of the Trustees, a Trustee may:
- (a) act by himself or herself or his or her business or professional capacity for the Board and that Trustee or his or her organisation shall be entitled to remuneration for professional services as if he or she were not a Trustee; and
 - (b) contract with the Board with regard to the holding of any office or place of profit or as vendor purchaser or otherwise without being liable to account for any resulting income or profit and no such contract or arrangement shall be liable to be avoided by reason of a Trustee's interest in it.
- 7.7 The declaring Trustee shall not vote on any matter in which he or she is interested and nor shall that Trustee be counted to make up the quorum present at the meeting.
- 7.8 A Trustee who is a Trustee of any other Trust or director or officer of any other body corporate with whom the Board shall contract shall be deemed to have an interest in the contract.
- 7.9 Such Trustee may make a general declaration of interest by reason of being such a Trustee, director or officer and such declaration shall be recorded in the Board's minute book. Once so recorded, a declaration of such interest need not be made at any future meeting of the Board.
- 7.10 For the avoidance of doubt, a Trustee's association with his or her respective appointing organisation is not considered an interest for the purposes of this clause.

8. PROCEEDINGS AND MEETINGS OF THE BOARD

- 8.1 The Trustees will hold an Annual General Meeting within four (4) months of the end of the Trust's financial year to approve the Trust's financial statements, review Trust

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

1: DEED OF TRUST (TONGARIRO NATIONAL TROUT CENTRE)

- policies and operations during the previous year and to make any appointments required by this Deed.
- 8.2 The Trustees shall meet at such times and places as they determine, and shall elect a Chairperson at their first meeting from one of the Trustees appointed by Te Kotahitanga o Ngāti Tūwharetoa who will remain Chairperson for three (3) years. Thereafter, the Chairperson shall be elected by the Trustees from amongst all Trustee representatives at every subsequent Annual General Meeting.
- 8.3 The Trustees may from time to time, make all such rules and protocols for the conduct of their meetings as they may deem desirable but not in a manner which would be inconsistent with anything in this Deed.
- 8.4 The Chairperson shall preside at all meetings of the Trustees at which she or he is present. In the absence of the Chairperson from any meeting, the Trustees present shall appoint another Trustee to preside at that meeting.
- 8.5 No business shall be transacted at any meeting unless a quorum is present at the time when the meeting proceeds to business. A quorum shall be a majority of the Trustees.
- 8.6 Any motion before the Trustees shall be decided by consensus. However, where a consensus decision cannot be reached on a question, it shall, unless otherwise specified in this Deed, be put as a motion to be decided by a majority of votes (which majority must have at least one Trustee from each representative organisation set out in clause 5.3). If the voting is tied, the motion shall be lost.
- 8.7 Any motion before the Trustees concerning the recommendation of a draft Reserve Management Plan for approval by the Minister of Conservation, shall comply with clause 8.6.
- 8.8 Any motion before the Trustees concerning the grant of any interest in land over the part of the reserve lands owned by Ngāti Tūwharetoa shall require the agreement of both Trustees appointed by Te Kotahitanga o Ngāti Tūwharetoa under clause 5.3(b) of this Deed. This clause recognises the proprietary interests of Ngāti Tūwharetoa for the part of the lands at the Centre which were returned to them by Treaty settlement.
- 8.9 There shall be not less than three (3) meetings of the Trustees in each financial year.
- 8.10 Any meeting of the Trustees may be held by telephone or video conference.
- 8.11 No act or proceeding of the Trustees or of any committee or any persons acting as a Trustee shall be invalidated in consequence of there being a vacancy in the number of Trustees at the time of that act or proceeding or the subsequent discovery that there was some defect in the entitlement or appointment of any person so acting or that he or she was incapable of being or had ceased to be a Trustee or that an insufficient number of meetings of the Trustees was held in any financial year.

9. PATRON OR PATRONS OF THE TRUST

- 9.1 The Trustees shall have the power to appoint a patron or patrons of the Trust.

1: DEED OF TRUST (TONGARIRO NATIONAL TROUT CENTRE)

10. APPOINTMENT OF ADVISORY TRUSTEES

- 10.1 The Trustees shall have the power to co-opt or appoint any person or persons to act as an Advisory Trustee to assist the Trust to achieve the objects and purposes of the Trust.
- 10.2 Any person co-opted or appointed under this clause, does not hold the office of a Trustee and shall not have the rights and powers of a Trustee. For avoidance of doubt, no Advisory Trustee is entitled to vote on any decision of the Board.
- 10.3 The appointment and removal of an Advisory Trustee shall be exercised by way of ordinary resolution of the Board; and such appointment and/or removal shall take effect from the time specified in such ordinary resolution.

11. POWER TO FORM COMMITTEES AND DELEGATION

- 11.1 The Trustees may, from time to time, appoint any committee and may delegate any of their powers and duties to any such committee or to any person, and the committee or person, as the case may be, may without confirmation by the Trustees exercise or perform the delegated powers or duties in like manner and with the same effect as the Trustees could themselves have exercised or performed them.
- 11.2 Any committee or person to whom the Trustees have delegated powers or duties shall be bound by the charitable objects and purposes of the Trust.
- 11.3 Any committee will not expend any moneys or incur any liabilities in excess of any budget approved by the Trustees without the prior approval of the Trustees.
- 11.4 Every such delegation shall be revocable at will, and no such delegation shall prevent the exercise of any power or the performance of any duty by the Trustees.
- 11.5 It shall not be necessary that any person who is appointed to be a member of any such committee, or to whom any such delegation is made, be a Trustee.

12. APPOINTMENT OF OFFICERS

- 12.1 The Trustees may, from time to time, appoint a General Manager, Secretary and such other officers and servants as are considered necessary for the exercise and performance of the functions and powers of the Trustees and may remove any person so appointed.
- 12.2 The Trustees may pay officers and servants of the Trust such salaries and allowances as they consider fit and proper remuneration for the respective services received by the Trust.

13. INCORPORATION

- 13.1 The Trustees shall apply to be incorporated as a Board under Part II of the Charitable Trusts Act 1957 under the name **TONGARIRO TROUT HATCHERY AND FRESHWATER ECOLOGY CENTRE TRUST**.
- 13.2 Upon incorporation all the powers conferred on the Trustees under this Deed may be exercised by the Board.

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

1: DEED OF TRUST (TONGARIRO NATIONAL TROUT CENTRE)

- 13.3 When the Trustees become incorporated as a Board under the Charitable Trusts Act 1957, they shall have custody of the common seal, and from time to time by resolution, they may adopt any seal they think fit.
- 13.4 The common seal of the Trust must not be affixed to any document unless the Trustees have already authorised its use on that document. When a document is to be sealed on the prior authority of the Trustees, the seal must be affixed to the document in the presence of two (2) Trustees who must sign the document.

14. INCOME, BENEFIT OR ADVANTAGE TO BE APPLIED FOR TRUST PURPOSES

- 14.1 Any income, benefit or advantage shall be applied to the Trust Purposes.
- 14.2 Each Trustee is entitled to remuneration for his or her services as may be reasonable having regard to that Trustee's duties and responsibilities; and to be further indemnified against, and reimbursed for, all expenses (including travel expenses) properly incurred in connection with the Trust and the Trustee's duties.
- 14.3 Remuneration and expenses of a Trustee shall be at the sole discretion and responsibility of his or her respective appointing organisation. For the avoidance of doubt, Trustees' remuneration and expenses may be provided from the Trust Fund.
- 14.4 Nothing expressed or implied in this Deed will permit the Trustees' activities, or any business carried on by or on behalf of or for the benefit of the Trustees in connection with the Trust, to be carried on for the private profit of any individual.
- 14.5 The provisions and effect of this clause 14 shall not be removed from this Deed and shall be included and implied into any document replacing this Deed.

15. FUNDS, PROPERTY AND ACCOUNTS

- 15.1 The Trustees shall keep true and fair accounts of all money received and expended.
- 15.2 All monies received by the Trust shall be paid within three (3) days to the credit of the Trust at such bank as the Trustees shall appoint and cheques or withdrawals against the bank account and other negotiable instruments shall be signed or endorsed by two Trustees as authorised by resolution of the Trustees.
- 15.3 All accounts and property of the Trust shall be held in the name of the Trust, except where the Trust is not incorporated and the property is required by law to be held in the name of the Trustees.
- 15.4 Consistent with clause 4.1 of this Deed, the Trust and Trustees will have other public finance and audit obligations under the Reserves Act 1977.

16. TRUSTEES LIABILITY AND INDEMNITY

- 16.1 No Trustee will be liable for any losses other than those attributable to his or her own dishonesty or the wilful commission of any act known by him or her to be a breach of trust.
- 16.2 No Trustee is obliged to take proceedings against a co-Trustee, or any former Trustee.

1: DEED OF TRUST (TONGARIRO NATIONAL TROUT CENTRE)

- 16.3 Each Trustee will be indemnified out of their respective appointing organisation's assets for any liability incurred as the result of any act or omission as a Trustee, unless such liability is incurred as the result of that Trustee's own dishonesty or deliberate breach of trust.
- 16.4 The Trust is entitled to take out and maintain from the Trust Fund any insurances (including public indemnity insurance) which are necessary for proper Trust administration and achievement of the objects and the Trust Purposes.

17. SUPPORTERS OF THE TRUST

- 17.1 This clause governs the admission, classification, rights and entitlements of a Supporter of the Trust.
- 17.2 Supporters of the Trust are people, groups or organisations who support the objects and purposes of the Trust and who wish to be associated with its activities and kept informed of the Trust's work.
- 17.3 Supporters of the Trust are to be listed in a register to be held by the Board or relevant committee.
- 17.4 A supporter does not have a right to receive any income or capital of the Trust Fund.
- 17.5 No Supporter of the Trust or any person associated with it may determine or materially influence any decision of the Trustees relating to the payment of any income of the Trust Fund or the conferring of any benefit or advantage to any Supporter or any other people, groups or organisations.
- 17.6 A Supporter of the Trust may give written notice at any time to the Board or relevant committee that it no longer wishes to have that status. As from the date of notice, that person, group or organisation will cease to be a Supporter of the Trust.
- 17.7 The Board or relevant committee may terminate the membership of any Supporter of the Trust by written notice to that person, group or organisation. As from the date of notice, that person, group or organisation will cease to be a Supporter of the Trust.
- 17.8 All donations or other contributions in any form made to the Trust by a Supporter of the Trust before that Supporter ceased to be a Supporter, shall remain the property of the Trust.

18. REVIEWS AND WITHDRAWAL OF TRUSTEES

- 18.1 The Trustees recognise that the Trust and this Deed of Trust are a living arrangement which, subject to clause 19.1, may be reviewed and adapted to take account of changing circumstances of the respective organisations, future developments and collaborative opportunities.
- 18.2 In the event that any of the organisations set out in clause 5.3 resolved to withdraw from the Trust, then that organisation will give advance written notice of its intention to withdraw to the other two organisations at least six (6) months before its proposed withdrawal.

1: DEED OF TRUST (TONGARIRO NATIONAL TROUT CENTRE)

- 18.3 As soon as reasonably practicable after written notice has been given under clause 18.2, the Trustees will convene a special meeting to discuss in good faith that intention, and to review and consider any developments or opportunities that may arise from the withdrawal of one organisation from the Trust, including the possibility of dissolving the Trust.
- 18.4 Following the event described in clause 18.3, should either of the two (2) remaining organisations resolve to withdraw from the Trust, the Trust may be dissolved in accordance with clause 20 of this Deed unless otherwise agreed by the two (2) remaining parties.
- 18.5 Where an organisation's withdrawal from the Trust becomes effective, then the two (2) remaining organisations may each appoint an additional Trustee to maintain a total of six (6) Trustees.
- 18.6 Should the Department of Conservation be the withdrawing party, then the special meeting of Trustees under clause 18.3 may consider the devolution of the Department's responsibilities in relation to the Centre, trout or freshwater ecology of the Taupō Fishery and/or the appropriateness of any successor of such responsibilities being appointed onto the Trust to maintain a total of six (6) Trustees.

19. ALTERATION OF DEED

- 19.1 The Trustees may, with the agreement of all Trustees, make alterations or additions to the terms and provisions of this Deed provided that no such alteration or addition shall detract from the exclusively charitable nature of the Trust; or result in the distribution of its assets on winding up or dissolution for any purpose that is not exclusively charitable.

20. DISPOSITION OF SURPLUS ASSETS

- 20.1 Should the Trust be dissolved in accordance with this Deed or by any other winding up, liquidation or dissolution in accordance with New Zealand law, then all property and monies remaining after the due settlement of costs, debts, liabilities and the affairs of the Trust shall, following consultation with the Ngāti Tūwharetoa governance entity by the remaining Trustees, be applied in the Taupō Fishing District to such alternative charitable body or bodies and for such charitable purposes as the remaining Trustees may unanimously decide.
- 20.2 Failing unanimity of remaining Trustee decisions for disposition of surplus assets under clause 20.1, then disposition may be directed by the High Court acting under section 27 of the Charitable Trusts Act 1957.

21. RESTRICTION TO CHARITABLE PURPOSES WITHIN NEW ZEALAND

- 21.1 Notwithstanding anything contained in this Deed, its provisions shall at all times be interpreted and construed so as to limit the objects and purposes of the Trust to those which are charitable within New Zealand and to the use of the Trust Fund within New Zealand.

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

1: DEED OF TRUST (TONGARIRO NATIONAL TROUT CENTRE)

Signed by Initial Trustee

[Insert name of initial first Trustee]

Witness:

Signature

Full Name

Residential Address

Occupation

Signed by Initial Trustee

[Insert name of initial second Trustee]

Witness:

Signature

Full Name

Residential Address

Occupation

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

1: DEED OF TRUST (TONGARIRO NATIONAL TROUT CENTRE)

Signed by Initial Trustee

[Insert name of initial third Trustee]

Witness:

Signature

Full Name

Residential Address

Occupation

Signed by Initial Trustee

[Insert name of initial fourth Trustee]

Witness:

Signature

Full Name

Residential Address

Occupation

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

1: DEED OF TRUST (TONGARIRO NATIONAL TROUT CENTRE)

Signed by Initial Trustee

[Insert name of initial fifth Trustee]

Witness:

Signature

Full Name

Residential Address

Occupation

Signed by Initial Trustee

[Insert name of initial sixth Trustee]

Witness:

Signature

Full Name

Residential Address

Occupation

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

1: DEED OF TRUST (TONGARIRO NATIONAL TROUT CENTRE)

2. NGĀTI TŪWHARETOA VALUES

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

2: NGĀTI TŪWHARETOA VALUES

IWI VALUES FOR WHENUAKURA (as shown on deed plan OTS-575-36)

The Whenuakura Ecological Area is an area at the southern end of the Pureora Forest Park. Whenuakura literally means precious lands. It is a taonga, rich in tribal histories and abundant ecology. Ngāti Tūwharetoa, particularly their hapu Te Maunga, treasure Whenuakura, their customary relationship with its natural environment and their kaitiaki responsibilities to it.

Ngāti Tūwharetoa have an ancestral relationship with the lands around Lake Taupo. The western shores up to the Hauhungaroa ranges are particularly associated with Te Rangiita's daughter Parekawa. Te Rangiita was paramount chief and a renowned warrior. On his death, his daughter Parekawa held mana across the western shores of Lake Taupo and she resided at a number of places, including at Ruahine, a peak associated with the Whenuakura Ecological Area.

Upon her death, Parekawa's children inherited their mother's authority over these lands. Her son Kikoreka, followed by his daughter Te Maunga, held sway over the Whenuakura Ecological Area. Ngāti Te Maunga, a hapū of Ngāti Tūwharetoa, maintain their ahikāroa (long, undisturbed occupation) and kaitiakitanga based on hereditary and whakapapa rights.

Ngāti Tūwharetoa tūpuna lived in a number of kāinga built at strategic points, including Whanganui Bay, Te Rawatanga, Ruahine, Pukeiahua and Oruaiwi. Ruahine was home to the Ngāti Tūwharetoa tūpuna Parekawa, and it is the resting place of Te Maunga. These kāinga gave ready access to Whenuakura's rich mahinga kai and resources.

Within Whenuakura there are nineteen streams and springs. The streams on the western side of Whenuakura flow into the Pungapunga river and out towards the Whanganui River. The waterways on the eastern side of Whenuakura flow into the Whanganui Stream, which contains the beautiful Maniatangaroa Falls and Whanganui Falls. The Whanganui Stream flows into Taupo Moana (Lake Taupo) at Whanganui Bay. The lands at Whanganui Bay are still in Ngāti Te Maunga ownership, and their marae stands there to this day.

The streams and waterways within Whenuakura were an important source of freshwater mahinga kai. Whenuakura also contains a mature native forest, which provided abundant kererū and other edible birds. Birding places within Whenuakura include Putaohore, Te Pāhoahoa, Te Kowheai Waione, Tekopae a Hape, Panapa, Te Ruapōtaka and Te Puka.

Whenuakura also provided a corridor through which peaceful iwi groups travelled in waka, up the Whanganui River from the south, or from the north via the Taringamotu River, branching into the Pungapunga River and up the Pungapunga Valley to Te Parekura, before crossing by foot along the upper reaches of the Whenuakura Plains.

Te Putahitanga is a small lake at the source of the Pungapunga and Whanganui Streams. It is the sight of a significant battle between Ngāti Te Maunga (and their whanaunga allies) and a hostile party from another iwi. Hostilities from other iwi were rare in this area. The other iwi was defeated and their dead were buried in the wetlands on the Whenuakura Plains. The wetland was renamed Te Parekura.

There are a number of pā associated with and close to Whenuakura. This includes Waiapu pā. The Whenuakura area is replete with history, whakapapa, and traditions.

2: NGĀTI TŪWHARETOA VALUES

IWI VALUES FOR PART PUREORA FOREST PARK (WITHIN THE AREA OF INTEREST) (as shown on deed plan OTS-575-35)

The Pureora Forest Park covers a large area of native forest on the western part of the Ngāti Tūwharetoa rohe. It extends from the Tuhua ranges in the south, up along either the Hauhungaroa and Hurakia ranges that border the western shore of Taupo Moana (Lake Taupo) and northwards into the Waikato River catchment.

Ngāti Tūwharetoa interests within the Pureora Forest Park lie within the Taupō Moana (Lake Taupo) and Waikato River watersheds. The Ngāti Tūwharetoa tūpuna Tūtetawha gave the following kōrero after travelling into the western watershed and meeting a rangatira of another iwi:

"Mai te tihi o nga maunga o Hauhungaroa, ki Hurakia, ki te tihi o Pureora Maunga, tae atu ki te taumata o Titiraupenga, ko te marangai e rere ki roto nga awa i te rawhiti o enei wai tapu mo te Inanga, mo te Koaro, mo te Kokopu. Nga awa e rere ki te taha hauauru o nga tihi o nga maunga, i waihotia mo te Koura, te Tuna me te Piharau."

"From the peak of the mountain Hauhungaroa, to Hurakia, to the peak of Pureora mountain, to the peak of Titiraupenga, the waters that flow into the eastern rivers are set aside for the Inanga, the Koaro, and the Kokopu. The rivers that flow to the west of these mountains are set aside for the Koura, the Tuna and te Piharau."

Although Ngāti Tūwharetoa also have interests beyond this rohe, this Overlay Classification Statement of Association focuses on the area described by Tūtetawha. It includes the Māori land blocks known as Pouakani, Tihoi, Waihana, Hauhungaroa and Waituhi Kuratau.

There are a number of important mountain peaks within the part Pureora Forest Park (within the area of interest). In the north, the peaks of Pureora and Titiraupenga dominate the view. Heading southwards, the peaks of Weraroa, Tuhingamata and Tuhua define the skyline. These ranges were renowned for their dense forestry (including totara, rimu, matai and kahikatea) and the rich bird life including kereru, kaka and kokako.

Ngāti Tūwharetoa tūpuna built fortified pa sites and kainga across these lands. They occupied caves, buried loved ones in urupa and rua kōiwi, gathered kai from forest lands, rivers, lakes, streams, wet-lands. They knew intimately the fishing-grounds, birding areas and other mahinga-kai. They also had abundant plantations of flax of many varieties with which they weaved clothing, mats, baskets, ropes and many other uses. They grew hue (calabash) to store preserved birds (huahua), kai, rongoa and water.

Ngāti Tūwharetoa tūpuna travelled from one kainga to another, to cultivate, snare birds and catch kokopu and native fish. They knew the seasons well and when to cultivate and hunt. They knew the habits of all the bird species: when the birds gorged themselves with certain berries that made them fat, drunk, and simple to catch. The snaring-tree was very important for this purpose. Hitiri names some of the bird-snaring trees. Rakaupiki was at Titiraupenga. Te Rapa was below Pureora. Paiakapurupuru a rimu tree. Tarata, Te Ruakaka ā-Tutu and Pūwharauwhara were totara trees. Te Matai and Taurakumikumi both matai trees. The feathers from these birds were worn as adornments and also used for making mats and clothing. The birds themselves and feathers were used as adornments worn from the earlobe and in the hair.

2: NGĀTI TŪWHARETOA VALUES

Ngāti Tūwharetoa hapū associated with the part Pureora Forest Park (within the area of interest), include Ngāti Hinemihi, Ngāti Manunui, Ngāti Te Maunga, Ngāti Parekawa, Ngāti Wheoro, Ngāti Tarakaiahi, Ngāti Te Kohera, Ngāti Hā, Ngāti Wairangi and Ngāti Moekino.

Titiraupenga and Pureora-ā-Tia

After the arrival of Te Arawa waka, a number of tūpuna journeyed inland. Tia and his group initially travelled towards the east of Taupōnui-ā-Tia but eventually they turned towards the west of the lake. There are a number of place names commemorating Tia's journey including Te Tihoi a Tia (the place where Tia wandered aimlessly) and Pureora-ā-Tia (the cleansing ritual of Tia). Tia then ascended Titiraupenga, erecting an altar and claiming the lands for his descendants. When Tia died, he was interred at Titiraupenga.

Kāinga close to both Titiraupenga and Pureora include Kaiwhā, Pukerimu, Ohou and Taturangi. There are also a number of wāhi tupuna sites near the Waimonoa stream, which runs from Titiraupenga into the Huruhurumāku stream, then north to the Waikato River. Hākuhanui (the eponymous ancestor of the Ngāti Hā hapū) was a mokopuna of Tia who lived at Kakaho. One day when crossing a stream, he slipped and the feather ornaments of his taiaha became wet, hence the name of the stream Huruhurumāku (wet feathers).

Important pā sites near Titiraupenga and Pureora include Ahirara, Horaaruhe and Tūtakamoana. Tūtakamoana was a fortified pā near the Waimeharua stream and a stronghold of Ngāti Te Kohera and their whanaunga hapū. From Te Weri, Ngāti Tarakaiahi and their whanaunga hapū had access to the Hurakia and Hauhungaroa ranges to hunt birds. Te Raro was the most important bird-snaring area at Titiraupenga. It was here that a priestess of bird lore would open the bird-snaring season each year.

Hauhungaroa

Hauhungaroa is the name of a range of hills situated to the west of Lake Taupo. Hauhungaroa means the long, frosted breath. A Ngāti Tūwharetoa tradition records that the ranges were named by Tia when he awoke one very cold morning and observed his breath in the cold air.

The Ngāti Tūwharetoa hapū associated with this area tended to be mobile. At certain parts of the year they lived on the shores of Lake Taupo and the Waikato River, where they gathered kai such as kōkopu, kōaro and kōura. Maraekowhai was a stronghold of Ngāti Parekawa and Ngāti Te Kohera, and Waihaha was a stronghold for Ngāti Tarakaiahi and Ngāti Wheoro. In other times of the year, they moved to kāinga within Hauhungaroa. Pā and kāinga associated with these areas included Kakaho, Te Pou a te Piki, Te Harure, Te Putu, Te Whaiti and Te Hirata.

The tupuna Te Kohera was born at Te Pakaunui at Hauhungaroa. After his birth, his mother Parekaawa went to the Waitakahi swamp to bathe and there she left her garments.

Ngāti Tūwharetoa greatly valued the forests growing along the Hauhungaroa ranges, which contained extensive stands of mataī, tōtara, rimu and a range of ferns. There were also a number of streams in this area, providing water, mahinga kai and other resources.

The foods gathered within Hauhungaroa included birds, kiore (rat), pikopiko (fern), miro berries and other foods and rongoā (medicine). The kōtukutuku and the miro trees produced sweet berries that enticed kererū and other birds to be snared. Ngāti Tūwharetoa highly valued kererū as a bountiful and important traditional food. Birds were gathered only at particular

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

2: NGĀTI TŪWHARETOA VALUES

times of the year and only in accordance with tikanga. Important karakia and rituals were performed by tohunga to open the bird season each year. One of the first tasks carried out by Herea Te Heuheu Tūkino I after his appointment as Ariki was to mark the opening of the birding season at Waituhi on the Hauhungaroa range.

Te Hiapo was an ancient kāinga on the Hauhungaroa block for those who were taught the bird rituals. Te Aputa was another area where bird lore was learnt. Different families and rangatira were associated with particular birding trees and waka manu. A waka manu is a wooden container, filled with freshwater and placed in a tree. Birds were snared as they stopped to drink from the waka manu. The birds' tail feathers were removed and buried, and the birds were preserved in their own huahua (fat). Certain feathers were set aside and used in clothing and for adornment.

Ngāti Tūwharetoa gathered a range of food and delicacies from the Hauhungaroa Range for a number of important hui. Providing kai enabled hapū to exercise manaakitanga and rangatiratanga. Birds were sent to Maraekōwhai at the time of Parekaawa's death. Birds from Hauhungaroa fed the thousands that attended the Pukawa hui Hinana ki uta, to appoint a Maori king.

Much of the Hauhungaroa blocks, formerly in Ngāti Te Maunga customary ownership, have been incorporated into the part Pureora Forest Park (within the area of interest). A section of the Part Hauhungaroa 2D2 block is included in part Pureora Forest Park (within the area of interest).

3. PROTECTION PRINCIPLES

3.1 PROTECTION PRINCIPLES FOR WHENUAKURA

3.1: PROTECTION PRINCIPLES FOR WHENUAKURA

Protection Principles for Whenuakura (as shown on deed plan OTS-575-36)

The following Protection Principles are directed at the Minister of Conservation avoiding harm to, or the diminishing of Ngāti Tūwharetoa values (and in particular, Ngāti Te Maunga values) related to Whenuakura:

1. **He whenua tupuna, he mana, he tapu, he mauri anō tōna** (An ancestral land, with its own mana, tapu and mauri):
 - (a) protection of wahi tupuna, indigenous flora and fauna, traditional materials and resources, water and the wider environment within Whenuakura.
2. **He tangata whenua: Ko Whenuakura he pou whakapapa, he pou herenga nā Ngāti Tūwharetoa i te ahi kā roa, te kaitiakitanga, te rangatiratanga** (The people of the land: Whenuakura is a repository of whakapapa, connecting Ngāti Tūwharetoa with their ancestral fires, kaitiakitanga and rangatiratanga):
 - (a) recognition of the mana, kaitiakitanga and tikanga of Ngāti Tūwharetoa with regard to Whenuakura;
 - (b) respect for Ngāti Tūwharetoa tikanga and kaitiakitanga within Whenuakura;
 - (c) respect for the relationship of Ngāti Tūwharetoa with Whenuakura, and encouraging others to respect that relationship;
 - (d) accurate portrayal of the association of Ngāti Tūwharetoa with Whenuakura; and
 - (e) recognition of the interest of Ngāti Tūwharetoa in actively protecting native species within Whenuakura including, but not limited to, kereru and pikopiko.
3. **Kua toro te mate me whakaora rawa** (the wellbeing of Whenuakura must be restored).

Actions by the Director General of Conservation in relation to the Protection Principles

The following actions will be taken by the Department of Conservation in relation to the Protection Principles:

- (a) Department of Conservation staff, contractors, conservation board members, concessionaires and the public will be provided with information about Ngāti Tūwharetoa values and the existence of the overlay classification and will be encouraged to respect the association Ngāti Tūwharetoa have with Whenuakura;
- (b) the Department of Conservation will work with Ngāti Tūwharetoa on the design and location of new signs to discourage inappropriate behaviour, including vehicle access through and across Whenuakura, fossicking, the modification of wāhi tapu sites and disturbance of other taonga;
- (c) the public will be informed that the removal of all rubbish and wastes from Whenuakura is required;
- (d) Ngāti Tūwharetoa association with Whenuakura will be accurately portrayed in all new Department of Conservation information and educational material;

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

3.1: PROTECTION PRINCIPLES FOR WHENUAKURA

- (e) Ngāti Te Maunga (with the support of Te Kotahitanga) will be consulted regarding any proposed Department of Conservation public information or educational material relating to Whenuakura, and the Department of Conservation will only use Ngāti Tūwharetoa cultural information with the consent of Te Kotahitanga (in support of Ngāti Te Maunga);
- (f) significant earthworks and disturbances of soil and/or vegetation will be avoided wherever possible;
- (g) where significant earthworks and disturbances of soil and/or vegetation cannot be avoided, Te Kotahitanga will be consulted at an early stage and particular regard will be had to their views, including those relating to kōiwi (human remains) and archaeological sites;
- (h) any kōiwi (human remains) or other taonga found or uncovered by the Department of Conservation will be left untouched and Te Kotahitanga informed as soon as possible to enable Ngāti Tūwharetoa (and in particular, Ngāti Te Maunga) to deal with the kōiwi or taonga in accordance with their tikanga;
- (i) the Department of Conservation will work with Ngāti Te Maunga to identify opportunities to involve Ngāti Te Maunga in programmes within Whenuakura, including native species management programmes, pest control and ranger duties; and
- (j) the Department of Conservation will ensure that applicants for concessions, permits and any other rights affecting Whenuakura engage at any early stage with Ngāti Te Maunga.

**3.2 PROTECTION PRINCIPLES FOR PART PUREORA FOREST PARK (WITHIN THE
AREA OF INTEREST)**

3.2: PROTECTION PRINCIPLES FOR PART PUREORA FOREST PARK (WITHIN THE AREA OF INTEREST)

Protection Principles for part Pureora Forest Park (within the area of interest) (as shown on deed plan OTS-575-35)

The following Protection Principles are directed at the Minister of Conservation avoiding harm to, or the diminishing of Ngāti Tūwharetoa values related to part Pureora Forest Park (within the area of interest):

1. **He whenua tupuna, he mana, he tapu, he mauri anō tōna** (An ancestral land, with its own mana, tapu and mauri):
 - (a) protection of wahi tupuna, indigenous flora and fauna, traditional materials and resources, water and the wider environment within part Pureora Forest Park (within the area of interest).
2. **He tangata whenua: Ko te whenua he pou whakapapa, he pou herenga nā Ngāti Tūwharetoa i te ahi kā roa, te kaitiakitanga, te rangatiratanga** (The people of the land: The land is a repository of whakapapa, connecting Ngāti Tūwharetoa with their ancestral fires, kaitiakitanga and rangatiratanga):
 - (a) recognition of the mana, kaitiakitanga and tikanga of Ngāti Tūwharetoa with regard to part Pureora Forest Park (within the area of interest);
 - (b) respect for Ngāti Tūwharetoa tikanga and kaitiakitanga within part Pureora Forest Park (within the area of interest);
 - (c) respect for the relationship of Ngāti Tūwharetoa with part Pureora Forest Park (within the area of interest), and encouraging others to respect that relationship;
 - (d) accurate portrayal of the association of Ngāti Tūwharetoa with part Pureora Forest Park (within the area of interest); and
 - (e) recognition of the interest of Ngāti Tūwharetoa in actively protecting native species within part Pureora Forest Park (within the area of interest) including, but not limited to, kereru and pikopiko.
3. **Kua toro te mate me whakaora rawa** (the wellbeing of part Pureora Forest Park (within the area of interest) must be restored).

Actions by the Director General of Conservation in relation to the Protection Principles

The following actions will be taken by the Department of Conservation in relation to the Protection Principles:

- (a) Department of Conservation staff, contractors, conservation board members, concessionaires and the public will be provided with information about Ngāti Tūwharetoa values and the existence of the overlay classification and will be encouraged to respect the association Ngāti Tūwharetoa have with part Pureora Forest Park (within the area of interest);
- (b) the Department of Conservation will work with Ngāti Tūwharetoa on the design and location of new signs to discourage inappropriate behaviour, including vehicle

3.1: PROTECTION PRINCIPLES FOR WHENUAKURA

access through and across part Pureora Forest Park (within the area of interest), fossicking, the modification of wāhi tapu sites and disturbance of other taonga;

- (c) the public will be informed that the removal of all rubbish and wastes from part Pureora Forest Park (within the area of interest) is required;
- (d) Ngāti Tūwharetoa association with part Pureora Forest Park (within the area of interest) will be accurately portrayed in all new Department of Conservation information and educational material;
- (e) Te Kotahitanga will be consulted regarding any proposed Department of Conservation public information or educational material relating to part Pureora Forest Park (within the area of interest), and the Department of Conservation will only use Ngāti Tūwharetoa cultural information with the consent of Te Kotahitanga;
- (f) significant earthworks and disturbances of soil and/or vegetation will be avoided wherever possible;
- (g) where significant earthworks and disturbances of soil and/or vegetation cannot be avoided, Te Kotahitanga will be consulted at an early stage and particular regard will be had to their views, including those relating to kōiwi (human remains) and archaeological sites;
- (h) any kōiwi (human remains) or other taonga found or uncovered by the Department of Conservation will be left untouched and Te Kotahitanga informed as soon as possible to enable Ngāti Tūwharetoa to deal with the kōiwi or taonga in accordance with their tikanga;
- (i) the Department of Conservation will work with Te Kotahitanga to identify opportunities to involve Ngāti Tūwharetoa in programmes within part Pureora Forest Park (within the area of interest), including native species management programmes, pest control and ranger duties; and
- (j) the Department of Conservation will ensure that applicants for concessions, permits and any other rights affecting part Pureora Forest Park (within the area of interest) engage at an early stage with Ngāti Tūwharetoa.

4. STATEMENTS OF ASSOCIATION

4.1 STATEMENTS OF ASSOCIATION FOR PUREORA AND TĪTĪRAUPENGA

4.1: STATEMENTS OF ASSOCIATION FOR PUREORA AND TĪTĪRAUPENGA

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

Pureora and Tītīraupenga

The following Statement of Association by Ngāti Tūwharetoa applies to part of Pureora maunga, part of Pureora Forest and Tītīraupenga.

Ngāti Tūwharetoa interests within the Pureora Forest Park lie within the Taupō moana (Lake Taupo) and Waikato River watersheds. The Ngāti Tūwharetoa tūpuna Tūtetawha gave the following kōrero after travelling into the western watershed and meeting a rangatira of another iwi:

"Mai te tihi o nga maunga o Hauhungaroa, ki Hurakia, ki te tihi o Pureora Maunga, tae atu ki te taumata o Titiraupenga, ko te marangai e rere ki roto nga awa i te rawhiti o enei wai tapu mo te Inanga, mo te Koaro, mo te Kokopu. Nga awa e rere ki te taha hauauru o nga tihi o nga maunga, i waihotia mo te Koura, te Tuna me te Piharau."

"From the peak of the mountain Hauhungaroa, to Hurakia, to the peak of Pureora mountain, to the peak of Titiraupenga, the waters that flow into the eastern rivers are set aside for the Inanga, the Koaro, and the Kokopu. The rivers that flow to the west of these mountains are set aside for the Koura, the Tuna and te Piharau."

Although Ngāti Tūwharetoa also have interests beyond this rohe, this Statement of Association focuses on the area described by Tūtetawha. It includes the Māori land blocks known as Pouakani, Tihoi, Waihana, Hauhungaroa and Waituhi Kuratau.

Ngāti Tūwharetoa hapū associated with the Pureora Forest Park, include Ngāti Hinemihi, Ngāti Manunui, Ngāti Te Maunga, Ngāti Parekawa, Ngāti Wheoro, Ngāti Tarakaiahi, Ngāti Te Kohera, Ngāti Hā, Ngāti Wairangi and Ngāti Moekino.

The Tītīraupenga, Pureora, Tuhua, Hurakia and the Hauhungaroa range were renowned for their dense forestry (including tōtara, rimu, mataī and kahikatea) and the rich bird life including kererū, kākā and kōkako.

Tītīraupenga and Pureora-ā-Tia

After the arrival of Te Arawa waka, a number of tūpuna journeyed inland. Tia and his group initially travelled towards the east of Taupōnui-ā-Tia but eventually they turned towards the west of the lake. There are a number of place names commemorating Tia's journey including Te Tihoi a Tia (the place where Tia wandered aimlessly) and Pureora-ā-Tia (the cleansing ritual of Tia). Tia then ascended Tītīraupenga, erecting an altar and claiming the lands for his descendants. When Tia died, he was interred at Tītīraupenga.

Kāinga close to both Tītīraupenga and Pureora include Kaiwhā and Pukerimu. Important pā sites include Ahirara, Horaaruhe and Tūtakamoana. Tūtakamoana was a fortified pā and a stronghold of Ngāti Te Kohera and their whanaunga hapū. From Te Werī, Ngāti Tarakaiahi and their whanaunga hapū had access to the Hurakia and Hauhungaroa range to hunt birds. Te Raro was the most important bird-snaring area at Tītīraupenga. It was here that a priestess of bird lore would open the bird-snaring season each year.

4.1: STATEMENTS OF ASSOCIATION FOR PUREORA AND TĪTĪRAUPENGA

Hauhungaroa

Hauhungaroa is the name of a range of hills situated to the west of Lake Taupo. Hauhungaroa means the long, frosted breath. A Ngāti Tūwharetoa tradition records that the ranges were named by Tia when he awoke one very cold morning and observed his breath in the cold air.

The Ngāti Tūwharetoa hapū associated with this area tended to be mobile. At certain parts of the year they lived on the shores of Lake Taupo and the Waikato River, where they gathered kai such as kōkopu, kōaro and kōura. Maraekowhai was a stronghold of Ngāti Parekawa and Ngāti Te Kohera, and Waihaha was a stronghold for Ngāti Tarakaiahi and Ngāti Wheoro. In other times of the year, they moved to kāinga within Hauhungaroa. Pā and kāinga associated with these areas included Kakaho, Te Pou a te Piki, Te Harure, Te Putu, Te Whaiti and Te Hirata.

Ngāti Tūwharetoa greatly valued the forests growing along the Hauhungaroa range, which contained extensive stands of mataī, tōtara, rimu and a range of ferns. There were also a number of streams in this area, providing water, mahinga kai and other resources. Hākuhanui (the eponymous ancestor of the Ngāti Hā hapū) was a mokopuna of Tia who lived at Kakaho. One day when crossing a stream, he slipped and the feather ornaments of his taiaha became wet, hence the name of the stream Huruhurumāku (wet feathers) which runs from Tihoi to the Mangakino River.

The foods gathered within Hauhungaroa included birds, kiore (rat), pikopiko (fern), miro berries and other foods and rongoā (medicine). The kōtukutuku and the miro trees produced sweet berries that enticed kererū and other birds to be snared. Ngāti Tūwharetoa highly valued kererū as a bountiful and important traditional food. Birds were gathered only at particular times of the year and only in accordance with tikanga. Important karakia and rituals were performed by tohunga to open the bird season each year. One of the first tasks carried out by Herea Te Heuheu Tūkino I after his appointment as Ariki was to mark the opening of the birding season at Waituhi on the Hauhungaroa range.

Te Hiapo was an ancient kāinga on the Hauhungaroa block for those who were taught the bird rituals. Te Aputa was another area where bird lore was learnt. Different families and rangatira were associated with particular birding trees and waka manu. A waka manu is a wooden container, filled with freshwater and placed in a tree. Birds were snared as they stopped to drink from the waka manu. The birds' tail feathers were removed and buried, and the birds were preserved in their own huahua (fat). Certain feathers were set aside and used in clothing and for adornment.

Ngāti Tūwharetoa gathered a range of food and delicacies from the Hauhungaroa Range for a number of important hui. Providing kai enabled hapū to exercise manaakitanga and rangatiratanga. Birds were sent to Maraekōwhai at the time of Parekaawa's death. Birds from Hauhungaroa fed the thousands that attended the Pukawa hui *Hinana ki uta*, to appoint a Maori king.

4.1: STATEMENTS OF ASSOCIATION FOR PUREORA AND TĪTĪRAUPENGA

Much of the Hauhungaroa blocks, formerly in Ngāti Te Maunga customary ownership, have been incorporated into the Pureora Forest Park. A section of the Part Hauhungaroa 2D2 block is included in the Pureora Forest Park.

Whenuakura

The Whenuakura Ecological Area is an area at the southern end of the Pureora Forest Park. It is particularly associated with Ngāti Te Maunga, a hapū of Ngāti Tūwharetoa, who maintain their ahikāroa (long, undisturbed occupation) based on hereditary and whakapapa rights derived from ahikaroa (long, undisturbed occupation). Ngāti Te Maunga's eponymous tupuna Te Maunga, inherited mana in respect of the Hauhungaroa lands from her father Kikoreka and her grandmother Parekawa.

Whenuakura literally means precious lands. It is a taonga whenua, rich in tribal histories. Ngāti Tūwharetoa value Whenuakura for its abundant ecology and for their customary relationship with the natural environment and our kaitiaki responsibilities to it.

Ngāti Tūwharetoa tupuna lived in a number of kāinga built at strategic points, including Whanganui Bay, Te Rawatanga, Ruahine, Pukeiahua and Oruaiwi. These kāinga gave ready access to Whenuakura's rich mahinga kai and resources. Ruahine was home to the Ngāti Tūwharetoa tupuna Parekawa, and it is the resting place of Te Maunga.

Within Whenuakura there are nineteen streams and springs, containing freshwater mahinga kai. There is also a mature native forest, which provided Ngāti Tūwharetoa with abundant kererū and other edible birds. Birding places within Whenuakura include Putaohore, Te Pāhoahoa, Te Kowheai Waione, Tekopae a Hape, Panapa, Te Ruapōtaka and Te Puka.

Whenuakura also provided a corridor through which peaceful iwi groups travelled in waka, up the Whanganui River from the south, or from the north via the Taringamotu River, branching into the Pungapunga River and up the Pungapunga Valley to Te Parekura, before crossing by foot along the upper reaches of the Whenuakura Plains.

Te Putahitanga is a small lake at the source of the Pungapunga and Whanganui Streams. It is the sight of a significant battle between Ngāti Te Maunga, supported by their whanaunga allies, against another iwi. This was a rare occurrence. The other iwi was defeated and their dead buried in the wetlands on the Whenuakura Plains. The wetland was renamed Te Parekura.

There are a number of pā associated with and close to Whenuakura. This includes Waiapu pā.

Tuhua

In 1913, Tūreiti Te Heuheu Tūkino V repeated the words of his grandfather Mananui Te Heuheu Tūkino II:

"One time he considered his body to be similar to the land, one of his thighs on Titiokura, the other on Otairi, one of his arms on Pare te tai tonga, one on Tuhua mountains, his head on Tongariro, his body lying on Taupō. That his word made sacred the land, a region of his mana, a region where Pākehā were forbidden to enter, land never to be lost to the Pākehā. This was the greatest concern to him."

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

4.1: STATEMENTS OF ASSOCIATION FOR PUREORA AND TĪTĪRAUPENGA

As described by Tūtetawha, Tuhua is part of the western boundary of Ngāti Tūwharetoa. Ngāti Tūwharetoa hapū Ngāti Hinemihi, Ngāti Manunui and Ngāti Tarakaiahi all maintain their kaitiakitanga and mana in respect of Tuhua.

There are numerous streams in this area running towards the Whanganui River, including the Waipare, Pungapunga and Taringamotu Rivers. The Waituhi Stream flows into the Kuratau River towards Lake Taupo. The Waituhi Stream was named because of fallen trees that form natural water troughs after the southerly wind has blown.

4.2 STATEMENTS OF ASSOCIATION FOR GEOTHERMAL RESOURCES

4.2: STATEMENTS OF ASSOCIATION FOR GEOTHERMAL RESOURCES

The following Statement of Association by Ngāti Tūwharetoa applies to the following geothermal resources within the Area of Interest:

- Tokaanu-Waihi-Hīpaua Geothermal Field;
- Horomātangi Geothermal Field;
- Wairākei-Tauhara Geothermal Field; and
- Rotokawa Geothermal Field.

Ngatoroirangi

Ngatoroirangi was the tohunga (priest and navigator) of Te Arawa Waka. He inherited knowledge and mana from a number of priestly lineages including from Puhaorangi (Te Heketanga a Rangi), from his grandfather Tuamatua, and from te Whānau Ahi through his grandmother Waiheketua. Te Whānau Ahi were tohunga specialising in geological matters including knowledge of volcanism, geothermal activity and minerals.

After Te Arawa waka arrived in Aotearoa, Ngatoroirangi travelled inland from Te Awa o te Atua towards the peaks of the Central North Island. As he climbed Tongariro, he began to succumb to the cold southern wind. He called out to his sisters, Kuiwai and Haungaroa. They called upon their ancestor Parawhenuamea and the twin spirits Te Pupu and Te Hoata were sent forth, swimming as two parallel streams of fire beneath the sea before rising at Whakaari, Tarawera, Rotorua, Orakei Korako, Wairakei, Tokaanu and eventually at Tongariro. When they arrived, they had one kete of geothermal energy remaining. Ngatoroirangi therefore named the spring Ketetahi (one kete).

Through the whakapapa and deeds of Ngatoroirangi, Ngāti Tūwharetoa are the descendants of geothermal taonga and have ancestral rights and responsibilities to the taonga and its active use and development as taonga tuku iho.

Tokaanu-Waihi-Hīpaua Geothermal Field

The Ngāti Tūwharetoa hapū from te Mātāpuna revere the Tokaanu-Waihi-Hīpaua geothermal field. The surface features at Te Waiariki are closely associated with Ngāti Turangitukua. The Tokaanu surface features are closely associated with Ngāti Kurauia. The Waihi-Hīpaua surface features are closely associated with Ngāti Turumakina.

Te Waiariki

Te Waiariki is an area to the south-east of Maunganamu in the Tokaanu-Waihi-Hīpaua geothermal field. Te Waiariki pā is in this area as well as Waiariki urupā, where the Ngāti Tūwharetoa tupuna Rangiamohia is buried. There is another urupā at Mangakopikopiko.

Te Waiariki was a very important area for the local hapū. The geothermally warmed soil created ideal conditions for a seed nursery and protected crops from frost. Young seedlings were grown to size before being distributed out to the surrounding kāinga for planting. This geothermal microclimate allowed for the easy growing of kūmara and later crops including taro, maize and potatoes.

Te Waiariki includes Huruhurumahina, an area of gardens and cultivations, where the Tokaanu and Tongariro Rivers once joined. The Tongariro River once flowed westward, and

4.2: STATEMENTS OF ASSOCIATION FOR GEOTHERMAL RESOURCES

was known as the Waikato. Ngāti Tūwharetoa tradition records that the river was diverted by a taniwha known as Huruhurumahina, after which the river was re-named Tongariro.

Tokaanu

Ngāti Tūwharetoa tradition records that the Tokaanu geothermal field begins at Tihia and the Kakaramea Range, then flows northwards to charge puia (geysers) at Tokaanu and Waihi.

The major geothermal pools Marakerake were at the Tokaanu kāinga. Ngāti Tūwharetoa have recorded more than 500 different puia of various sizes in the Tokaanu area but most have now disappeared. Amongst the most significant were the geysers at Tokaanu including Pirori and Te Korokoro o Te Poinga, Paurini, Toretiti, Te Atakokoreke creek, te puia nui, Teretere, and Huru Kareao.

Ngāti Kurauia community life centered on the puia as whānau gathered to cook in the puia maoa (cooking spring) and to bathe in the larger pools. Ngāti Tūwharetoa kuia still remember the elders gathering in the pools at night, singing and relaxing together. It was sometimes said that the days were spent at Hurumahinahina working the gardens but that nights were spent in the large pools of Tokaanu.

Some pools were lined with mānuka and set aside for children and other pools for older girls. There were pools specifically used for washing hair as the clays and chemicals in the water were natural conditioners. Pools were also set aside for healing and treatment of rashes. There are also puia maoa kai, which are still used for cooking for events such as large hākari for manuhiri.

One system of five springs, known as te puia nui, worked in succession so that the springs would vary in depth and heat. The fifth spring, known as "Piri", is sometimes dry. Ngāti Kurauia people knew intimately the changes and signs indicating which pools were safe and which should be avoided. Manuhiri (visitors) risked accidental injury and death if they used the pools without knowing the signs of safety.

Ngāti Tūwharetoa tradition records that a taniwha kaitiaki named Kohuru Kareao dwells in the Tokaanu hot springs. The taniwha was renamed Huri Kareao after his movements turned the Tokaanu River from its course. The river once flowed to the east of Maunganamu, past Te Waiariki into the lagoon known as Te Awa o Taringa.

Waihi

There are numerous puia at Waihi. Some traditional pools include:

- Rotopotakataka, a spring for sacred rituals of food;
- Te Kiri o Pahau, a healing spring for skin ailments, arthritis, rheumatism, muscle and limb recovery and battle wounds.
- Te Kōrua, a hollow of water used for bathing only.
- Ngapuauiaki (meaning bursting, beating water), used for food and run-off for bathing.
- Waihi Te Kōrua, a hot and cold spring used for healing, medicinal and bathing purposes.

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

4.2: STATEMENTS OF ASSOCIATION FOR GEOTHERMAL RESOURCES

- Waihiparehopu (meaning the captured, rising waters), used for cooking and bathing.
- Te Rorohi, (meaning to feel faint), a pool for relaxation to the point of passing out or sleeping.
- Te Paraki, a cooking and bathing pool.
- Te Pakihi o Te Oinga, the bathing pool of Te Oinga where she beautified herself.
- Waihi Kahakaharoa (meaning the long rising mantle of water), a trench of rising geothermal water used for bathing. This was a major congregating area as up to 30 people could bath at the same time.

There are three sites that have escaped the raised lake levels and continue to be used by Ngāti Turumakina:

- Te Tuki (meaning the beating waters), used for bathing.
- Paraki Tuarua, used to cook and bathe.
- Whakatara, a bathing place for the high born and esteemed manuhiri.

Hīpaua

Hīpaua is an area of about five square kilometres above Te Rapa and Waihi village. It covers the whole side of the Kakaramaea ranges with puia and steam vents. Ngāti Tūwharetoa consider that this area is home to Hineitapeka, an important kaitiaki who regulates the activity of the volcanic fires and cares for the wellbeing of te Whānau Ahi. The wharenuī at Waihi is named Tapeka, acknowledging the importance of the kaitiaki and te Whānau Ahi to Ngāti Turumakina.

Above Hīpaua is Te Rua o Kareao (the lair of Kareao) a guardian taniwha who resided in Tokaanu and travelled to Hīpaua and Kakaramaea. Hīpaua is also considered to be the home of Hineuku. Clays of different colours are found here, including kōkōwai (red ochre), which is used as paint while white clay is used to produce soap. Other vents and crevices were used for cooking or healing purposes. Ngāti Tūwharetoa hapū would also observe patterns of steam rising from Hīpaua as an indicator of incoming weather.

Ngāti Tūwharetoa whakapapa records a number of landslides, earthquakes and geothermal activity in te Mātāpuna. One example refers to a tohunga named Aratukutuku who was disturbed as she undertook a particular ritual. When the man who disturbed her disappeared while fishing, Aratukutuku was blamed for his disappearance and was attacked by his relatives. Aratukutuku called on her taniwha, who rose up from the lake, and caused the kāinga and their inhabitants to collapse into the lake waters. This event is remembered as "te papa i kurauia" (the land scooped out). In the 1930s, local elders stated that the palisades of the old kāinga were still visible on the lake.

In 1846, Hīpaua was the site of a large landslide, which buried Te Rapa, the home of the Ariki, Mananui Te Heuheu Tūkino II. Many lives, including Mananui, were lost in the landslide.

4.2: STATEMENTS OF ASSOCIATION FOR GEOTHERMAL RESOURCES

Horomātangi Geothermal Field

The Horomātangi Reef and Horomātangi geothermal field are named in honour of the taniwha kaitiaki Horomātangi. Horomātangi is the most powerful taniwhā of the Ngāti Tūwharetoa rohe. He was one of the kaitiaki that assisted Ngatoroirangi in his exploration from Te Awa ō te Atua (at Matata) to Tongariro.

Horomātangi is the major guardian of Taupo moana. He is said to live in a cave in the reef beneath Motutaiko island. According to Ngāti Tūwharetoa tradition, Horomātangi would churn up the water in mad surges that bubbled up like a geyser. He would throw up large stones, which would sometimes fall upon passing waka. For this reason, Ngāti Tūwharetoa travellers would avoid the area between Motutaiko and Te Karaka point as it was too dangerous to traverse. Even when the general surface of the lake appears smooth, the water on this spot is in boiling commotion. Active fumaroles have been identified in the vicinity of Horomātangi Reef, which was the main vent for the great Taupo eruption.

Ngāti Tūwharetoa tradition records that as Te Pupu and Te Hoata travelled towards Tongariro, Horomātangi showed the way by blowing plumes of pumice high into the air at Karapiti and elsewhere.

Two other taniwha were said to sometimes live with Horomātangi before returning to their own places underwater or even travelling across to Rotorua. Those taniwha are known as Te Toko (who usually resided at Oruanui) and Te Ihu (who was usually at Tapuaeharuru). The movement of the taniwha symbolises Ngāti Tūwharetoa understanding and observations of the deep connection between the different geothermal sites.

Wairākei-Tauhara Geothermal Field

Wairākei

The Ngāti Tūwharetoa hapū Ngāti Kurapoto, Ngāti Te Urunga, Ngāti Rauhoto, Ngāti Ruingarangi and Te Kapa o te Rangiita consider Wairākei to be the "jewel in the crown" of their rohe. It was likewise a taonga of Ngāti Kurapoto, an ancient hapū whose whakapapa is acknowledged within hapū of te Hikuwai.

The name Wairākei refers to the beauty of the geothermal springs and natural features. It is also said that the name refers to Kuiwai, admiring herself in the still waters of the puna (springs). Wairākei is also the name of a tupuna. Ngāti Tūwharetoa considered the Wairākei geothermal field, stream and lakes as highly prized taonga *tuku iho* (ancestral treasure). The nearest kāinga and pā sites to Wairākei are along the Waikato River and at Nukuhau, Oranui and Aratiatia.

Ngāti Tūwharetoa hapū used the resources and taonga at Wairākei extensively, including to cook, bathe and for medicinal purposes. The area contained many hot springs, mud pools and puna as well as a number of small and very colourful thermal lakes such as the Pīrorirori series of lakes. The Wairākei, Te Rau o Te Huia, Matarakutia and Te Kiri o Hinekai streams were considered to have very strong medicinal and healing properties. Ngāti Tūwharetoa and manuhiri who had travelled great distances would bathe in these thermal streams. Ngāti Tūwharetoa would also frequent Waipuwera, a thermal stream situated close to Nukuhau.

4.2: STATEMENTS OF ASSOCIATION FOR GEOTHERMAL RESOURCES

Ngāti Tūwharetoa gathered kōkōwai at Wairākei, which was highly prized for its pigments and used in ceremonial exchange with other iwi. Ōkurawai, Te Kiri o Hinekai stream and Pīrorirori lakes were significant sources of kōkōwai.

Karapiti is a large geyser at Wairākei. It is the place where Horomātangi blew with such force that he created the blowhole, signalling to Te Pupū and Te Hoata the way towards Tongariro.

Ngāti Tūwharetoa fought in a number of battles at Wairākei. The death of a great tupuna from another iwi killed in battle at Wairākei is commemorated in the name Te Mihi o Uenukukopako.

Tauhara

"Ra te haeata whero takiri mai te ripa, te tara ki Tauhara.

See the light of dawn breaking over the peak of Tauhara."

In Ngāti Tūwharetoa legend, Tauhara fought with Tongariro for the love of Pihanga. Following the battle, he travelled north, ending up on the north-eastern shore of Lake Taupo. He has become a central and identifying figure of mana for Ngāti Tūwharetoa, particularly for te Hikuwai hapū.

According to Ngāti Tūwharetoa tradition, the name Tauhara (also Tauwhara) was given by the ancestor Ngatoroirangi, who likened the mountain to a silent warrior standing guard over an area. Therefore, Tauhara means to stand silently, vigil, and/or to guard. Ngatoroirangi was the first explorer to ascend Tauhara. On reaching the top, he recited his ururu whenua, a karakia claiming the land on behalf of his descendants:

Ka ū ki Matanuku, Ka u ki Matarangi

Ka u ki te whenua... hei whenua e

Mau e kai i te manawa o tauhou

Tu ana!

I arrive with unknown earth below me

I arrive with unknown skies above me

I arrive to a wondrous land

You have stolen the heart of this stranger

Awesome!

At the peak of the mountain, Ngatoroirangi looked for fresh water to drink, but he found no water source. He remarked that without any sustenance, he would not be standing for very long (Kāore e tū). He struck the ground with his staff, creating a spring. Karetu is a stream which flows from the spring out of the main peak of Tauhara. Ngatoroirangi built a tūahu named for Ikatere at the peak of Tauhara. He then descended Tauhara and built another tūahu at the edge of Lake Taupo near a hot spring. He named this tūahu Taharepa, meaning the side of a cloak or garment. The name also refers to the hot spring that runs from the bank and into the lake.

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

4.2: STATEMENTS OF ASSOCIATION FOR GEOTHERMAL RESOURCES

Ngāti Tūwharetoa tūpuna occupied a number of kāinga around Tauhara, including Paetiki pā at its foot whose remains are still visible today when ascending Tauhara from the south.

The geothermal sites around Tauhara were used for cooking and bathing, and still are today. A number of Ngāti Tūwharetoa hapū (including Ngāti Hineure, Ngāti Hinerau, Ngāti Tutemohuta, Ngāti Te Urunga and Ngāti Tutetawha) particularly prized the Waipāhīhī stream, which contained a number of large pools. Ōnekeneke is a highly valued bathing area associated with Waipāhīhī Stream with a number of black sinter terraces. Hot springs in and on the banks of the Waikato River sites included Patuiwi, Whakaaro, Waipūwerawera and Ōtumuheke.

Rotokawa Geothermal Field

Rotokawa lies to the north of Tauhara maunga. Ngāti Tūwharetoa shared interests in Rotokawa, an area important for its geothermal resources and wildlife.

For Ngāti Tūwharetoa, Rotokawa is a taonga created by our tūpuna, Ngatoroirangi, through karakia to his sisters Kuiwai and Haungaroa. To Ngāti Tūwharetoa, Lake Rotokawa is part of an indivisible whole and inseparable from the Rotokawa geothermal system: it is a surface manifestation of the deeper taonga. Lake Rotokawa and the Rotokawa geothermal system featured sulphur deposits, geysers, sinter deposits, heated ground mud pools and hot springs. The lake itself is slightly acidic and mineralised. The Parariki stream runs from Rotokawa to the Waikato River. Customary uses included cooking, kōkōwai gathering and bathing. Ngāti Tūwharetoa people also hunted ducks from Rotokawa area. Returning Ngāti Tūwharetoa war parties would rest there as the waters have healing and medicinal qualities.

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

**4.3 STATEMENT OF ASSOCIATION FOR LAKE OTAMANGAKAU
AND LAKE TE WHAIAU**

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

4.3: STATEMENT OF ASSOCIATION FOR LAKE OTAMANGAKAU AND LAKE TE WHAIAU

The following Statement of Association by Ngāti Tūwharetoa applies to the area now submerged by Lake Otamangakau and Lake Te Whaiau.

Ngāti Tūwharetoa have a long association with the land that now forms the beds of Lake Otamangakau and Lake Te Whaiau. The plains were traditionally known by Ngāti Tūwharetoa, particularly Ngāti Hikairo, as Ngā Mānianui o Te Ririo; The Great Plains of Te Ririo.

To the southern hapū of Ngāti Hikairo, Te Ririo is known as an Ariki of the Patupaiarehe. He was said to be an incumbent deity at the arrival of Ngatoroirangi, and was one of the many deities that required appeasing prior to Ngatoroirangi embarking on his climb to the peaks of the inland mountains. A pā of Te Ririo was on this plain.

The landscape that existed prior to the creation of Lake Ōtamangākau and Lake Te Whaiau was a repository of knowledge, of history and of sacred sites. It held many important tracks and trails, which were not only to connect Ngāti Tūwharetoa in times of war, but also held Ngāti Tūwharetoa together in times of peace. These tracks and trails were an integral part of the hapū food gathering cycle, home to urupā, wāhi tapu and ancient pā sites.

NGĀTI HIKAIRO

Ngāti Hikairo the hapū is a confederation of whānau who whakapapa back to Puapua, a great-great-granddaughter of Rakeipoho, the son of Tūwharetoa. This hapū maintains three distinct marae; Hikairo Marae at Te Rena, and Otukou and Papakai Marae in the Rotoaira basin. The hapū derives its mana whenua from early tūpuna, particularly Pakaurangi and Te Wharerangi who were political strategists and leaders of their hapū.

Ngāti Hikairo ki Tongariro's ahikaaroa and kaitiaki status extends to Ngā Kahui Maunga, the Roto-a-Ira basin, and Taurewa. Ngāti Hikairo ki Tongariro hold customary interest within the western border lands between Ngāti Tūwharetoa and Whanganui Iwi.

Rangatiratanga, wanaungatanga and kaitiakitanga were tikanga practised by Ngāti Hikairo tūpuna in assuring the protection of their hapū. Traditional boundaries between hapū operated fluidly, and were dependent on the changing political agenda and whakapapa links, which in turn, defined hapū access to and use of natural resources.

All of the following areas are now submerged by Lake Otamangakau and Lake Te Whaiau.

TOETOEHAUNUI

Rua Korowai was an ancient ritual practiced on this site by the tohunga of Ngāti Hikairo, Ngāti Rongomai and Ngāti Pouroto. Tamure, the son of Hikairo and Puapua, was a renowned tohunga who instilled the tapu on this site which was set aside for tribal rituals.

TE MAHAUKURA

This was an ancient pā site converted by Ngāti Hikairo into a kāinga for Te Kooti and his followers during the New Zealand Wars. This ancient pā site was traditionally shared by Ngāti Hikairo and Ngāti Pouroto.

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

4.4: STATEMENT OF ASSOCIATION FOR WAIOTAKA RIVER AND ITS TRIBUTARIES

PĀ SITES

Kapuarangi

On the eastern edge of modern day Lake Otamangakau lay an ancient pā site belonging to Te Utamate of Ngāti Hikairo. It was a whare maire used by tohunga as a place of learning. This was also the site where the tracks Kaiamo and Tangihaere met.

Pirautakoto

Pirautakoto, a pā site that lay on the Katipo track situated at the source of the Te Ruatupapaku Stream, which is now also submerged by the lakes, was an ancient Ngāti Hikairo kāinga. This stream was used to wash the bodies of Ngāti Tūwharetoa rangatira after they had passed. As such it was tapu, and was never used for drinking or the gathering of kai.

Taupiurau

Taupiurau was a kāinga situated along the Kotipu track located on the western edge of present day Lake Te Whaiau.

Tiwhakairo

Tiwhakairo was a pā site that protected the eastern track to Te Pōrere. Traditionally, urupā could also be found on this land.

Ngāti Tūwharetoa continue to commemorate those sites along with many others submerged by the Lakes. Some of the kāinga included Te Whaiau, Otutorohanga, Te Iwituaroa, Te Wairoa, Tiwhakaporoporo and Motupotaka. There were places of ritual associated with each of these kāinga.

4.4 STATEMENT OF ASSOCIATION FOR WAIOTAKA RIVER AND ITS TRIBUTARIES

4.4: STATEMENT OF ASSOCIATION FOR WAIOTAKA RIVER AND ITS TRIBUTARIES

The following Statement of Association by Ngāti Tūwharetoa applies to the Waiootaka River and its tributaries.

Ngāti Rongomai, a hapū of Ngāti Tūwharetoa, place immense importance on the offerings both tangible and intangible of the Waiootaka River. The spiritual association with the river, and the whakakotahitanga or connection brought about with surrounding hapū are as fundamental in importance to Ngāti Rongomai as the kai and water that flow.

The Waiootaka River is acknowledged by Ngāti Rongomai in their pepehā;

Ko Horehore te maunga

Ko Waiootaka te awa

Ko Hautū te whenua

Ko Karihi te tūpuna

Ko Ngāti Rongomai te hapū

Ko Rongomai te whare tūpuna

Te Tiu o Waiootaka

The significant areas found along the Waiootaka River include a pāharakeke (flax growing area) which stretches along both sides of the river. This can still be seen today at the upper part of the Waiootaka River and above the Hautū Prison. There are two significant pā sites located there; Waitukutapora and Harorēwai. These were some of the last pā sites Ngāti Rongomai lived at before descending to the lower reaches where the present pā site stands today. Ngāti Rongomai continue to acknowledge these places today through waiata, kōrero and haka.

Te Horehore

The source of the Waiootaka River is in the Kaimanawa Ranges, and associated with Te Horehore, a significant landmark to Ngāti Rongomai. This hill stands at the foot of the Kaimanawa Ranges between the Waiootaka and Whitiākau Rivers, close to the Tongariro River.

Many pā and wāhi tapu sites lay around the base of Te Horehore. The pā and kāinga in this area used the river and its springs for water and mahinga kai. Directly in front of Te Horehore facing towards the lake is a large urupā, which was quickly occupied in a very short time by those who were struck by the flu epidemic many years ago. Despite having established burial caves, Ngāti Rongomai were unable to use their established burial caves and perform traditional burial practices. Evidence of bones can still be found in the urupā today.

From Te Whitiākau to Te Kokoi-O-Wharekino

Ngāti Rongomai would travel down from the top of the Whitiākau River to two kāinga situated at the mouth of the Waiootaka River. The kāinga were called Te Kokoi-o-Wharekino and Te Toenga. These kāinga sat just within the vicinity of the Owheo Stream, at the point at which it enters the Waiootaka River. It was here that the hapū would collect kai such as inanga and kōkopu. Large racks were erected for drying the kai and also kupenga, which were made of harakēkē.

4.4: STATEMENT OF ASSOCIATION FOR WAIOTAKA RIVER AND ITS TRIBUTARIES

Waiotaka River; *Falls Of Water*

Ngāti Rongomai have a deep tradition and ongoing spiritual connection with water. The names Ngāti Tūwharetoa tūpuna gave to the river and its tributaries also indicated this connection with water. They are purposeful and significant. Waiotaka can be translated to "*falls of water*". Other translations include Waitukutapora - "*long lasting amount of water*", and Harorēwai - "*where the vaults of heaven open up and release a vast amount of water*". The translations are not narrow or specific in definition. For example, Waiotaka means "falls of water" as opposed to "waterfall". This is purposeful, for it is the sheer body of water itself, and the quantity in which it came that holds primary importance.

Te Mahi Kohi Kai - Food Collection

The Waiotaka River was renowned for its flooding through the valley in the rainy months. This was seen as a positive phenomenon because the flooding brought with it a fresh food source.

Ngāti Rongomai kuia and koroua had well-established seasonal food collection practices based on their environment, which was largely dependent on the river. Food storage, collection and preservation were paramount to the survival of not only Ngāti Rongomai, but also the surrounding hapū. This was dictated primarily by ngā wāhanga o te tau (the cycles of the year). In traditional times, it was common practice for the hapū to share food sources depending on the season, river levels, and time of the year. This was the case particularly with the hapū that sat close to the river, including Ngāti Rongomai, Ngāti Hikairo and Ngāti Hine.

Kererū from the riverside were caught using the traditional method of snare-trapping. Waka were made to hold water, and placed in trees close to small snares made of harakēkē. The neck of the kererū would be caught as they reached through to the waka to satisfy their thirst. Not only was the Kereru as a food source highly valued, but so too were the practices followed to catch them.

Ngāti Rongomai kuia would maintain and oversee the tracks along which the waka and snares were carefully set. It was the job of the kuia to ensure the water was kept full, and the snares maintained. It was the job of the men to cook the kereru.

4.5 STATEMENT OF ASSOCIATION FOR RANGITĀIKI RIVER AND ITS TRIBUTARIES

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

4.5: STATEMENT OF ASSOCIATION FOR RANGITĀIKI RIVER AND ITS TRIBUTARIES

The following Statement of Association by Ngāti Tūwharetoa applies to the Rangitāiki River and its Tributaries.

Statutory Area

The area to which this statutory acknowledgement applies is the Rangitāiki River and its tributaries.

The headwaters and upper reaches of the Rangitāiki River lie within the traditional rohe of Ngāti Tūwharetoa. The Rangitāiki River was the traditional north eastern boundary of Ngāti Tūwharetoa. It is of symbolic importance because its flow connected Ngāti Tūwharetoa with the homelands of our eponymous tupuna who was born at Kawerau.

When Ngatoroirangi arrived in Aotearoa, he travelled inland towards the central plateau. He entered Kaingaroa and travelled eastwards. He named places as he travelled including Waihū (where he heard water bubbling up) and Waimahunga (where he recited special sacred incantations). Finally, he stamped his foot hard on the ground and unearthed a secret water pool, which he named Te Puna Takahi o Ngātoroirangi.

Ngāti Tūwharetoa occupied a number of permanent and seasonal kāinga and fortified pā within the upper Rangitāiki catchment. They also maintained wāhi tapu, urupā, cultivations and mahinga kai within the upper Rangitāiki catchment. The higher ground along the riverbanks provided cultivation places. They also gathered many resources from the River. Raupō, which was plentiful, was gathered for the thatching of houses. Harakeke was used for weaving and making ropes.

The source of the Rangitāiki River is Rotopouārua. Ngāti Tūwharetoa relied on the Rotopouārua wetlands as a source of tuna, fish, kīore, and many different varieties of birds including Tītī. Tuna are not found in Taupō Moana, and so the upper reaches of the Rangitāiki River and its tributaries were highly valued mahinga kai for hapū living at eastern Taupō. Tītī were also highly prized by Ngāti Tūwharetoa as a great delicacy. The locations of their hidden nests were closely guarded secrets. Waka were built for fishing and hunting at Rotopouārua and dogs were used to assist in the taking of Pārera (grey duck). One waka used on Rotopouārua was given to the renowned warrior and rangatira, Te Rangitahau.

Motukurī was another area in the upper Rangitāiki catchment for gathering kai and other resources. At Motukurī, Ngāti Tūwharetoa would let dogs loose at night to catch kiwi and during the day to catch weka.

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

5. PROTOCOLS

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

5.1 CROWN MINERALS PROTOCOL

5.1: CROWN MINERALS PROTOCOL

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

1. INTRODUCTION

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

2. PURPOSE OF THIS PROTOCOL

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

3. PROTOCOL AREA

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

4. TERMS OF ISSUE

- 4.1 This Protocol is issued pursuant to section [] and clause 8.7.1 of the Ngāti Tūwharetoa Deed of Settlement (the "**Settlement Legislation**") and is subject to Settlement Legislation and the Deed of Settlement.

5.1: CROWN MINERALS PROTOCOL

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

5. CONSULTATION

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

New minerals programmes

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

Petroleum exploration permit block offers

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

Other petroleum permit applications

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

Amendments to petroleum permits

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

Permit block offers for Crown owned minerals other than petroleum

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

Other permit applications for Crown owned minerals other than petroleum

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

5.1: CROWN MINERALS PROTOCOL

Newly available acreage

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

Amendments to permits for Crown owned minerals other than petroleum

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

Gold fossicking areas

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

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

6. IMPLEMENTATION AND COMMUNICATION

6.1 The Crown has an obligation under the Act to consult with parties whose interests may be affected by matters described in clause 5.1. The Ministry will consult with the PSGE in accordance with this Protocol if matters described in clause 5.1 of this Protocol may affect the interests of Ngāti Tūwharetoa.

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

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

7. DEFINITIONS

7.1 In this Protocol:

- (a) **Act** means the Crown Minerals Act 1991 as amended, consolidated or substituted;
- (b) **Chief Executive** means the Chief Executive of the Ministry of Business, Innovation and Employment;

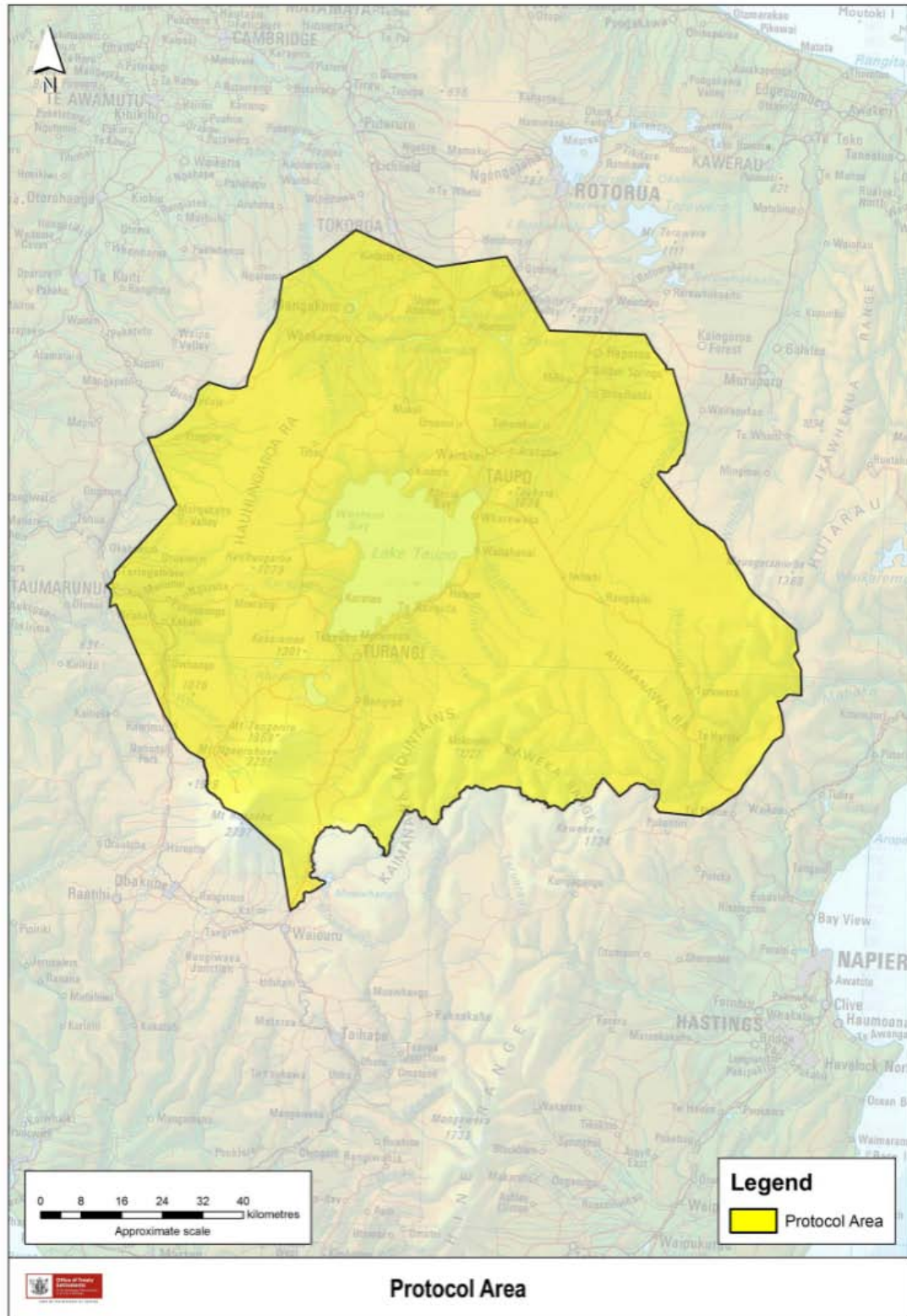
NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS

5.1: CROWN MINERALS PROTOCOL

- (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 of Settlement to participate in, any aspect of the redress under the Deed of Settlement;
- (d) **Crown owned minerals** means any mineral that is the property of the Crown;
- (e) **Deed of Settlement** means the Deed of Settlement dated [] between the Crown and Ngāti Tūwharetoa;
- (f) **Hapū** has the meaning set out in clause 11.7.1 of the Deed of Settlement;
- (g) **mineral** means a naturally occurring inorganic substance beneath or at the surface of the earth, whether or not under water; and includes all metallic minerals, non-metallic minerals, fuel minerals, precious stones, industrial rocks and building stones, and a prescribed substance within the meaning of the Atomic Energy Act 1945;
- (h) **Minister** means the Minister of Energy and Resources;
- (i) **Ministry** means the Ministry of Business, Innovation and Employment;
- (j) **newly available acreage** is a method for allocating permits for minerals (excluding petroleum) as set out in the Minerals Programme for Minerals (Excluding Petroleum) 2013;
- (k) **petroleum** means:
 - (i) any naturally occurring hydrocarbon (other than coal) whether in a gaseous, liquid, or solid state; or
 - (ii) any naturally occurring mixture of hydrocarbons (other than coal) whether in a gaseous, liquid, or solid state; or
 - (iii) any naturally occurring mixture of 1 or more hydrocarbons (other than coal) whether in a gaseous, liquid, or solid state, and 1 or more of the following, namely hydrogen sulphide, nitrogen, helium or carbon dioxide; and (iv) except in sections 10 and 11, includes any petroleum as so defined which has been mined or otherwise recovered from its natural condition, or which has been so mined or otherwise recovered but which has been returned to a natural reservoir for storage purposes; and
- (l) **protocol** means a statement in writing, issued by the Crown through the Minister to Ngāti Tūwharetoa under the Settlement Legislation and the Deed of Settlement and includes this Protocol.

5.1: CROWN MINERALS PROTOCOL

**ATTACHMENT A
PROTOCOL AREA MAP**



5.1: CROWN MINERALS 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 or PSGE may cancel this Protocol.
- 1.2 The Protocol can only be amended by agreement in writing between the Minister and PSGE.

2. Noting

- 2.1 A summary of the terms of this Protocol must be added:
 - 2.1.1 in a register of protocols maintained by the chief executive; and
 - 2.1.2 in the minerals programme affecting the Protocol Area when those programmes are changed;but the addition:
 - 2.1.3 is for the purpose of public notice only; and
 - 2.1.4 does not change the minerals programmes for the purposes of the Crown Minerals Act 1991 (section []).

3. Limits

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

5.1: CROWN MINERALS PROTOCOL

- 3.1.3 grant, create, or provide evidence of an estate or interest in, or rights relating to Crown minerals (section []).
- 3.2 In this summary of the Terms of Issue, "representative entity" has the same meaning as it has in the Deed of Settlement.
- 4. Breach**
 - 4.1 Subject to the Crown Proceedings Act 1950, the PSGE may enforce this Protocol if the Crown breaches it without good cause, but damages or monetary compensation will not be awarded (section []).
 - 4.2 A breach of this Protocol is not a breach of the Deed of Settlement (clause 8.10).

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

5.2 PRIMARY INDUSTRIES PROTOCOL

NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS

5.2: PRIMARY INDUSTRIES PROTOCOL

A PROTOCOL ISSUED BY THE CROWN THROUGH THE MINISTER FOR PRIMARY INDUSTRIES REGARDING INTERACTION BETWEEN NGĀTI TŪWHARETOA AND THE MINISTRY FOR PRIMARY INDUSTRIES

1. INTRODUCTION

- 1.1 Under the Deed of Settlement dated [insert date] between Ngāti Tūwharetoa and the Crown (the "**Deed of Settlement**"), the Crown agreed that the Minister would issue a Primary Industries Protocol (the "**Protocol**") setting out how the Ministry will interact with Te Kotahitanga o Ngāti Tūwharetoa (the "**Governance Entity**") in relation to matters specified in the Protocol. These matters are:
- 1.1.1 recognition of the interests of Ngāti Tūwharetoa in all species of fish, aquatic life or seaweed that exist within the Fisheries Area that are subject to the Fisheries Act 1996;
 - 1.1.2 input into and participation in the Ministry's national fisheries plans;
 - 1.1.3 iwi fisheries plans;
 - 1.1.4 participation in iwi fisheries forums;
 - 1.1.5 customary non-commercial fisheries management;
 - 1.1.6 contracting for services;
 - 1.1.7 employment of Ministry staff with customary non-commercial fisheries responsibilities;
 - 1.1.8 rāhui;
 - 1.1.9 information exchange;
 - 1.1.10 provision of service and research; and
 - 1.1.11 changes to policy and legislation affecting this Protocol.
- 1.2 The Minister and the Director-General have certain functions, powers and duties in terms of legislation that they are responsible for administering. 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.
- 1.3 The Protocol applies to all those functions for which the Ministry is the responsible Crown agency. The Protocol does not cover those processes relating to the allocation of aquaculture space or the Treaty settlement processes established for those assets held by the Ministry's Crown Forestry unit.

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

5.2: PRIMARY INDUSTRIES PROTOCOL

- 1.4 The Ministry will advise the Governance Entity whenever it proposes to consult with a hapū of Ngāti Tūwharetoa or with another iwi or hapū with interests inside the Protocol Area on matters that could affect the interests of Ngāti Tūwharetoa.

2. PRINCIPLES UNDERLYING THIS PROTOCOL

- 2.1 The Ministry and Ngāti Tūwharetoa 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.
- 2.2 The parties to this protocol will:
- 2.2.1 work in a spirit of cooperation;
 - 2.2.2 ensure early engagement on issues of recognised mutual interest;
 - 2.2.3 operate on a 'no surprises' approach;
 - 2.2.4 acknowledge that the relationship is evolving, not prescribed;
 - 2.2.5 respect the independence of the parties and their individual mandates, roles and responsibilities; and
 - 2.2.6 recognise and acknowledge that both parties benefit from working together by sharing their vision, knowledge and expertise.

3. TERMS OF ISSUE

- 3.1 The Protocol is issued pursuant to section *[insert number]* of the Deed of Settlement (the "**Settlement Legislation**") and clause 8.7.2 of the Deed of Settlement and is subject to the Settlement Legislation and the Deed of Settlement.
- 3.2 The Protocol must be read subject to the terms of issue set out in **Appendix B**.

4. IMPLEMENTATION AND COMMUNICATION

- 4.1 The Ministry will meet with the Governance Entity to provide a strategy to implement this Protocol as soon as practicable after this Protocol is issued. The strategy may include:
- 4.4.1 any matters raised in the Protocol;
 - 4.4.2 reporting processes to be put in place;
 - 4.4.3 the development of an implementation plan that sets out the Ministry's obligations to the Governance Entity arising from the Protocol. The implementation plan would identify the relevant Ministry business group responsible for delivering each obligation, and any agreed actions and timeframes; and
 - 4.4.4 review processes for this Protocol.

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

5.2: PRIMARY INDUSTRIES PROTOCOL

- 4.2 The implementation strategy described in clause 4.1 of this Protocol will have effect from the date specified in the strategy.
- 4.3 The Ministry will establish and maintain effective consultation processes and communication networks with the Governance Entity by:
 - 4.3.1 maintaining, at national and regional levels, information provided by the Governance Entity on the office holders of the Governance Entity, addresses and contact details;
 - 4.3.2 providing reasonable opportunities for the Governance Entity to meet with Ministry managers and staff (as might be agreed in the implementation plan); and
 - 4.3.3 providing reasonable opportunities for the Governance Entity to participate, if they choose to, in regional forums that are established to interact with the Ministry on fisheries issues that affect the Fisheries Protocol Area.
- 4.4 The Ministry will:
 - 4.4.1 consult and involve the Governance Entity in the training of relevant staff on this Protocol and provide on-going training as required; and
 - 4.4.2 as far as reasonably practicable, inform fisheries and other stakeholders about this Protocol and the Deed of Settlement, and provide on-going information as required.

5. TAONGA SPECIES

- 5.1 The Ministry recognises that Ngāti Tūwharetoa has a customary non-commercial interest in the following fisheries within the Protocol Area.
- 5.2 The iwi fisheries plan developed by the Governance Entity will identify the objectives of the Governance Entity for the management of the Taonga Species and identify how Ngāti Tūwharetoa exercise kaitiakitanga in respect of the Taonga Species.
- 5.3 The Ministry will recognise and provide for the input and participation of Ngāti Tūwharetoa into the development of the Ministry's relevant national fisheries plans through consideration of the objectives set out in the iwi fisheries plan in accordance with clause 5.2. The Ministry will provide opportunities for the Governance Entity to participate in annual fisheries planning processes through Iwi Fisheries Forums where any relevant national fisheries plans include matters relating to Taonga Species management that affects the Protocol Area.
- 5.4 The Minister will have particular regard to how Ngāti Tūwharetoa exercise kaitiakitanga when making certain sustainability decisions that relate to the management of the Taonga Species. In considering any proposal affecting the Taonga Species in the Fisheries Protocol Area, the Minister will ensure that the customary non-commercial fishing interest of Ngāti Tūwharetoa in the Taonga Species are recognised and provided for in accordance with section 10 of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992. The Ministry will consult with the Governance Entity on any proposal concerning the Taonga Species in accordance with clause 5.2.

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

5.2: PRIMARY INDUSTRIES PROTOCOL

- 5.5 The Ministry recognises that Ngāti Tūwharetoa have an interest in the research relating to tuna/eels. Where Ngāti Tūwharetoa seek to conduct research on tuna/eels, the Ministry will meet with the Governance Entity in a relevant Iwi Fisheries Forum to discuss and advise on the requirements to undertake such research. The Ministry will also consider, in accordance with relevant legislation and operational processes, any application from the Governance Entity for a special permit under section 97 of the Fisheries Act 1996 relating to the enhancement of the tuna/eel fishery in the Protocol Area.
- 5.6 The Ministry acknowledges that Ngāti Tūwharetoa have an interest in the possible enhancement of the tuna/eel fishery through the transfer of elvers and the possibility of farming tuna/eels.
- 5.7 The Ministry will explore with the Governance Entity how it might assist, within existing policy and legal frameworks and with available resources, any Ngāti Tūwharetoa proposals for the enhancement of the tuna/eel fishery. Such proposals may include proposals for special permits to take tuna/eels from waterways within the Protocol Area as part of any enhancement or aquaculture project.
- 5.8 The Protocol shall not operate to create any expectation that a special permit or any other authorisation to extract or farm tuna/eels will be granted.

6. INPUT INTO AND PARTICIPATION IN THE MINISTRY'S NATIONAL FISHERIES PLANS

- 6.1 Ngāti Tūwharetoa are entitled to input into and participation in the Ministry's national fisheries plans, where these are being developed, that relate to the Protocol Area. The Ministry's national fisheries plans will reflect the high level goals and outcomes for a fishery. The plans will guide annual identification of the measures (which may include catch limits research and compliance services) required to meet these goals and outcomes.
- 6.2 Ngāti Tūwharetoa input and participation will be recognised and provided for through the iwi fisheries plan referred to in clause 6.1, which the Minister must have particular regard to when making sustainability decisions that relate to the Protocol Area.
- 6.3 Where it is intended that any sustainability measures will be set or varied that relate to the Fisheries Protocol Area and are not addressed in any Ministry national fisheries plan, the Ministry will ensure that the input and participation of Ngāti Tūwharetoa is provided for. This will include consulting the Governance Entity on those proposed sustainability measures.

7. IWI FISHERIES PLAN

- 7.1 The Governance Entity will develop an iwi fisheries plan that relates to the Protocol Area.
- 7.2 The Ministry will assist the Governance Entity, within the resources available to the Ministry, to develop an iwi fisheries plan that relates to the Protocol Area.

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

5.2: PRIMARY INDUSTRIES PROTOCOL

- 7.3 The Ministry and the Governance Entity agree that the iwi fisheries plan will address:
- 7.3.1 the objectives of the iwi for the management of their customary, commercial, recreational and environmental interests in fisheries resources within the Protocol Area;
 - 7.3.2 how Ngāti Tūwharetoa will exercise kaitiakitanga in the Protocol Area;
 - 7.3.3 how the Governance Entity will participate in fisheries planning in the Protocol Area; and
 - 7.3.4 how the customary, commercial and recreational fishing interests of the Governance Entity will be managed in an integrated way.
- 7.4 The Ministry and the Governance Entity agree to meet as soon as reasonably practicable after the Minister issues this Protocol being issued, to discuss:
- 7.4.1 the content of the iwi fisheries plan, including how the plan will legally express, protect and recognise the mana of Ngāti Tūwharetoa; and
 - 7.4.2 ways in which the Ministry will work with the Governance Entity to develop and review the iwi fisheries plan.

8. PARTICIPATION IN IWI FISHERIES FORUMS

- 8.1 The Ministry will provide opportunities for Ngāti Tūwharetoa to have input and participate in any Iwi Fisheries Forums relating to the Protocol Area, where the Ministry will engage with iwi on fisheries management activities. The iwi fisheries plan will guide the Ngāti Tūwharetoa input into those forums. The Ministry will provide assistance, within the available resources, to those iwi participating in the forums to develop forum fisheries plans.

9. MANAGEMENT OF CUSTOMARY NON-COMMERCIAL FISHERIES

- 9.1 The Ministry undertakes to provide the Governance Entity with such information and assistance, within the resources available to the Ministry, 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:
- 9.1.1 discussions with the Ministry on the implementation of the Fisheries (Kaimoana Customary Fishing) Regulations 1998 within the Protocol Area; and
 - 9.1.2 making available existing information, if any, relating to the sustainability, biology, fishing activity and fisheries management within the Protocol Area.

10. CONTRACTING FOR FISHERIES SERVICES

- 10.1 The Ministry will consult with the Governance Entity in respect of any contract for the provision of fisheries services that may impact on the management of customary fisheries within the Protocol Area, if the Ministry is proposing to enter into such a contract.

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

5.2: PRIMARY INDUSTRIES PROTOCOL

10.2 The level of consultation shall be relative to the degree to which the contract impacts upon the interests of other iwi as well as those of Ngāti Tūwharetoa, and may be achieved by one or more of the following:

10.2.1 the Ministry may notify the Governance Entity of a contract for fisheries services;

10.2.2 the Ministry may notify the Governance Entity of an invitation to tender for fisheries services; and

10.2.3 the Ministry may direct a successful contractor to engage with the Governance Entity as appropriate, in undertaking the relevant fisheries services.

10.3 If the Governance Entity is contracted for fisheries services then clause 10.1 will not apply in relation to those fisheries services.

11. EMPLOYMENT OF STAFF WITH CUSTOMARY FISHERIES RESPONSIBILITIES

11.1 The Ministry will consult with the Governance Entity on certain aspects of the employment of Ministry staff if a vacancy directly affects the fisheries interests of Ngāti Tūwharetoa in relation to the Protocol Area.

11.2 The level of consultation shall be relative to the degree to which the vacancy impacts upon the interests of other iwi as well as those of Ngāti Tūwharetoa, and may be achieved by one or more of the following:

11.2.1 consultation on the job description and work programme;

11.2.2 direct notification of the vacancy;

11.2.3 consultation on the location of the position; and

11.2.4 input into the selection of the interview panel.

12. CONSULTATION

12.1 Where the Ministry is required to consult in relation to this Protocol, the basic principles that will be followed by the Ministry in consulting with the Governance Entity in each case are:

12.1.1 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;

12.1.2 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;

12.1.3 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; and

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

5.2: PRIMARY INDUSTRIES PROTOCOL

12.1.4 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.

13.2 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.

13. RĀHUI

13.1 The Ministry recognises that rāhui is a traditional use and management practice of Ngāti Tūwharetoa and supports their rights to place traditional rāhui over their customary fisheries.

13.2 The Ministry and 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 Tūwharetoa over their customary fisheries, and also the reasons for the rāhui.

13.3 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 Tūwharetoa over their customary fisheries, in a manner consistent with the understandings outlined in clause 13.2 above.

13.4 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 Tūwharetoa 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.

14. INFORMATION EXCHANGE

14.1 The Governance Entity and the Ministry recognise the benefit of mutual information exchange. To this end, the Ministry and the Governance Entity will as far as possible exchange any information that is of relevant mutual benefit, subject to the provisions of the Settlement Legislation, any other enactment, and general law.

14.2 At the request of the Governance Entity, the Ministry will:

14.2.1 make available all existing information held by, or reasonably accessible to, the Ministry where that information is requested by the Governance Entity for the purposes of assisting them to exercise their rights under this Protocol; and/or

14.2.2 where it is reasonable practicable, provide a representative to attend a meeting with the Governance Entity.

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

5.2: PRIMARY INDUSTRIES PROTOCOL

- 14.3 In consideration of a request made under clause 14.2 for information or advice, the Ministry will have regard to the following:
- 14.3.1 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;
 - 14.3.2 whether making the information available would contravene the provisions of an enactment;
 - 14.3.3 the time and cost involved in researching, collating, and providing the information or advice; and
 - 14.3.4 whether making the information available would put at risk any of the Ministry's wider stakeholder relationships.
- 14.4 In consideration of a request made under clause 14.2 for the Ministry to attend a meeting with the Governance Entity:
- 14.4.1 the Ministry will determine the appropriate representative to attend; and
 - 14.4.2 in deciding whether it is reasonably practicable to comply with the request, the Ministry may have regard to any relevant consideration, including:
 - (a) the number and frequency of such requests the Ministry has received from the Governance Entity;
 - (b) the time and place of the meeting and the adequacy of notice given; and
 - (b) the time and cost involved in complying with the request.

15. PROVISION OF NON-FISHERIES SERVICES AND RESEARCH

- 15.1 Each party acknowledges that there is potential for the other to provide services to, or conduct research for, the other.
- 15.2 Where the Ministry undertakes contracts for non-fisheries related services or research, and where the Ministry considers it to have a direct impact on the Protocol Area, the Ministry will:
- 15.2.1 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;
 - 15.2.2 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;
 - 15.2.3 advise the Governance Entity of the provider it has chosen;
 - 15.2.4 at the Ministry's discretion, require any research provider to engage with the Governance Entity; and

5.2: PRIMARY INDUSTRIES PROTOCOL

15.2.4 provide the Governance Entity with the results of that research, as appropriate.

16. DISPUTE RESOLUTION

16.1 If either the Ministry or the Governance Entity considers there has been a problem with the implementation of this Protocol, then that party may give written notice to the other party that they are in dispute. The following process will be undertaken once notice is received by the other party to this Protocol:

16.1.1 within 15 working days of being given written notice, the relevant contact persons from the Ministry and the Governance Entity will meet to work in good faith to resolve the issue;

16.1.2 if the dispute has not been resolved within 30 working days of receipt of the notice referred to in clause 16.1, the Director General of the Ministry and representative of the Governance Entity will meet to work in good faith to resolve the issue;

16.1.3 if the dispute has not been resolved within 45 working days despite the process outlined in clauses 16.1.1 and 16.1.2 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.

16.2 In the context of any dispute that has been initiated under clause 16.1, the Ministry and the Governance Entity will place utmost importance on the fact that the Ministry and Ngāti Tūwharetoa are, in accordance with clause 2.1 of this Protocol, seeking a relationship consistent with Te Tiriti o Waitangi/Treaty of Waitangi and its principles, and such a relationship is intended to assist both parties to exercise their respective responsibilities with the utmost cooperation to achieve the outcomes sought by both over time.

17 CHANGES TO POLICY AND LEGISLATION AFFECTING THIS PROTOCOL

17.1 If the Ministry consults with iwi on policy development or any proposed legislative amendment which impacts upon this Protocol, the Ministry shall:

17.1.1 notify the Governance Entity of the proposed policy development or proposed legislative amendment upon which iwi will be consulted; and

17.1.2 make available to the Governance Entity the information provided to iwi as part of the consultation process referred to in this clause; and

18.1.3 report back to the Governance Entity on the outcome of any such consultation, either in writing or in person.

18. DEFINITIONS

18.1 In this Protocol:

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

NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS

5.2: PRIMARY INDUSTRIES PROTOCOL

of the Deed of Settlement to participate in, any aspect of the redress under the Deed of Settlement;

Fisheries Legislation means the *Fisheries Act 1983* and the *Fisheries Act 1996*, the *Treaty of Waitangi (Fisheries Claims) Settlement Act 1992*, the *Maori Commercial Aquaculture Claims Settlement Act 2004*, the *Maori Fisheries Act 2004*, and any regulations made under these Acts;

Governance Entity means Te Kotahitanga o Ngāti Tūwharetoa;

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;

Protocol Area means the land area as noted in the attached map at **Appendix A**;

Settlement Date means [].

ISSUED on []

SIGNED for and on behalf of)
THE SOVEREIGN in right of New Zealand)
by the Minister for Primary Industries,)
in the presence of:)

Witness signature

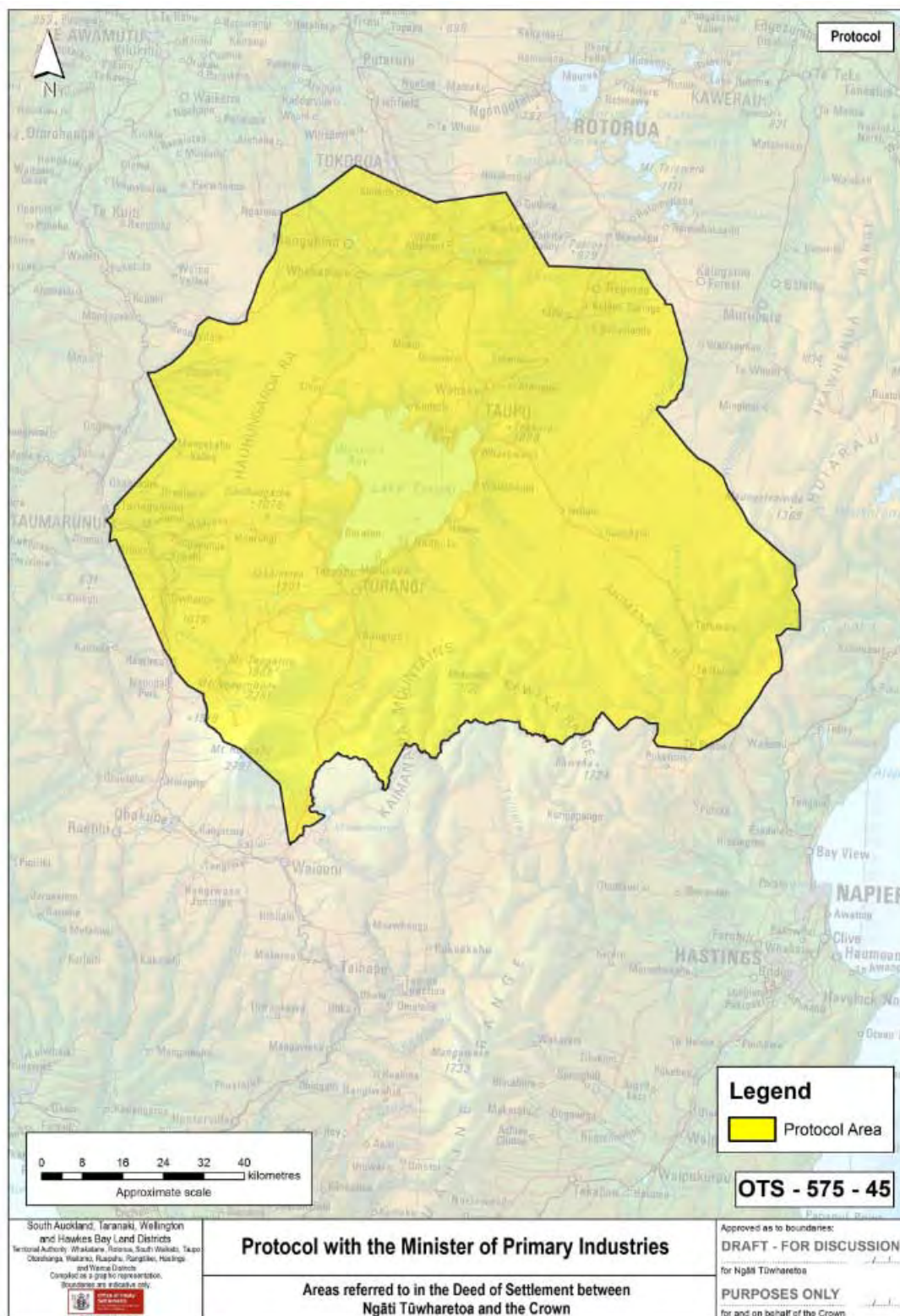
Witness name

Occupation

Address

5.2: PRIMARY INDUSTRIES PROTOCOL

**APPENDIX A
 PROTOCOL AREA**



5.2: PRIMARY INDUSTRIES PROTOCOL

APPENDIX B

SUMMARY OF THE TERMS OF ISSUE

This Protocol is subject to the provisions of the deed of settlement and the settlement legislation. These provisions are set out below.

PROVISIONS OF THE DEED OF SETTLEMENT RELATING TO THIS PROTOCOL

1. This deed of settlement provides that a failure by the Crown to comply with a protocol is not a breach of the deed of settlement (clause 8.10).
2. **Amendment and cancellation**
 - 2.1 The Minister may amend or cancel this Fisheries Protocol, but only after consulting with the governance entity and having particular regard to its views (section 23(2)).
3. **Noting**
 - 3.1 A summary of the terms of this Fisheries Protocol must be noted in the fisheries plans affecting the Fisheries Protocol Area, but the noting -
 - 3.1.1 is for the purpose of public notice only; and
 - 3.1.2 does not amend the fisheries plans for the purposes of the Fisheries Act 1996 sections 27(1) and (2)).
4. **Limits**
 - 4.1 This Fisheries Protocol does not -
 - 4.1.1 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 (section 24(a)); or
 - 4.1.2 restrict the responsibilities of the Minister or the Ministry or the legal rights of Taranaki Iwi (section 24(b) and (c)); or
 - 4.1.3 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

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

5.2: PRIMARY INDUSTRIES PROTOCOL

(d) the Maori Fisheries Act 2004 (section 27(3)).

5. Breach

- 5.1 Subject to the Crown Proceedings Act 1950, the governance entity may enforce this Fisheries Protocol if the Crown breaches it without good cause, but damages or monetary compensation will not be awarded (section 25(2)).

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

5.3 TAONGA TŪTURU PROTOCOL

5.3: TAONGA TŪTURU PROTOCOL

A PROTOCOL ISSUED BY THE CROWN THROUGH THE MINISTER FOR ARTS, CULTURE AND HERITAGE REGARDING INTERACTION WITH NGĀTI TŪWHARETOA ON SPECIFIED ISSUES
--

1 INTRODUCTION

- 1.1 Under the Deed of Settlement dated xx between Ngāti Tūwharetoa 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 Te Kotahitanga o Ngāti Tūwharetoa (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;
 - 1.1.6 Effects on xxx interests in the Protocol Area - Part 7;
 - 1.1.7 Registration as a collector of Ngā Taonga Tūturu - Part 8;
 - 1.1.8 Board appointments - Part 9
 - 1.1.9 National Monuments, war Graves and Historical Graves - Part 10;
 - 1.1.10 History publications relating to xxx - Part 11;
 - 1.1.11 Cultural and/or spiritual practices and professional services - Part 12;
 - 1.1.12 Consultation - Part 13;
 - 1.1.13 Changes to legislation affecting this Protocol - Part 14;
 - 1.1.14 Definitions - Part 15.
- 1.2 For the purposes of this Protocol the governance entity is the body representative of Ngāti Tūwharetoa 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.

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

5.3: TAONGA TŪTURU PROTOCOL

- 1.3 Manatū Taonga also known as the Ministry (the "**Ministry**") and the governance entity are seeking a relationship consistent with Te Tiriti o Waitangi/the Treaty of Waitangi and its principles. The principles of Te Tiriti o Waitangi/the Treaty of Waitangi provide the basis for the relationship between the parties to this Protocol, as set out in this Protocol.
- 1.4 The purpose of the Protected Objects Act 1975 (the "**Act**") is to provide for the better protection of certain objects by, among other things, regulating the export of Taonga Tūturu, and by establishing and recording the ownership of Ngā Taonga Tūturu found after the commencement of the Act, namely 1 April 1976.
- 1.5 The Minister and Chief Executive have certain roles in terms of the matters mentioned in clause 1.1. In exercising such roles, the Minister and Chief Executive will provide the governance entity with the opportunity for input, into matters set out in clause 1.1, as set out in clauses 5 to 11 of this Protocol.

2 PROTOCOL AREA

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

3 TERMS OF ISSUE

- 3.1 This Protocol is issued pursuant to section xx of the xxx (the "**Settlement Legislation**") that implements the Ngāti Tūwharetoa 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;

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

5.3: TAONGA TŪTURU PROTOCOL

- 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.

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 Tūwharetoa 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 Tūwharetoa 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 Tūwharetoa 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 Tūwharetoa 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 Tūwharetoa origin found anywhere else in New Zealand, or for any right, title, estate or interest in any such Taonga Tūturu.

Interim Custodianship

- 5.2 The Chief Executive will provide for Tūwharetoa kaitiakitanga by recognising Ngāti Tūwharetoa as temporary custodians of any Taonga Tūturu found within the Taupo Catchment area (as shown on OTS-575-52 (subject to survey) as set out in the deed of settlement and Treaty settlement legislation.
- 5.3 This does not apply if the Chief Executive considers that an alternative to interim custody of the Trust would be appropriate in the circumstances, such, as, for example, if conservation treatment is required. The obligation to consult is outlined in the Deed of Settlement.

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

5.3: TAONGA TŪTURU PROTOCOL

- 5.4 The governance entity will establish a trust to manage the whare taonga. The trust will be comprised of kaumatua representatives and will be responsible for: the storage of Taonga Tūturu in interim custodianship; managing the custodianship of newly found Taonga Tūturu; the relationships with hapū and other iwi; and will be required to notify the Chief Executive where newly found taonga tūturu are provided to the Trust.

Ownership of Taonga Tūturu found in Protocol Area or identified as being of Ngāti Tūwharetoa origin found elsewhere in New Zealand

- 5.5 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 Tūwharetoa 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.
- 5.6 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.
- 5.7 If the competing claims for ownership of any Taonga Tūturu found within the Protocol Area or identified as being of Ngāti Tūwharetoa 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.

Custody of Taonga Tūturu found in Protocol Area or identified as being of Ngāti Tūwharetoa origin found elsewhere in New Zealand

- 5.8 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 Tūwharetoa 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:
- 5.8.1 consult the governance entity before a decision is made on who may have custody of the Taonga Tūturu; and
- 5.8.2 notify the governance entity in writing of the decision made by the Chief Executive on the custody of the Taonga Tūturu.

Export Applications

- 5.9 For the purpose of seeking an expert opinion from the governance entity on any export applications to remove any Taonga Tūturu of Ngāti Tūwharetoa origin from New Zealand, the Chief Executive will register the governance entity on the Ministry for Culture and Heritage's Register of Expert Examiners.
- 5.10 Where the Chief Executive receives an export application to remove any Taonga Tūturu of Ngāti Tūwharetoa 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.

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

5.3: TAONGA TŪTURU PROTOCOL

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 TŪWHARETOA INTERESTS IN THE PROTOCOL AREA

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

7.3 Notwithstanding clauses 7.1 and 7.2 above the Chief Executive and governance entity shall meet to discuss Ngāti Tūwharetoa 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.

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

5.3: TAONGA TŪTURU PROTOCOL

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 Tūwharetoa 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 on 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 Tūwharetoa; and
 - 11.1.2 where reasonably practicable, consult with the governance entity on any work the Ministry undertakes that relates substantially to Ngāti Tūwharetoa:
 - (a) from an early stage;
 - (b) throughout the process of undertaking the work; and
 - (c) before making the final decision on the material of a publication.
- 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 WHARE TAONGA

- 12.1 Ngāti Tūwharetoa intend to establish a Whare Taonga to provide safe storage for taonga belonging to whānau, hapū and iwi, in accordance with their wishes and under the guidance of kaumātua versed in tikanga.
- 12.2 The Whare Taonga will also be a place to exhibit Ngāti Tūwharetoa taonga currently housed in other institutions, to create new taonga, and to keep traditions and mātauranga Māori alive and full of meaning for younger generations.
- 12.3 The Ministry will provide general advice to the governance entity where requested and where it is able to do so, on the activities being undertaken by the Trustees concerning the Tūwharetoa whare taonga building and taonga collection.

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

5.3: TAONGA TŪTURU PROTOCOL

13 PROVISION OF CULTURAL AND/OR SPIRITUAL PRACTICES AND PROFESSIONAL SERVICES

- 13.1 Where the Chief Executive requests cultural and/or spiritual practices to be undertaken by Ngāti Tūwharetoa within the Protocol Area, the Chief Executive will make a contribution subject to prior mutual agreement, to the costs of undertaking such practices.
- 13.2 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.
- 13.3 The procurement by the Chief Executive of any such services set out in clauses 13.1 and 13.2 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.

14 CONSULTATION

- 14.1 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:
- 14.1.1 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;
 - 14.1.2 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;
 - 14.1.3 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;
 - 14.1.4 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
 - 14.1.5 report back to the governance entity, either in writing or in person, in regard to any decisions made that relate to that consultation.

15 CHANGES TO POLICY AND LEGISLATION AFFECTING THIS PROTOCOL

- 15.1 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:
- 15.1.1 notify the governance entity of the proposed policy development or proposed legislative amendment upon which Māori generally will be consulted;

5.3: TAONGA TŪTURU PROTOCOL

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

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

16 DEFINITIONS

16.1 In this Protocol:

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

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

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

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

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

governance entity means Te Kotahitanga o Ngāti Tūwharetoa;

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

Ngāti Tūwharetoa has the meaning set out in clauses 11.6 to 11.8 of the Deed of Settlement;

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

Taonga Tūturu has the same meaning as in section 2 of the Act and means an object that -

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

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

5.3: TAONGA TŪTURU PROTOCOL

- (iii) used by Māori; and
- (c) is more than 50 years old.

ISSUED on [*date*]

SIGNED for and on behalf of)
THE SOVEREIGN in right of)
New Zealand by the Chief Executive of)
the Ministry for Culture and Heritage,)
in the presence of:)

Signature of Witness

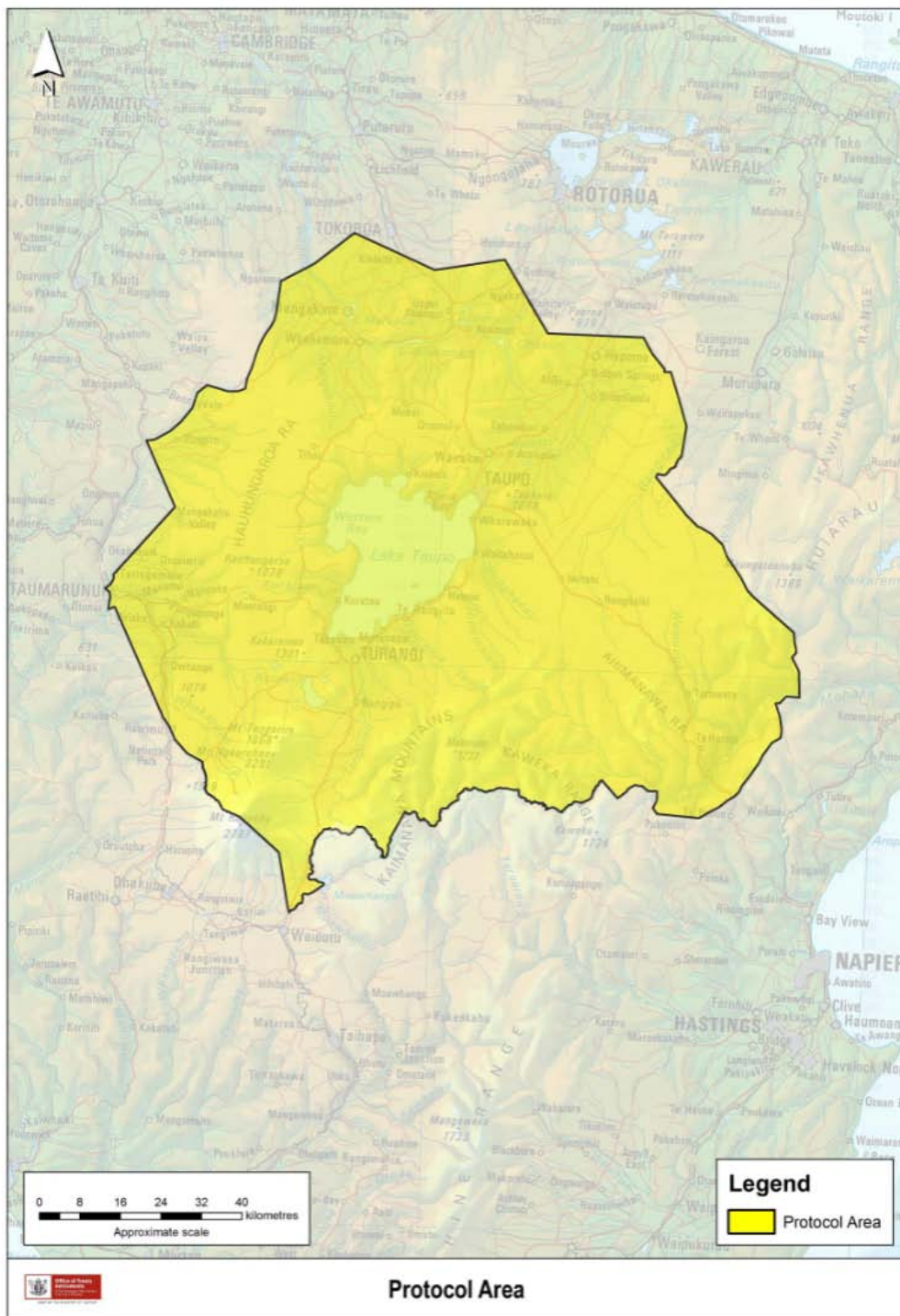
Witness Name

Occupation

Address

5.3: TAONGA TŪTURU PROTOCOL

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



5.3: 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 []).

2. Limits

- 2.1 This Protocol does not -

- 2.1.1 restrict the Crown from exercising its powers, and performing its functions and duties, in accordance with the law and government policy, including:
- (a) introducing legislation; or
 - (b) changing government policy; or
 - (c) issuing a Protocol to, or interacting or consulting with anyone the Crown considers appropriate, including any iwi, hapu, marae, whanau, or representative of tangata whenua (section []); or
- 2.1.2 restrict the responsibilities of the Minister or the Ministry or the legal rights of [] (section []); or
- 2.1.3 grant, create, or provide evidence of an estate or interest in, or rights relating to, taonga tūturu.

3. Breach

- 3.1 Subject to the Crown Proceedings Act 1950, the governance entity may enforce this Protocol if the Crown breaches it without good cause, but damages or monetary compensation will not be awarded (section []).
- 3.2 A breach of this Protocol is not a breach of the Deed of Settlement (clause 8.10).

**6. RELATIONSHIP AGREEMENT WITH THE MINISTRY FOR
THE ENVIRONMENT**

**RELATIONSHIP AGREEMENT BETWEEN THE MINISTRY FOR THE ENVIRONMENT
AND THE TRUSTEES OF THE GOVERNANCE ENTITY**

1 PURPOSE OF THE RELATIONSHIP AGREEMENT

- 1.1 This relationship agreement formalises the relationship between the Ministry for the Environment (the "**Ministry**") and the trustees of Te Kotahitanga o Ngāti Tūwharetoa ("**PSGE**") and establishes a framework to enable the parties to maintain a positive, and enduring working relationship, which is based on the following principles:
- (a) working consistently with Te Tiriti o Waitangi/the Treaty of Waitangi and its principles;
 - (b) working in a spirit of co-operation;
 - (c) operating a 'no surprises' approach;
 - (d) acknowledging that the relationship is evolving, not prescribed;
 - (e) respecting the independence of the parties and their individual mandates, roles and responsibilities; and
 - (f) recognising and acknowledging that parties benefit from working together by sharing their vision, knowledge and expertise.
- 1.2 This relationship agreement is intended to further enhance the existing relationship between the Ministry and Tūwharetoa.
- 1.3 The commitments of the Ministry under this Relationship Agreement are limited to the extent that they are within the capability, resources and mandated work programme of the Ministry and the priorities of the government of the day.

2 TERMS OF ISSUE

- 2.1 This Relationship Agreement is issued pursuant to section [] of the Ngāti Tūwharetoa Deed of Settlement ("**Deed of Settlement**") that implements the Ngāti Tūwharetoa Deed of Settlement, and is subject to the Settlement Legislation and the Deed of Settlement.

3 SCOPE

- 3.1 This relationship agreement applies to the Relationship Agreement Area identified on the map attached to this relationship agreement as Attachment A, together with the adjacent waters ("**Relationship Agreement Area**").

4 COMMUNICATION

- 4.1 The Ministry will:
- (a) participate in the relationship meetings held under clause 5;

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

**6. RELATIONSHIP AGREEMENT BETWEEN THE MINISTRY FOR THE ENVIRONMENT AND
THE TRUSTEES OF THE GOVERNANCE ENTITY**

- (b) maintain information on Te Kotahitanga o Ngāti Tūwharetoa office holders, and their addresses and contact details;
 - (c) provide a primary Ministry contact who will act as a liaison person with other Ministry staff;
 - (d) inform relevant staff of the contents of this relationship agreement and their responsibilities and roles under it;
- 4.2 The Ministry will seek to engage with the governance entity in good faith where a policy or programme, within the Ministry's responsibilities, will directly impact on the area of interest of Ngāti Tūwharetoa.

5 RELATIONSHIP MEETINGS

- 5.1 The parties agree that representatives of governance entity and the Ministry will participate in an annual relationship meeting.
- 5.2 Before each meeting under clause 5.1, representatives of the governance entity and the Ministry will agree administrative arrangements for the meeting(s).
- 5.3 The agenda for each meeting will be agreed between the parties no later than ten working days before the meeting. Standard agenda items could include:
- (a) any legislative or policy developments of interest to governance entity including but not limited to reform of the Resource Management Act 1991 ("**RMA**"), freshwater issues, climate change, exclusive economic zone issues, and development of new resource management tools (in particular, national policy statements and national environmental standards);
 - (b) local authority performance in the Relationship Agreement Area in implementing Te Tiriti o Waitangi/the Treaty of Waitangi provisions in the RMA consistent with clause 6 below; and
 - (c) any other matters of mutual interest.
- 5.4 Each party will meet the costs and expenses of its representatives attending relationship meetings.
- 5.5 The first relationship meeting will take place within 3 months of a written request from governance entity
- 5.6 The relationship agreement may also include the provision to facilitate meetings and/or workshops on an as required basis to cover RMA and environmental matters and any other matters of mutual interest. The Ministry's ability to facilitate these meetings and/or workshops is subject to resourcing available at the time of the request.

6 LOCAL GOVERNMENT PERFORMANCE

- 6.1 The Minister for the Environment has the function of monitoring the effect and implementation of the RMA (refer to section 24 RMA). The Minister also has the power

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

**6. RELATIONSHIP AGREEMENT BETWEEN THE MINISTRY FOR THE ENVIRONMENT AND
THE TRUSTEES OF THE GOVERNANCE ENTITY**

to require local authorities (and others) to supply information about the exercise of their functions, powers, or duties (refer to section 27 RMA).

- 6.2 The way these functions and powers are exercised varies from time to time. At the date of execution of this relationship agreement, the Ministry, on behalf of the Minister, surveys all New Zealand local authorities every two years about their processes under the RMA. The survey includes questions relating to Māori participation.
- 6.3 The Ministry also separately collects information on environmental outcomes through state of the environment monitoring.
- 6.4 Before each relationship meeting held under clause 5 the Ministry will provide governance entity with:
- (a) the most recent published information from any such survey; and
 - (b) details of any current or completed state of the environment monitoring, as it relates to the Relationship Agreement Area, and subject to any constraints on information sharing, including under the Official Information Act 1982 ("OIA") and Privacy Act 1993.
- 6.5 The Ministry will also receive and consider any further information or comment that governance entity would like to make on the effect and implementation of the RMA, including in terms of local government performance.
- 6.6 The governance entity acknowledges that the Ministry's ability to act on any performance issue is limited to:
- (a) developing practice tools for local government and Māori;
 - (b) providing information and advice to local government and Māori;
 - (c) recommending legislative or policy improvements (including, if appropriate, new national policy statements or national environmental standards);
 - (d) considering whether the information gathered on the effect and implementation of the Act is appropriate and sufficiently comprehensive; and
 - (e) considering whether the Minister should be informed of failures to implement sections 6(e), 7(a), or 8 of the RMA;
- 6.7 The Ministry will consider whether it is appropriate to take any of the above actions following each relationship meeting held in accordance with clause 5.
- 6.8 Nothing in this agreement limits the rights of the governance entity to pursue complaints regarding local government performance to the Minister or other agencies with investigative functions.

7 OFFICIAL INFORMATION

- 7.1 The Ministry is subject to the requirements of the OIA.

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

**6. RELATIONSHIP AGREEMENT BETWEEN THE MINISTRY FOR THE ENVIRONMENT AND
THE TRUSTEES OF THE GOVERNANCE ENTITY**

- 7.2 The Ministry and the Minister may be required in accordance with the OIA to disclose information that it holds relating to this relationship agreement (e.g. relationship meeting minutes).
- 7.3 The Ministry will notify the governance entity and seek its views before releasing any information relating to this relationship agreement. To avoid doubt, any comments governance entity wishes to make must be provided to the Ministry in a timely fashion, so that the Ministry is able to meet the statutory timeframes for responding to the relevant request for information.

8 AMENDMENT

- 8.1 The parties may agree in writing to vary or terminate the provisions of this relationship agreement.

EXECUTED ON [DATE]

SIGNED for and on behalf of
the **Ministry for the Environment**
by []
in the presence of:

Authorised Signatory

Signature of Witness

Witness Name

[Authorised Signatory]

Occupation

Address

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

**6. RELATIONSHIP AGREEMENT BETWEEN THE MINISTRY FOR THE ENVIRONMENT AND
THE TRUSTEES OF THE GOVERNANCE ENTITY**

SIGNED by the trustees of the)
TE KOTAHITANGA O NGĀTI)
TŪWHARETOA TRUST)
in the presence of:)

[Trustee]

Signature of Witness

Witness Name

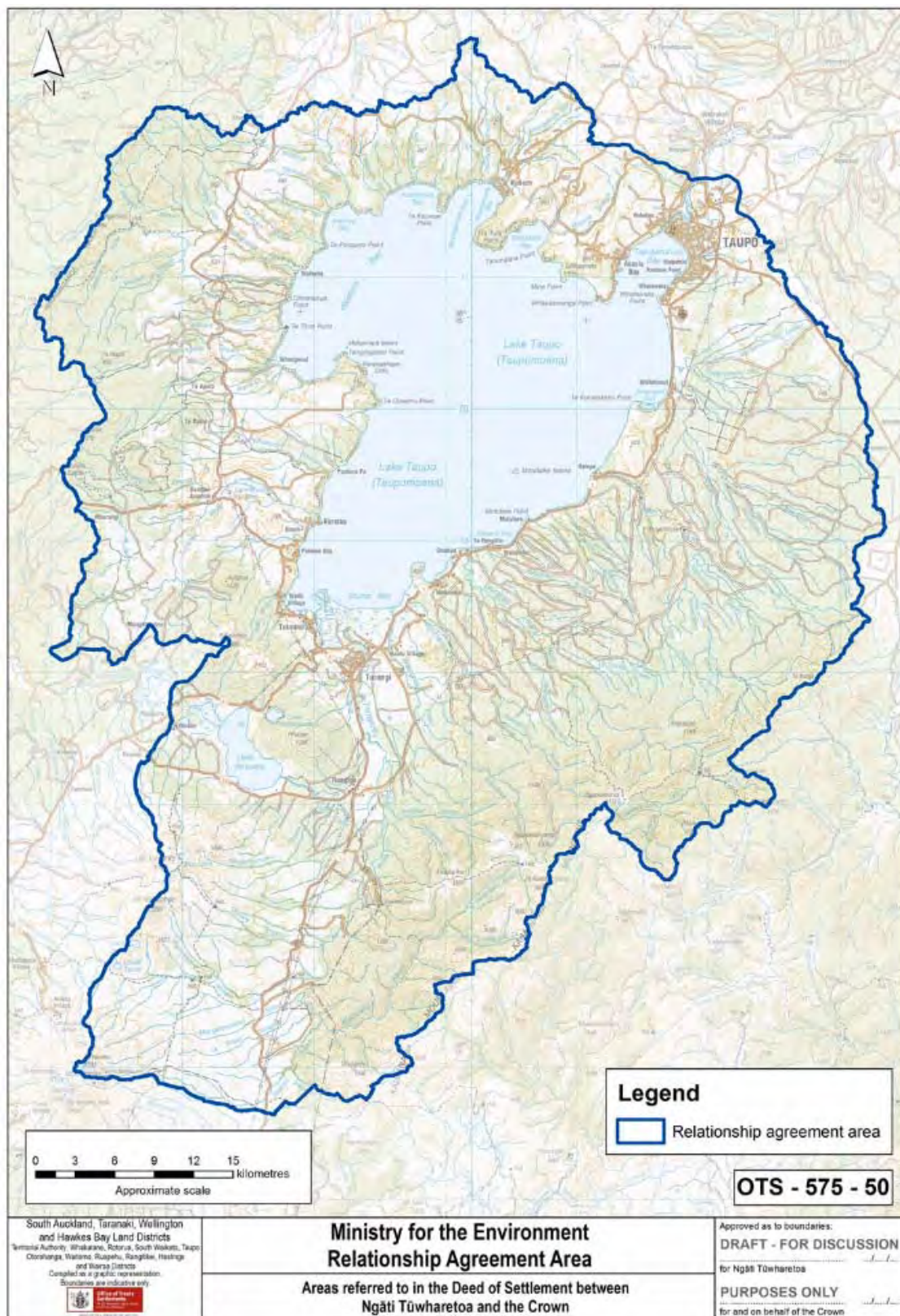
[Trustee]*

Occupation

Address

*repeat as necessary.

ATTACHMENT A
RELATIONSHIP AGREEMENT AREA



**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

**6. RELATIONSHIP AGREEMENT BETWEEN THE MINISTRY FOR THE ENVIRONMENT AND
THE TRUSTEES OF THE GOVERNANCE ENTITY**

**7. TE PIRINGA AGREEMENT WITH THE
DEPARTMENT OF CONSERVATION**

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

7. TE PIRINGA AGREEMENT WITH THE DEPARTMENT OF CONSERVATION

TE PIRINGA AGREEMENT

CONSERVATION PARTNERSHIP AGREEMENT

Agreed by

**THE CROWN, THROUGH THE MINISTER OF CONSERVATION AND THE DIRECTOR-
GENERAL OF CONSERVATION**

and

**TE KOTAHITANGA O NGĀTI TŪWHARETOA, THROUGH THE NGĀTI TŪWHARETOA
DEED OF SETTLEMENT**

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

7. TE PIRINGA AGREEMENT WITH THE DEPARTMENT OF CONSERVATION

CONTENTS

A.	PARTNERSHIP	1
	A1. PARTNERSHIP PRINCIPLES AND VALUES	1
	A2. ENGAGEMENT PRINCIPLES	2
	A3. DECISION-MAKING FRAMEWORK	2
	A4. IWI MANAGEMENT PLAN	4
B.	PUTTING THE PARTNERSHIP INTO PRACTICE	4
	B1. ONGOING OPERATIONAL COLLABORATION	4
	B2. CROSS-ORGANISATIONAL OPPORTUNITIES	5
	B3. SPECIFIC PROJECTS	6
	B4. STATUTORY PLANNING DOCUMENTS	6
	B5. DISPUTE RESOLUTION	6
	B6. REVIEW AND AMENDMENT	7
C.	KAUPAPA	7
	C1. STATUTORY AUTHORISATIONS	7
	C2. STATUTORY LAND MANAGEMENT	8
	C3. WAHI TŪPUNA, WĀHI TAPU AND OTHER SITES OF SIGNIFICANCE	8
	C4. FRESHWATER FISHERIES	10
	C5. CULTURAL MATERIALS	10
	C6. SPECIES AND HABITAT PROTECTION	12
	C7. PEST CONTROL	12
	C8. VISITOR AND PUBLIC INFORMATION	13
	C9. CONSERVATION ADVOCACY	13
D.	TERMS OF AGREEMENT	14
	ATTACHMENT A: TE PIRINGA KOROWAI KAITIAKI	17
	ATTACHMENT B: HE KAUPAPA RANGATIRA	18
	ATTACHMENT C: TAUPŌMOANA WESTERN BAY	20
	ATTACHMENT D: WESTERN BAY AREA	24

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

7. TE PIRINGA AGREEMENT WITH THE DEPARTMENT OF CONSERVATION

A. PARTNERSHIP

A1. Partnership Principles and Values

1. This partnership agreement ("the Agreement") is entered into between the Crown, through the Minister of Conservation and the Director-General of Conservation, and Ngāti Tūwharetoa, through Te Kotahitanga o Ngāti Tūwharetoa ("Te Kotahitanga").
2. The purpose of this Agreement is to recognise and provide for Ngāti Tūwharetoa mana whakahaere, tino rangatiratanga and kaitiakitanga in the governance and management of land managed by the Department of Conservation ("the Department") within the Te Piringa Agreement Area ("Korowai Kaitiaki", refer to the map attached as Attachment A) for the benefit of present and future generations.
3. The functions of the Department include managing "for conservation purposes, all land, and all other natural and historic resources" under the Conservation Legislation.
4. Ngāti Tūwharetoa and the Department hereby commit to a new relationship, in the form of a positive, collaborative and enduring partnership:
 - (a) consistent with section 4 of the Conservation Act 1987, which requires the Act to be interpreted and administered so as to give effect to the principles of Te Tiriti o Waitangi/the Treaty of Waitangi;
 - (b) providing a framework and mechanisms for Ngāti Tūwharetoa to exercise kaitiakitanga and to have meaningful input into policy, planning and decision making processes in the Department's governance and management of land within the Korowai Kaitiaki and to advocate the conservation of natural and historic resources generally; and
 - (c) improving the quality of conservation management decisions through each partner obtaining a better understanding of the other partner's perspectives.
5. The partnership is guided by the principles of:
 - (a) Te Tiriti o Waitangi/the Treaty of Waitangi, which are derived from the Treaty itself, and are set out in He Kaupapa Rangatira statement of Treaty principles and objectives (attached as Attachment B);
 - (b) adopting a positive and collaborative approach and acting in good faith, fairly and reasonably;
 - (c) taking into account each partner's ability to make commitments within their capacity and resources;
 - (d) working together using shared knowledge and expertise;
 - (e) engaging early on issues of known interest to either partner;
 - (f) enabling and supporting the use of te reo and tikanga Māori; and
 - (g) acknowledging that the partnership is evolving.

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

7. TE PIRINGA AGREEMENT WITH THE DEPARTMENT OF CONSERVATION

6. The partnership implements a new approach to conservation that:
- (a) recognises that the tikanga and cultural practices of nga hapū o Ngāti Tūwharetoa have a role and value in conservation management, and that hapū shall have the opportunity to actively participate in conservation within their rohe;
 - (b) recognises and provides for Ngāti Tūwharetoa mana whakahaere, tino rangatiratanga, tikanga and kaitiakitanga in the management of land within the Korowai Kaitiaki;
 - (c) with respect to the Department's operations within the Korowai Kaitiaki, recognises the importance of the Department's conservation ethos and values reflecting the conservation ethos and values of Ngāti Tūwharetoa;
 - (d) recognises the full range of public interests in conservation land. The full range of public interests may include appropriate public access and the need to protect and provide for Ngāti Tūwharetoa tikanga and values (for example, where tikanga requires restricted access to a wāhi tapu, or rāhui, or enabling Ngāti Tūwharetoa to enjoy the resources managed by the Department).
7. Ngāti Tūwharetoa intend that over time ngā hapū o Ngāti Tūwharetoa will exercise the functions of the Department.

A2. Engagement Principles

8. Te Kotahitanga and the Department (together referred to as "the partners") will seek to maintain effective and open communication with each other including by:
- (a) freely discussing operational issues, as required, at the initiative of either partner;
 - (b) operating on the principle of early engagement and notification of relevant issues that come to the attention of either partner concerning the management of land managed by the Department; and
 - (c) recognising that the partners need to learn from each other:
 - (i) on Te Kotahitanga's part, to learn more about the Department's technical capabilities, operations, and operational challenges;
 - (ii) on the Department's part, to learn more about the history, tikanga, kaitiakitanga of Ngāti Tūwharetoa, and their relationship with the land within the Korowai Kaitiaki. For this purpose, Te Kotahitanga intend to invite the Department to attend wānanga on Ngāti Tūwharetoa marae.

A3. Decision-Making Framework

9. Where the partners are required to engage under this Agreement, the Department will:
- (a) advise Te Kotahitanga of the matters to be the subject of engagement as soon as reasonably practicable following identification or determination of the matters to be the subject of the engagement;

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

7. TE PIRINGA AGREEMENT WITH THE DEPARTMENT OF CONSERVATION

- (b) provide Te Kotahitanga with sufficient information to undertake informed discussions and make submissions in relation to any of the matters that are the subject of the engagement given any time constraints relating to those matters;
 - (c) ensure, as far as possible given any time constraints, that sufficient time is given for the effective participation of Te Kotahitanga, including the preparation of submissions by Te Kotahitanga, in relation to any of the matters that are the subject of the engagement;
 - (d) approach the engagement with a presumption that consensus is achievable, keeping an open mind and genuinely considering any suggestions, views or concerns Te Kotahitanga has in relation to any of the matters that are the subject of the engagement;
 - (e) where the circumstances require it (having regard to the nature of the issue under consideration and the Crown's duty of active protection), give a reasonable degree of preference to the interest of Ngāti Tūwharetoa;
 - (f) use reasonable endeavours to identify a mutually acceptable solution that is consistent with the applicable Conservation Legislation and the Statutory Planning Documents and, if requested,
 - (i) meet with Te Kotahitanga to discuss possible options for resolution of the relevant matter and seek a consensus on a preferred option; or
 - (ii) otherwise communicate to Te Kotahitanga the Department's understanding of any suggestions, views or concerns that Te Kotahitanga has in relation to any of the matters that are the subject of the engagement; invite Te Kotahitanga to clarify or correct that understanding; and explain how those suggestions, views or concerns will be dealt with in the decision-making process; or
 - (iii) instigate a high level engagement between the chairperson of Te Kotahitanga and the Director of Operations to seek resolution of issues in dispute.
 - (g) if consensus is not reached within an agreed timeframe that permits any time constraints to be met, the Department may exercise its decision making powers and functions in relation to any of the matters that are the subject of the engagement and in doing so will:
 - (i) consider any relevant information obtained under the process in 9(f) above; and
 - (ii) explore whether in making the decision it is possible to reconcile any conflict between the views or concerns of Te Kotahitanga and other considerations in the decision-making process.
10. Where the Department has engaged with Te Kotahitanga and exercised its decision making powers under paragraph 9(g), the Department will promptly advise Te Kotahitanga on the decision made as a result of the engagement, and where the decision is contrary to Te Kotahitanga's submissions, set out, in writing if requested, the

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

7. TE PIRINGA AGREEMENT WITH THE DEPARTMENT OF CONSERVATION

factors that were taken into account in reaching that decision and how the Department has complied with paragraph 9 above.

A4. Iwi management plan

11. The partners will meet to identify and discuss opportunities to further strengthen their partnership at an early stage in the preparation, review or amendment of any plans Te Kotahitanga is developing for the Korowai Kaitiaki.
12. Te Kotahitanga may develop an iwi management plan that records the relationship of Ngāti Tūwharetoa with the land within the Korowai Kaitiaki, including cultural and heritage values, and the location of wāhi tūpuna and wāhi tapu and the use of traditional resources. Te Kotahitanga may provide relevant parts of the iwi management plan to the Department. However, Te Kotahitanga may decide that the iwi management plan, in whole or in part, is confidential to Ngāti Tūwharetoa and may require the Department not to disclose those parts of the plan that are confidential (subject to the Official Information Act 1982).

B. PUTTING THE PARTNERSHIP INTO PRACTICE

B1. Ongoing Operational Collaboration

13. As soon as practicable after the signing of this Agreement the partners will meet to agree:
 - (a) long-term strategic objectives for their relationship; and
 - (b) the level and frequency of engagement that is required to establish and maintain a partnership in accordance with the purpose and principles of this Agreement. Meetings between the partners will be held at least quarterly unless otherwise agreed.
14. Te Kotahitanga may advise the Department that meetings with specific hapū are required on particular issues.
15. The partners undertake separate business planning processes prior to the beginning of each new financial year. These business planning processes determine the partners' work priorities and commitments for the year. For the Department, business planning processes largely sit with District Managers. The relevant District Managers and representatives of Te Kotahitanga will meet early in their annual business planning processes to discuss:
 - (a) the setting of national and regional priorities and commitments for the new financial year;
 - (b) timeframes for the development of annual work programmes;
 - (c) potential specific projects to be undertaken together or separately that are consistent with the strategic objectives for the relationship;
 - (d) any proposed preparation, review or amendment of statutory or non-statutory planning documents; and

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

7. TE PIRINGA AGREEMENT WITH THE DEPARTMENT OF CONSERVATION

- (e) any of the opportunities referred to in B2, or other matter of interest to the partners under this Agreement.
- 16 In the annual business planning process, and throughout the year as part of ongoing dialogue, the partners will advise each other of:
- (a) any significant changes that have occurred or are proposed (including structural, legislative, policy or administrative changes) regarding how either partner is working within the Korowai Kaitiaki;
 - (b) potential opportunities for applying for funding for conservation purposes from external sources (either jointly or individually with the support of the other partner); and
 - (c) potential opportunities for applying for funding for conservation purposes from Vote: Conservation, either jointly or individually with the support of the other partner.

B2. Cross-Organisational Opportunities

- 17 As part of both partners' annual business planning process, the partners will discuss:
- (a) how the Department can assist ngā hapū of Ngāti Tūwharetoa to build and strengthen their capacity to participate in the management of land within the Korowai Kaitiaki;
 - (b) opportunities for Ngāti Tūwharetoa to undertake functions of the Department;
 - (c) opportunities for Ngāti Tūwharetoa to enter into management agreements to manage land within the Korowai Kaitiaki;
 - (d) opportunities and processes to share scientific and cultural resource and information, including data and research material (including to assist Te Kotahitanga to exercise their role under the Deed and this Agreement and as kaitiaki);
 - (e) opportunities to develop mutual understanding and relationships with respect to conservation, environmental and cultural matters within the Korowai Kaitiaki, which may include wānanga, education, training, development and secondments;
 - (f) opportunities to be involved or to nominate individuals to take part in relevant training initiatives run by both partners, including potential opportunities for full time positions, holiday employment or student research projects that may arise within the Korowai Kaitiaki and for which Te Kotahitanga may propose candidates;
 - (g) opportunities for the Department to assist Te Kotahitanga to build and strengthen their capacity to participate in the annual planning process or other planning processes undertaken by either partner; and
 - (h) staff changes and key contacts in each organisation.
- 18 Where appropriate, the Department will consider using individuals from, or entities of, the iwi and hapū of Ngāti Tūwharetoa as providers of professional services. Normal conflict

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

7. TE PIRINGA AGREEMENT WITH THE DEPARTMENT OF CONSERVATION

of interest processes will be implemented to avoid a perceived or actual conflict of interest.

B3. Specific Projects

- 19 As part of the annual planning process, Te Kotahitanga will identify for discussion any proposed or existing projects that offer an opportunity for the Department to provide assistance or support, and the form that assistance or support might potentially take.
- 20 If a specific project is undertaken, the Department and Te Kotahitanga will determine the nature of their collaboration on that project which may include finalising a work plan for that project. If a specific project is not undertaken, the partners will advise one another of the reason(s) for this.

B4. Statutory planning documents

- 21 As set out in the Deed of Settlement and settlement legislation, the partners will co-author the Conservation Management Strategy relating to the Manaaki Whenua Tūwharetoa, which will establish a conservation philosophy, principles, objectives and policies for the integrated management of the natural and historic resources within the Manaaki Whenua Tūwharetoa.
- 22 The Department acknowledges the need to engage with Ngāti Tūwharetoa in relation to the implementation of the Conservation Management Strategy at an operational level by the preparation, review or amendment of any policy or management plans pursuant to Conservation Legislation (or other non-statutory plans or management agreements) within the Korowai Kaitiaki.
- 23 The partners will engage at an early stage (before public consultation, if any, and throughout the process) to consider how the draft plan implements the Conservation Management Strategy, and to identify and seek to address issues affecting the iwi and hapū of Ngāti Tūwharetoa. The partners will follow the decision-making framework to resolve any issues.
- 24 If Te Kotahitanga's issues with the draft plan are unresolved, the Department and Te Kotahitanga will follow the dispute resolution process set out in section B5.

B5. Dispute Resolution

- 25 If a dispute arises in connection with this Agreement, every effort will be made in good faith to resolve matters at a local level within a reasonable timeframe to endeavour to find a resolution to the matter.
- 26 If this process is not successful, the matter may be escalated to a meeting of the Department's relevant Director of Operations and a nominated representative of Te Kotahitanga who will meet within a reasonable timeframe.
- 27 If following the process in paragraph 26 the partners cannot reach a negotiated outcome, they may agree to refer the dispute to an independent and mutually agreed mediator. The costs of mediation are to be split equally between the partners.
- 28 If the dispute is not resolved following mediation, and the partners agree that the matter is of such significance that it requires the attention of Te Kotahitanga and the Minister of

7. TE PIRINGA AGREEMENT WITH THE DEPARTMENT OF CONSERVATION

Conservation, then that matter will be escalated to a meeting between Te Ariki or a nominated representative of Te Kotahitanga and the Minister or their nominees. The partners acknowledge this measure will be a means of last resort.

B6. Review and amendment

29. Every year the partners shall:

- (a) each conduct a review setting out their assessment of progress in the implementation of this Agreement. Te Kotahitanga will present its review to the Minister of Conservation, the Director-General or the relevant Director of Partnerships (or successive Department of Conservation official) as Te Kotahitanga determines; the Department of Conservation shall provide its review to Te Kotahitanga; and
- (b) hold a hui to review their partnership, at which Te Kotahitanga and the Department will report to Ngāti Tūwharetoa on the Department's business planning for the following year and any other issues requested by Te Kotahitanga, hapū or the Department.

30. The partners agree that this Agreement is a living document that should be updated and adapted to take account of future developments and additional co-management opportunities. If requested by either partner, the first review of the terms of this Agreement will take place no later than three years after the date this Agreement is signed, and will be reviewed on request every three years thereafter.

C. KAUPAPA

C1. Statutory Authorisations

- 31. The partners share the objective of ensuring that Te Kotahitanga and hapū have meaningful input into applications for Statutory Authorisations under Conservation Legislation within the Korowai Kaitiaki (including concessions) in accordance with this Agreement, including but not limited to assessing the cultural impact of the proposed activities.
- 32. As part of the strategic objectives, the partners will identify categories of Statutory Authorisation that may impact on the cultural, spiritual, or historic values of the iwi and hapū of Ngāti Tūwharetoa. These categories will be reviewed on a continuing basis.
- 33. For applications within the identified categories, the Department will advise and encourage all prospective applicants within the Korowai Kaitiaki to consult with Te Kotahitanga before filing their application. The Department will consider, in consultation with Te Kotahitanga, whether the applicant has provided sufficient information on the cultural effects of the proposed activity before accepting the application as complete pursuant to s17S of the Conservation Act 1987.
- 34. If the proposed activity is likely to have a significant effect on Ngāti Tūwharetoa, the Department will consider whether to commission a cultural impact report from Te Kotahitanga at the expense of the applicant pursuant to s17S(4).

7. TE PIRINGA AGREEMENT WITH THE DEPARTMENT OF CONSERVATION

35. The Department will engage with Te Kotahitanga on the categories of authorisations or renewal of authorisations identified under paragraph 31 above in accordance with the decision-making framework set out in section A3 above. As the Department works within time constraints to process Statutory Authorisation applications, at the earliest opportunity it will notify Te Kotahitanga of the time frames for providing advice on impacts on the iwi and hapū of Ngāti Tūwharetoa.
36. Prior to issuing Statutory Authorisations to carry out activities on land managed by the Department within the Korowai Kaitiaki, the Department will encourage communication between the applicant for the Statutory Authorisation and Te Kotahitanga.
37. If Te Kotahitanga considers that the terms of any existing Statutory Authorisations require review, it may ask the Department to review the Statutory Authorisation pursuant to s17ZC of the Conservation Act 1987, and if the Department carries out a review it will conduct its review engaging with Te Kotahitanga as set out in paragraph 35.

C2. Statutory Land Management

38. The strategic objectives for the partnership will guide the partners' engagement on statutory land management activities within the Korowai Kaitiaki. The iwi and hapū of Ngāti Tūwharetoa have an ongoing interest in the range of statutory land management activities that are occurring within the Korowai Kaitiaki.
39. The Department and Te Kotahitanga will identify the categories of statutory land management activities that have potential to affect the cultural, spiritual, historic values and sites of significance to the iwi and hapū of Ngāti Tūwharetoa, and where engagement is appropriate. This includes when the Minister of Conservation is considering, in relation to land managed by the Department within the Korowai Kaitiaki:
 - (a) vestings or management appointments for reserves held under the Reserves Act 1977;
 - (b) other management arrangements with third parties;
 - (c) changing reserve classifications;
 - (d) changing the name of any area of land managed by the Department;
 - (e) naming any new area of land managed by the Department; or
 - (f) land disposal.
40. Before vesting or making an appointment to control and manage a reserve under the Reserves Act 1977 within the Korowai Kaitiaki, the Department will discuss with Te Kotahitanga whether it wishes to undertake such a vesting or appointment subject to agreed conditions (if any).
41. Te Kotahitanga will provide early notice to the Department if it is interested in becoming an administering body of any reserves administered by the Department or the statutory manager of any marginal strips.
42. As early as possible, the Department will engage with Te Kotahitanga if it is considering disposing of land managed by the Department within the Korowai Kaitiaki.

7. TE PIRINGA AGREEMENT WITH THE DEPARTMENT OF CONSERVATION

C3. Wahi tūpuna, wāhi tapu and other sites of significance

43. The partners recognise that there are hundreds of wāhi tūpuna and wāhi tapu and other sites of cultural and historic significance to the iwi and hapū of Ngāti Tūwharetoa within the Korowai Kaitiaki.
44. The Department will work with Te Kotahitanga to respect the tikanga and cultural, spiritual and historic relationship that the iwi and hapū of Ngāti Tūwharetoa have with the land within the Korowai Kaitiaki by:
 - (a) discussing with Te Kotahitanga practical ways in which the iwi and hapū of Ngāti Tūwharetoa can exercise kaitiakitanga over ancestral lands, natural and historic resources and other taonga managed by the Department within the Korowai Kaitiaki;
 - (b) managing, in co-operation with Te Kotahitanga, sites of historic significance to the iwi and hapū of Ngāti Tūwharetoa according to standards of conservation practice which care for places of cultural heritage value, their structures, materials and cultural meaning as outlined in the International Council on Monuments and Sites (ICOMOS) New Zealand Charter 1983, reconciling these standards as far as possible with Ngāti Tūwharetoa tikanga where there is a difference in approach;
 - (c) informing Te Kotahitanga if koiwi or taonga tūturu are found within the Korowai Kaitiaki;
 - (d) assisting in recording and protecting wāhi tūpuna, wāhi tapu and other places of cultural significance to the iwi and hapū of Ngāti Tūwharetoa and seeking to ensure they are not desecrated or damaged; and
 - (e) reaching agreement, where appropriate, on the need to restrict or prohibit access to wāhi tapu and urupā, or to impose rāhui in relation to land, flora or fauna.
45. The partners will develop a process for advising one another of sites of significance, wāhi tapu and wāhi tūpuna. Information relating to sites of significance to the iwi and hapū of Ngāti Tūwharetoa will be treated in confidence by the Department in order to preserve the tapu nature of places, unless otherwise agreed by Te Kotahitanga (and subject to the Official Information Act 1982).
46. Te Kotahitanga may propose to the Department that a management plan is to be developed and agreed between the partners in relation to wāhi tūpuna or specified wāhi tapu on land within the Korowai Kaitiaki.
47. A wāhi tūpuna or wāhi tapu management plan agreed between the partners:
 - (a) will be prepared in an agreed manner without undue formality;
 - (b) will include such details relating to wāhi tapu on land managed by the Department as the partners consider appropriate (and may include restricting access or imposing rāhui);
 - (c) will be reviewed at intervals agreed between the partners;

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

7. TE PIRINGA AGREEMENT WITH THE DEPARTMENT OF CONSERVATION

- (d) will be made publicly available if and to the extent that the partners consider that appropriate, subject to obligations of confidentiality and the Official Information Act 1982; and
 - (e) may provide for persons identified by Te Kotahitanga to undertake management activities on conservation land in relation to specified wāhi tapu.
48. Where a wāhi tūpuna or wāhi tapu management plan includes an agreement for persons authorised by the Department to undertake management activities, the plan must specify the scope and duration of the work that may be undertaken; and the plan will be accepted by the Department as lawful authority for the specified work to be undertaken, as if an agreement had been entered into with the Director-General under s 53 of the Conservation Act 1987.
49. Separate arrangements relating to the Western Bay area of Taupōmoana are attached in Attachment C of this Agreement.

C4. Freshwater Fisheries

50. The iwi and hapū of Ngāti Tūwharetoa and the Department share aspirations to achieve better outcomes for conservation of freshwater fisheries within the Korowai Kaitiaki. The Department's statutory functions include the preservation, as far as practicable, of all indigenous freshwater fisheries, and the protection of recreational freshwater fisheries and their habitats. The Department is responsible for the regulation of whitebait fishing under the Whitebait Regulations. Its work also focuses on national priority fisheries and habitats that are located on land managed by the Department, national priority species and bio-security issues. In all other areas, advocacy for the conservation of freshwater fisheries is undertaken primarily through Resource Management Act 1991 processes.
51. Ngāti Tūwharetoa seeks to preserve traditional fishing practices and matauranga, including customary management of freshwater fisheries and cultural harvest. Ngāti Tūwharetoa acknowledges that this would require robust evidence as to the health of freshwater fisheries, and seek to work with the Department to establish such a regime.
52. The partners will co-operate in the conservation of freshwater fisheries and freshwater habitats to achieve better outcomes for fish species, including developing initiatives to preserve as far as practicable native fish. Establishing freshwater aims in the strategic objectives for the partnership will ensure that actions towards these are integrated into the annual business planning process. These actions may include areas for co-operation in the protection, restoration and enhancement of riparian vegetation and habitats and the development or implementation of research and monitoring programmes.
53. Department staff with relevant expertise will work with Ngāti Tūwharetoa cadets selected and sponsored by Te Kotahitanga and approved by the Department to assist them in acquiring the knowledge and skills necessary for the raising and harvesting of trout at the Tongariro National Trout Centre for non-commercial customary purposes.

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

7. TE PIRINGA AGREEMENT WITH THE DEPARTMENT OF CONSERVATION

C5. Cultural Materials

54. Conservation Legislation requires authorisation for gathering or the possession of plants and plant materials removed from land administered under Conservation legislation and the possession of dead fauna.
55. At the request of Te Kotahitanga, the Department will collaborate with Te Kotahitanga to develop a Cultural Materials Plan ("the Plan") to enable members of Ngāti Tūwharetoa to take and use cultural materials in accordance with the Plan. Appropriate Departmental experts and Ngāti Tūwharetoa experts in mātauranga Māori will take part in preparing the Plan. The Plan should:
- (a) prescribe streamlined authorisation processes (including multi-site and multi-take permits) for Ngāti Tūwharetoa members to gather cultural materials on land managed by the Department (within existing legislation);
 - (b) identify sites, quantities, methods and conditions relating to the multi-take and multi-site plan;
 - (c) identify matters to be considered when consulting on the feasibility of including a plant or plant material in the Plan; and
 - (d) enable the application of rāhui where appropriate.
56. Te Kotahitanga may propose new species/materials to be included in the Plan on an incremental basis and the partners will discuss the feasibility of the proposal.
57. When the partners agree on the taking of Cultural Materials under the Plan, the Department will issue the required authorisations to Te Kotahitanga as provided for in the Plan. Te Kotahitanga may then enable members of Ngāti Tūwharetoa to take Cultural Materials in accordance with such authorisations.
58. The Plan should be revised:
- (a) if an unforeseen event (such as a fire) takes place that affects sites included in the Plan;
 - (b) if through monitoring it is found that the impacts of a harvest under the Plan is having a significant negative impact on the values for which the land managed by the Department is held; or
 - (c) if there is a change in the status of a species under the Plan (i.e. it is classified as threatened or at risk).
59. In relation to Cultural Materials the Department will:
- (a) work with Te Kotahitanga to resolve circumstances where there are competing requests between Te Kotahitanga and non-Ngāti Tūwharetoa members or entities for the use of Cultural Materials in Korowai Kaitiaki, for example scientific research purposes, or requests for access to and use of Cultural Materials within Korowai Kaitiaki from persons and entities other than Te Kotahitanga;

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

7. TE PIRINGA AGREEMENT WITH THE DEPARTMENT OF CONSERVATION

- (b) engage with Te Kotahitanga on the restoration and enhancement of the sources of Cultural Materials on land managed by the Department;
 - (c) assist as far as reasonably practicable, Te Kotahitanga to obtain plant stock for propagation to reduce the need for plants to be gathered from land administered by the Department and to provide advice to Te Kotahitanga in the establishment of its own cultivation areas;
 - (d) provide, as far as reasonably practicable, ongoing advice to Te Kotahitanga for the management and propagation of plant stock; and
 - (e) where appropriate, the Department and Te Kotahitanga will develop procedures for monitoring levels of use of Cultural Materials in accordance with the relevant legislation and appropriate Ngāti Tūwharetoa tikanga.
60. The Department will waive the recovery of any costs associated with the collection of Cultural Materials by Ngāti Tūwharetoa.
61. The Department will, as far as reasonably practicable, provide Te Kotahitanga with access to materials from flora and dead protected fauna which have become available as a result of Departmental operations within the Korowai Kaitiaki. Where other iwi also have an interest in the area from which the materials are derived, the Department will engage with Te Kotahitanga to see whether agreement can be reached with all interested parties.

C6. Species and habitat protection

62. The partners share aspirations to protect ecosystems and indigenous flora and fauna within the Korowai Kaitiaki. These aspirations will be reflected in the strategic objectives for the partnership.
63. The Department aims to conserve the full range of New Zealand's ecosystems, maintain or restore the ecological integrity of managed sites, and ensure the survival of threatened species, in particular those most at risk of extinction. This work involves a number of national programmes.
64. In recognition of the cultural, historic and traditional association of the iwi and hapū of Ngāti Tūwharetoa with indigenous flora and fauna within Korowai Kaitiaki for which the Department has responsibility, the Department will inform Te Kotahitanga of the national sites and species programmes on which the Department will be actively working, and provide opportunities for the iwi and hapū of Ngāti Tūwharetoa to participate in these programmes.

C7. Pest Control

65. Preventing, managing and controlling threats to natural, historic and cultural values from animal and weed pests is an integral part of protecting the unique biodiversity of New Zealand.

7. TE PIRINGA AGREEMENT WITH THE DEPARTMENT OF CONSERVATION

66. The parties intend that the strategic objectives for the partnership will determine the strategic outcomes sought from pest control programmes within the Korowai Kaitiaki, including:
- (a) discussion of the objectives, degree of threat to native species, and the methods to be used;
 - (b) monitoring and assessment of programmes;
 - (c) early engagement with Te Kotahitanga on pest control activities, particularly the use of pesticides within the Korowai Kaitiaki;
 - (d) co-ordination of pest control where Te Kotahitanga or representative organisations of the iwi and hapū of Ngāti Tūwharetoa are the adjoining landowner; and
 - (e) provision of information by the Department to Te Kotahitanga on potential contracting opportunities.
67. Through the annual business planning process, the partners will create actions to progress these strategic objectives.

C8. Visitor and Public Information

68. The partners wish to share knowledge about natural and historic heritage within the Korowai Kaitiaki with visitors and the general public. This is important to increase enjoyment and understanding of this heritage, and to develop awareness of the need for its conservation.
69. The partners also wish to encourage respect for and awareness of the association of the iwi and hapū of Ngāti Tūwharetoa with the land, waters and indigenous flora and fauna within the Korowai Kaitiaki, and their responsibility as kaitiaki to preserve, protect and manage the natural and historic resources within that area.
70. The partners will do this by:
- (a) raising public awareness of positive conservation relationships developed between the partners;
 - (b) Te Kotahitanga discussing, as part of the annual business planning process, potential projects involving the placement of Pou on land managed by the Department; and
 - (c) engaging with each other in the development of visitor and public information published by either partner that relates to the values of the iwi and hapū of Ngāti Tūwharetoa in the land and resources within the Korowai Kaitiaki (such as new interpretation panels, signs, brochures, websites, and other publications), in order to ensure that the use of that information is accurate and appropriate. The Department must obtain the consent of Te Kotahitanga for the disclosure of information relating to the iwi and hapū of Ngāti Tūwharetoa (subject to the Official Information Act 1982).

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

7. TE PIRINGA AGREEMENT WITH THE DEPARTMENT OF CONSERVATION

C9. Conservaton Advocacy

71. From time to time, the partners will each have concerns with the effects of activities controlled and managed under the Resource Management Act 1991 and other legislation. The Department's advocacy role includes matters of concern to it under the Resource Management Act. Areas of common concern include:
- (a) protection and maintenance of wetland areas and reserves;
 - (b) management of rivers, streams and waterways; and
 - (c) the effects of activities on biodiversity.
72. From time to time the partners will seek to identify further issues of likely mutual interest and/or concern for discussion. It is recognised that the Department and Te Kotahitanga will continue to make separate submissions in any Resource Management Act processes.

D. TERMS OF AGREEMENT

73. The terms of the Ngāti Tūwharetoa Deed of Settlement apply to this Agreement and should be read as part of this Agreement.
74. The Agreement does not override or limit (but may be relevant in the interpretation of):
- (a) legislative rights, powers or obligations;
 - (b) the functions, duties and powers of the Minister of Conservation, Director-General or any other officials or statutory officers of the Department;
 - (c) the ability of the Crown to introduce legislation or change government policy.
75. The Agreement does not have the effect of granting, creating or providing evidence of an estate or interest in, or rights relating to
- (a) land or any other resource held, managed or administered under the Conservation Legislation;
 - (b) flora or fauna managed or administered under Conservation Legislation; or
 - (c) rights relating to the common marine and coastal areas defined in section 9(1) of the Marine and Coastal Areas (Takutai Moana) Act 2011.
76. A breach of this Agreement is not a breach of the Deed of Settlement.
77. If the Crown breaches this Agreement, Te Kotahitanga may:
- (a) seek a public law remedy, including judicial review; or
 - (b) subject to the Crown Proceedings Act 1950, seek to enforce the Agreement but damages or compensation (with the exception of court costs) may not be awarded.

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

7. TE PIRINGA AGREEMENT WITH THE DEPARTMENT OF CONSERVATION

78. Paragraph 76 does not apply to any contract entered into between the partners, including any independent contract for service or a concession.

DEFINITIONS

In this Agreement:

Conservation Legislation means the Conservation Act 1987 and the statutes in the First Schedule of the Act;

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

Cultural Materials means plants, plant materials, or materials derived from dead protected fauna, found within the Korowai Kaitiaki that are protected under the Conservation Legislation and which are of cultural significance to Ngāti Tūwharetoa;

Department means the Minister of Conservation, the Director-General and the Departmental managers to whom the Minister of Conservation's and the Director-General's decision-making powers can be delegated;

Korowai Kaitiaki means the land managed by the Department of Conservation within the Ngāti Tūwharetoa area of interest defined in the Deed of Settlement, excluding Tongariro National Park (refer to the map in Attachment A);

Kaitiaki means guardian in accordance with tikanga Māori;

Manaaki Whenua Tūwharetoa means the areas that have been declared to be Manaaki Whenua Tūwharetoa under clause 7.23 of the Deed of Settlement;

The iwi and hapū of Ngāti Tūwharetoa has the meaning set out in the Deed of Settlement;

Statutory Authorisation means an authorisation granted under the Conservation Legislation including a Concession granted under Part 3B of the Conservation Act 1987;

Statutory Planning Document means any relevant plan under Conservation Legislation;

Te Kotahitanga o Ngāti Tūwharetoa is the trust established as the Ngāti Tūwharetoa post-settlement governance entity;

Tikanga means customary laws, values and practices of Ngāti Tūwharetoa; and

Time Constraints means any relevant statutory, national programme or project time constraints.

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

7. TE PIRINGA AGREEMENT WITH THE DEPARTMENT OF CONSERVATION

AGREED on []

SIGNED for and on behalf of)
HER MAJESTY THE QUEEN)
in right of New Zealand by the)
Minister of Conservation)
in the presence of:)

Signature of Witness

Witness Name

Occupation

Address

SIGNED for and on behalf of)
TE KOTAHITANGA by)
[the Chair])
in the presence of:)

Signature of Witness

Witness Name

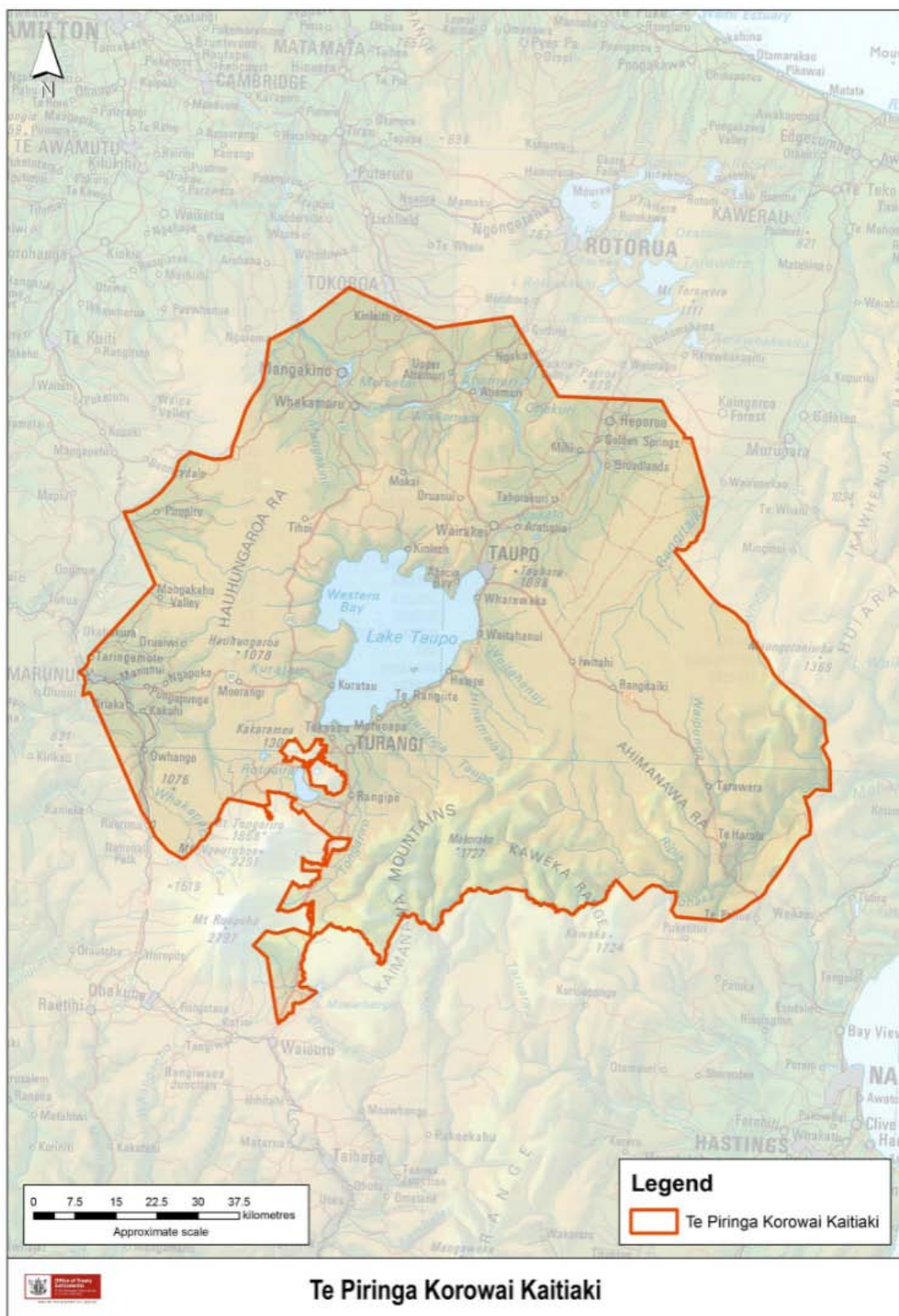
Occupation

Address

7. TE PIRINGA AGREEMENT WITH THE DEPARTMENT OF CONSERVATION

ATTACHMENT A

TE PIRINGA KOROWAI KAITIAKI



7. TE PIRINGA AGREEMENT WITH THE DEPARTMENT OF CONSERVATION

ATTACHMENT B

HE KAUPAPA RANGATIRA

He Kaupapa Rangatira - Principles of Te Tiriti o Waitangi/the Treaty of Waitangi and Objectives

Note: These principles and objectives originate from the Tongariro Taupō Conservation Management Strategy 2002-2012, and were developed in conjunction with Ngāti Tūwharetoa in response to a Treaty claim filed by Sir Hepi te Heuheu.

1 **Kawanatanga** (Article I of the Treaty)

The authority to make laws for the good order and security of the country.

Objective

To manage public conservation land in accordance with the Conservation Act 1987 and the Acts listed in the First Schedule to the Conservation Act and to interpret and administer these Acts so as to give effect to the principles of Te Tiriti o Waitangi/the Treaty of Waitangi.

Note: In the *Whales* case (*Ngai Tahu Māori Trust Board v The Director General of Conservation*) the Court of Appeal ruled that section 4 of the Conservation Act 1987 applied to all the Acts in the First Schedule of the Conservation Act 1987 to the extent that the provisions of section 4 were not inconsistent with the Acts of the First Schedule.

2 **Tino Rangatiratanga** (Article II of the Treaty, Māori version)

The right of Māori to exercise traditional authority and control over their land, resources and taonga.

Objectives

To recognise and actively promote the exercise by iwi of tino rangatiratanga over their land and resources and taonga of significance to them.

To identify with iwi opportunities for them to exercise an effective degree of control over traditional resources and taonga that are administered by the Department, where this is not inconsistent with the Department's legislation.

Note: *An effective degree of control* may vary from full authority at one end of the spectrum to a right to be consulted at the other end.

3 **Exclusive and Undisturbed Possession** (Article II of the Treaty - English version)

The right of Māori to exclusive and undisturbed possession of their land, forests, estates and fisheries.

7. TE PIRINGA AGREEMENT WITH THE DEPARTMENT OF CONSERVATION

Objective

To recognise, particularly when the Department is exercising its advocacy function, the right of Māori to exclusive and undisturbed possession of land in Māori title, and resources and other taonga of significance to iwi.

4 Oritetanga (Article III of the Treaty, both versions)

The right of Māori and non-Māori alike to equality of treatment and the privileges and responsibilities of citizenship.

Objective

To ensure that tangata whenua as individual citizens and taxpayers receive fair and equal access to the resources of the Department and the benefits offered by the Department to the general public.

5 Kaitiakitanga (Duty of guardianship/custodianship/stewardship)

The right of Māori to undertake their duty of kaitiakitanga over their land and resources and taonga of significance to them.

Objectives

To recognise and actively promote the exercise of kaitiakitanga by iwi in respect of their land including resources and taonga of significance to them and under the administration of the Department.

To facilitate the exercise of kaitiakitanga by iwi in respect of traditional resources and taonga of significance to them where these are administered by the Department.

6 Whakawhanaungtatanga (Partnership and relationships)

The Treaty provides for a partnership between Māori and the Crown, which requires the parties to afford each other reasonable co-operation and utmost good faith, in accordance with their Treaty obligations.

Objectives

To identify with iwi the means to provide them with opportunities for partnership and participation in decision-making in conservation management generally, particularly in respect of traditional land, resources and taonga administered by the Department.

To actively develop a relationship of co-operation, utmost good faith and mutual respect between the Department and iwi and to reflect the importance and quality of that relationship in the culture of the Department and all of its operations.

7 Tautiaki Ngangahau (Duty of active protection)

The duty of the Crown to ensure the active protection of taonga for as long as Māori so wish it.

7. TE PIRINGA AGREEMENT WITH THE DEPARTMENT OF CONSERVATION

Objective

To actively protect the interests of iwi in respect of land, resources and taonga administered by the Department where these are considered by iwi to be of significance to them.

8 He Here Kia Mohio (Duty to be informed)

The duty of the Crown to make informed decisions.

Objective

To engage in regular, active and meaningful consultation with iwi in respect of the work of the Department.

9 Whakatika i te Mea He (Duty of redress)

The duty of the Crown to remedy past breaches of the Treaty and to prevent further breaches.

Objectives

To avoid any action which might frustrate or prevent redress of Treaty claims.

To actively assist the Government in the resolution of Treaty claims where these relate to the Department's responsibilities.

To address genuinely any grievances which tangata whenua might bring to the attention of the Department, formally or informally, in respect of any act, omission or obligation of the Department in its administration of public conservation land.

7. TE PIRINGA AGREEMENT WITH THE DEPARTMENT OF CONSERVATION

ATTACHMENT C

TAUPŌMOANA WESTERN BAY

Taupōmoana Western Bay

1. The Western Bay area of Lake Taupo (Taupōmoana) is a wāhi tūpuna of special significance to Ngāti Tūwharetoa and their hapū who whakapapa to this part of Taupōmoana and the Hauhungaroa Range beyond ("Hauhungaroa hapū"). A number of Hauhungaroa hapū also share whakapapa connections with Raukawa. A large number of pā, wāhi tapu and wāhi tūpuna associated with early Ngāti Tūwharetoa tūpuna are situated on land within the Korowai Kaitiaki in the Western Bay area.
2. For the purposes of this agreement, the Western Bay area refers to the land managed by the Department in the area extending from the mouth of the Kuratau River north to Kawakawa Bay and Whakaipo Bay ("the Western Bay area") (attached as Attachment D).
3. The partners acknowledge that the Hauhungaroa hapū are kaitiaki of the Western Bay area, and seek a holistic approach to managing this special cultural landscape.
4. The partners further acknowledge that the aspiration of the Hauhungaroa hapū is to ultimately take over the management of the Western Bay area, and that a transitional approach is required to achieve this objective.

Taupōmoana Western Bay Forum

5. Te Kotahitanga will establish a forum of the Hauhungaroa hapū ("the Forum") on or before settlement date. The Forum will comprise 8 representatives from the Hauhungaroa hapū (or such number as may be agreed), who will agree on a name for the Forum. Te Kotahitanga will be responsible for providing appropriate resources and support to maintain the operation of the Forum.
6. Te Kotahitanga will maintain a list of the Hauhungaroa hapū, and will advise the Department who the Hauhungaroa hapū are.
7. As early as possible, the Department will advise Te Kotahitanga and the Forum if the Department is considering disposing of land managed by the Department within the Western Bay area.

Obligation to Enter into Management Agreement

8. The settlement bill will provide that the Forum and the Director-General will enter into an agreement in relation to the management of Western Bay under section 53 of the Conservation Act 1987 ("Management Agreement"). The Management Agreement process will be started within six months after settlement date, or on such earlier date as may be agreed.

Western Bay Management Agreement

9. The Management Agreement is intended to give effect to the relationship between Ngāti Tūwharetoa and the Department by providing for joint management of the Western Bay area.

7. TE PIRINGA AGREEMENT WITH THE DEPARTMENT OF CONSERVATION

10. The Management Agreement will:

- (a) recognise the mana and kaitiaki role of the Hauhungaroa hapū over the Western Bay area;
- (b) recognise the Crown's regulatory role;
- (c) identify shared objectives for conservation;
- (d) promote and support conservation values;
- (e) recognise and protect the Hauhungaroa hapū's tikanga, culture, history and relationship with the Western Bay area.

Scope of Western Bay Management Agreement

11. The Management Agreement will include processes to provide for the Department and the Forum to work in a collaborative manner in relation to the management of Western Bay, applying the Te Piringa principles and decision-making framework, including:

- a) agreement as to the management activities that may be undertaken by the Hauhungaroa hapū;
- b) means to build the capability of the Hauhungaroa hapū to undertake the Department's management functions and activities, including the training of hapū members;
- c) the development of statutory or non-statutory management plans for the management of the Western Bay area;
- d) the participation by the Forum in annual planning by the Department as it relates specifically to the Western Bay area;
- e) meaningful and early input by the Forum into management decisions relating to Western Bay area;
- f) decisions on concessions or other statutory authorisations under the conservation legislation;
- g) developing wāhi tapu or cultural materials plans (as provided for in Te Piringa);
- h) the approach to statutory or non-statutory planning processes affecting part Pureora Forest Park (within the area of interest);
- i) vesting or appointment to control and manage reserves held under the Reserves Act 1977;
- j) naming or changing the name of any areas within the Western Bay area;
- k) land disposal by the Department;
- l) any other matters agreed to.

7. TE PIRINGA AGREEMENT WITH THE DEPARTMENT OF CONSERVATION

Communication and Meetings

13. The Western Bay Management Agreement will provide for ongoing operational collaboration between the parties, including stipulating that:
- a) the Forum and the Department will meet at least twice a year (or as agreed between parties) to discuss the proposed management of Western Bay area;
 - b) meetings will be held as required between the Forum, Te Kotahitanga, and the Department to plan for and discuss the management of Western Bay area, including any planned management activities or issues that have arisen;
 - c) there will be early notification to the Forum and Te Kotahitanga of any issues that come to the attention of the Department concerning the management of Western Bay area;
 - d) there will be early notification to the Department of any issues that come to the attention of the Hauhungaroa hapū and Te Kotahitanga concerning the management of Western Bay area.

Review and Amendment of Western Bay Management Agreement

14. The Hauhungaroa hapū, Ngāti Tūwharetoa and the Director-General may at any time agree in writing to undertake a review of the Management Agreement. However, there will be a review five years after the date of the Management Agreement, and thereafter every five years, with a specific focus to be on whether more of the Department's functions and responsibilities can be devolved to the Hauhungaroa hapū, or land transferred to the Hauhungaroa hapū.
15. There will be no right to terminate the Management Agreement, but the parties may agree to suspend it.

Costs

16. To avoid doubt, the Western Bay Management Agreement will provide that each party bears its own costs in relation to the preparation of and participation under that agreement.

Part Pureora Forest Park (within the area of interest) overlay classifications

17. Areas within part Pureora Forest Park (within the area of interest) (including the land around Whanganui Stream known as Whenuakura) are also of special significance to the Hauhungaroa hapū. The deed and settlement legislation provide for two overlay classifications over the relevant land managed by the Department so that the values of the iwi and hapū of Ngāti Tūwharetoa in relation to these areas are known, principles for the protection of those values are stated and actions the Department must take in accordance with those principles.
18. In any statutory planning process affecting part Pureora Forest Park (within the area of interest), the partners and the Forum will meet at an early stage (before public consultation, if any) to identify and seek to address any issues affecting the Hauhungaroa hapū, and will continue to engage with Te Kotahitanga and the Forum throughout the process in accordance with the engagement principles in this Agreement.

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

7. TE PIRINGA AGREEMENT WITH THE DEPARTMENT OF CONSERVATION

SIGNED for and on behalf of)
HER MAJEST THE QUEEN in right of)
New Zealand by the Minister for
Conservation:

in the presence of:)

Signature of Witness

Witness Name

Occupation

Address

SIGNED for and on behalf of)
HAUHUNGAROA HAPŪ by:)
in the presence of:)

Signature of Witness

Witness Name

Occupation

Address

8. ENCUMBRANCES

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

8.1 KARAPITI PROPERTY EASEMENT IN GROSS FOR A RIGHT OF WAY

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

8.1: KARAPITI PROPERTY EASEMENT IN GROSS FOR A RIGHT OF WAY

Dated

2016

DEED OF GRANT OF EASEMENT

(Pursuant to Section 60 of the Land Act 1948)

Grantor

**THE COMMISSIONER OF CROWN LANDS at
Wellington**

Grantee

**[THE TRUSTEES OF TE KOTAHITANGA O
NGĀTI TŪWHARETOA TRUST]**

8.1: KARAPITI PROPERTY EASEMENT IN GROSS FOR A RIGHT OF WAY

DEED OF GRANT OF EASEMENT (Pursuant to section 60 Land Act 1948)

DATED

2016

PARTIES

1. **THE COMMISSIONER OF CROWN LANDS** at Wellington ("**the Grantor**")
- AND**
2. **[THE TRUSTEES OF TE KOTAHITANGA O NGĀTI TŪWHARETOA TRUST]** hereinafter with its successors and permitted assigns ("**the Grantee**")

BACKGROUND

- A. The Grantor is the owner of the Easement Land. The Grantee is the owner of the Dominant Land.
- B. The Grantee wants to obtain an easement for right of way over the Easement Land.
- C. The Grantor has agreed to grant to the Grantee the Easement, and the Grantee agrees to accept the Easement, on the terms and conditions set out in this Deed.
- D. The Grantor's Land is subject to the Wairakei Geothermal Easement in favour of Contact Energy and this Deed is granted subject to:
 - (a) the Wairakei Geothermal Easement; and
 - (b) the Grantee's compliance with the covenants in this Deed.
- E. Contact Energy has consented to the grant of this Deed on the terms and conditions set out.

TERMS OF THIS DEED

1. DEFINITIONS AND INTERPRETATION

1.1 In this Deed (including the Schedules):

"**Contact Energy**" means Contact Energy Limited and includes all its successors and assigns;

"**Deed**" means this Deed, the Background and the Schedules.

"**Dominant Land**" means [Section 9 and Part Section 8 SO 355555 (subject to survey)].

"**Easement**" means the easement for right of way over the Easement Land in favour of the Grantee as set out in this Deed.

"**Easement Land**" means that part of the Grantor's Land shown (subject to survey) [coloured red and marked "A" on the plan attached] as Schedule 1 of this Deed.

8.1: KARAPITI PROPERTY EASEMENT IN GROSS FOR A RIGHT OF WAY

“Equipment” includes equipment, tools, machinery and all materials and items required for the purposes of exercising any of the rights granted by this Deed.

“Grantee” includes the Grantee’s servants, agents, employees, workers, invitees, licensees and contractors with or without any Vehicles, Machinery or Equipment.

“Grantor’s Land” means [Part Section 8 SO 355555 (subject to survey)].

“Maintain” includes maintain, repair, renew, alter and inspect and **“maintenance”** has a similar meaning.

“Vehicles” includes trucks, tractors, cars, bicycles, motorcycles (2 and 4 wheeled) and trailers whether wheeled or tracked.

“Wairakei Geothermal Easement” means the Wairakei Geothermal and Electricity Easement dated 8 November 2006 between the Crown and Contact Energy, as varied by the Variation of Wairakei Geothermal and Electricity Easement of the same date, which granted to Contact Energy among other things, subsurface rights under the Easement Land and rights of abatement over the Easement Land.

“Working Day” means any day of the week excluding Saturday, Sunday, national statutory holidays, and the anniversary days commonly observed in Wellington and in the locality in which the Easement Land is situated.

1.2 In the interpretation of this Deed unless the context otherwise requires:

- (a) the headings and subheadings appear as a matter of convenience and shall not affect the interpretation of this Deed;
- (b) references to any statute, regulation or other statutory instrument or bylaw shall be deemed to be references to the statute, regulation, instrument or bylaw as from time to time amended and includes substitution provisions that substantially correspond to those referred to; and
- (c) the singular includes the plural and vice versa and words incorporating any gender shall include every gender.

2. GRANT OF EASEMENT

2.1 Pursuant to section 60 of the Land Act 1948 the Grantor grants to the Grantee, at all times, the right to go over and along the Easement Land together with the rights and powers set out in the Fourth Schedule to the Land Transfer Regulations 2002 and the Fifth Schedule of the Property Law Act 2007 as are applicable to grants of rights of way unless otherwise modified in this Deed.

2.2 The rights granted under this Deed to the Grantee are:

8.1: KARAPITI PROPERTY EASEMENT IN GROSS FOR A RIGHT OF WAY

- (a) non-exclusive and are exercisable in common with the Grantor and any other person having similar rights either now or in the future; and
 - (b) subject to the compliance by the Grantee with the obligations imposed on it under this Deed.
- 2.3 The Grantee acknowledges and agrees that the Grantor (and any person to whom the Grantor has granted rights to do so) may at all times use the Easement Land for access purposes ancillary to forestry operations undertaken by the Grantor (or such other person) including for the purposes of inspecting, maintaining and harvesting forests.
- 2.4 If, in the Grantor's (or such other person's) reasonable opinion, it is necessary for the purposes of safety or other emergency in connection with forestry operations, the Grantor (or such other person) may close the Easement Land to access by any person, including the Grantee, for any reasonable period.
- 2.5 The Grantor shall be entitled to install further gates or other barriers on the Easement Land, to control access to the Grantor's Land after business hours each day, for reasons relating to:
 - (a) the safety and security of the public, the Grantor's licensees or of those working on the Grantor's land; and
 - (b) the protection of the trees, buildings, plant, equipment and related items on the Grantor's Land.
- 2.6 The Grantor shall provide keys to any locks on any gates or other barriers on the Easement Land to the Grantee for the Grantee's own purposes. The Grantee agrees to lock these gates/barriers when it passes and repasses through the locked gates/barriers.
- 2.7 The Grantor shall have the discretion to close or otherwise control entry to and the use of the Easement Land, and only for reasons relating to:
 - (a) the safety and security of the public, the Grantor's licensees or of those working on the Grantor's Land; and
 - (b) the protection of the trees, buildings, plant, equipment and related items on the Grantor's Land.

3. CONSIDERATION

In consideration of the grant of Easement in this Deed:

- (a) the Grantee shall pay the Grantor \$1 plus GST (if demanded); and
- (b) the Grantee shall observe the obligations imposed on it under this Deed.

8.1: KARAPITI PROPERTY EASEMENT IN GROSS FOR A RIGHT OF WAY

4. REGISTRATION

This Deed may be registered pursuant to section 60 of the Land Act 1948 and both parties will do all things necessary to enable registration.

5. OBLIGATIONS OF THE GRANTEE

5.1 The Grantee shall when exercising its rights under this Easement (subject to clause 2.1 of this Deed):

- (a) only use Vehicles suitable for the terrain over which the Easement is granted;
- (b) wherever possible remain on the formed roads and tracks and when on those roads or tracks comply with all traffic laws and regulations as are applicable to public roads or in accordance with the Grantor's reasonable directions;
- (c) immediately after passing through any gates, close such of them as were closed and lock such of them as were locked immediately before such passing through;
- (d) take all reasonable precautions for guarding against any danger (including but without limitation, fire, physical damage or transmission of disease or spread of contaminants), and in particular shall (but without limiting the general obligation to take full and proper precautions pursuant to this clause 5.1) comply with all conditions that may be reasonably imposed from time to time by the Grantor or any lawful authority; and
- (e) ensure that as little damage or disturbance is caused to the surface of the Easement Land and/or the Grantor's Land and that the surface is restored as nearly as possible to its former condition prior to the Grantee's use pursuant to this Easement and any other damage done by reason of the activities permitted on the Easement Land by this Deed is similarly restored.

5.2 The Grantee and Grantor are responsible for the establishment, repair and maintenance of the surface of the Easement Land, and for the associated costs, in the manner set out in Schedule 4 of the Land Transfer Regulations 2002, and so as to keep the surface of the Easement Land in good order and to prevent it from becoming a danger or nuisance.

5.3 The Grantee covenants that when it exercises its rights under this Deed it shall do so at all times in a manner so as not to obstruct or hamper the Grantor, or any agents, employees, contractors and invitees of the Grantor in its normal or reasonable use of the Easement Land and/or the Grantor's Land.

5.4 The Grantee shall not at any time, except with the prior written approval of the Grantor, carry out on the Easement Land any activity which is not provided for under clause 2 of

8.1: KARAPITI PROPERTY EASEMENT IN GROSS FOR A RIGHT OF WAY

this Deed, or do any other thing which would affect the ability of the Grantor to use the Easement Land and/or the Grantor's Land.

- 5.5 The Grantee covenants to ensure compliance at its own cost at all times with all statutes and regulations, ordinances and by-laws, and covenants to obtain all approvals, consents and authorisations at its own cost as are necessary for the Grantee to lawfully conduct the activities permitted by this Deed, including compliance (so far as is reasonably practicable) by the Grantee's servants, employees and invitees entering upon the Easement Land from time to time.
- 5.6 When exercising its rights under this Deed, the Grantee will use its best endeavours to:
- (a) not introduce any noxious weeds, pests, disease and contaminants onto the Easement Land; and
 - (b) remove any such noxious weeds, pests, diseases and contaminants introduced by the Grantee from the Easement Land.
- 5.7 The Grantee will comply with the Health and Safety at Work Act 2015 and will take all practicable steps (to the extent permitted by law) to ensure that any obligations imposed on the owner of the land under the Health and Safety at Work Act 2015 are complied with at all times. The Grantee will comply with any reasonable obligations imposed by the Grantor regarding the identification and elimination or minimisation of hazards or risks to health and safety and regarding the health and safety of persons on the Grantor's Land and/or in the vicinity of the Easement Land.

6. WAIRAKEI GEOTHERMAL DEED

- 6.1 The Grantor and the Grantee acknowledge and agree that:
- (a) the Grantee's rights contained in this Deed are subject to the provisions of the Wairakei Geothermal Easement; and
 - (b) the provisions of the Wairakei Geothermal Easement and Contact Energy's rights under the Wairakei Geothermal Easement shall have priority to this Deed and the rights granted under it.
- 6.2 The Grantee covenants:
- (a) that when it exercises its rights under this Deed it shall do so at all times in a manner so as not to obstruct or hamper Contact Energy or the agents, employees and contractors of Contact Energy in the exercise of Contact Energy's rights under the Wairakei Geothermal Easement;

8.1: KARAPITI PROPERTY EASEMENT IN GROSS FOR A RIGHT OF WAY

- (b) not to carry out on the Easement Land any activity or do any other thing which may affect the ability of Contact Energy to exercise Contact Energy's rights under the Wairakei Geothermal Easement;
- (c) at all times comply with the covenants of the Grantor under the Wairakei Geothermal Easement, so far as those covenants relate to the Easement Land, as if those covenants were set out in this Deed;
- (d) not to exercise or permit the exercise of the Grantee's rights under this Deed or to do anything so as to cause the:
 - (i) Grantor to breach its obligations under the Wairakei Geothermal Easement or any statutory or consent requirement; or
 - (ii) Contact Energy to breach its obligations under the Wairakei Geothermal Easement or any statutory or consent requirement.
- (e) to indemnify the Contact Energy against any loss, loss of expected benefits of the Wairakei Geothermal Easement, claim, damage or expense suffered by the Contact Energy resulting from any breach of the Grantee's obligations under this Deed.

7. OBLIGATIONS OF THE GRANTOR

The Grantor shall not do anything on the Easement Land whereby the rights, powers and liberties granted to the Grantee by this Deed may be interfered with except as permitted by this Deed.

8. NO GRANTOR WARRANTY

The Grantee acknowledges that it has entered into this Deed in reliance upon its own judgement and not in reliance upon any representations or warranties made by or on behalf of the Grantor as to the suitability of the Easement Land for any purpose or otherwise.

9. GRANTEE INDEMNITY

- 9.1 The Grantee hereby indemnifies the Grantor against any loss, claim, damage, expense or liability or proceeding suffered or incurred at any time by the Grantor in connection with this Deed or as a direct result of the exercise of rights by the Grantee under this Deed, or any breach by the Grantee of its obligations, undertakings or warranties contained or implied by this Deed, provided however that the Grantee's liability for each claim under this clause shall be limited to a maximum amount of \$1,000,000.00.

8.1: KARAPITI PROPERTY EASEMENT IN GROSS FOR A RIGHT OF WAY

- 9.2 The Grantee acknowledges that this Deed is granted on the basis that the Grantee and any of its invitees when they enter and/or use the Easement Land by virtue of this Easement, do so strictly at their own risk AND the Grantee shall indemnify the Grantor from and against any action or claim made by any person the Grantee permits to enter into and upon the Easement Land.

10. GRANTOR'S LIABILITY EXCLUDED

Under no circumstances will the Grantor or Contact Energy be liable in contract, tort, or otherwise for any expense, costs, loss, injury, or damage whether consequential or otherwise, arising directly or indirectly from this Deed or any activity undertaken by the Grantor or Contact Energy on the Grantor's Land, whether the expense, cost, loss, injury or damage is the direct or indirect result of negligence or otherwise, or results from the exercise by Contact Energy of its rights under the Wairakei Geothermal Easement.

11. BINDING ON SUCCESSORS

This Deed will be binding on and enure for the benefit of the executors, administrators, successors and assigns of both parties.

12. DISPUTES

If any dispute arises between the Grantor and the Grantee concerning the rights and obligations created by this Deed the parties shall enter into negotiations in good faith to resolve their dispute. If the dispute is not resolved within 20 Working Days of the date on which the parties begin their negotiations the parties shall submit to the arbitration of an independent arbitrator appointed jointly by the parties, and if one cannot be agreed upon within a further 10 Working Days, the President or his or her nominee for the time being of the New Zealand Law Society will appoint an independent arbitrator in the area. Such arbitration shall be determined in accordance with the Arbitration Act 1996, excluding the Second Schedule thereof, and the parties' execution of this Deed shall be deemed to be a submission to arbitration PROVIDED THAT this clause shall be subject in all respects to the provisions of section 17 of the Land Act 1948.

13. NOTICES

- 13.1 Any notice to be given by one party under this Deed to the other shall be in writing and shall be forwarded by either delivering or posting it to the address at the appropriate address set out below or to such address notified by the address in writing to the other party:

The Grantor's Address:

Land Information New Zealand
Crown Property Management

8.1: KARAPITI PROPERTY EASEMENT IN GROSS FOR A RIGHT OF WAY

Radio New Zealand House
155 The Terrace
P O Box 5501
WELLINGTON
Fax Number: (04) 477 5564

The Grantee's Address:

[INSERT]

13.2 All notices shall be deemed to be delivered:

- (a) if posted, three (3) Working Days after the date of posting; or
- (b) if delivered, when received; and
- (c) if sent by facsimile, when sent (which must be evidenced by production of a facsimile transmission report showing successful transmission),

provided that any notice received on a day which is not a Working Day, or after 5pm on a Working Day, will be deemed to have been received on the next Working Day.

14. SEVERABILITY

If any part of this Deed is held by any court or administration body of competent jurisdiction to be illegal, void, or unenforceable, such determination shall not impair the enforceability of the remaining parts of this Deed which shall remain in full force.

15. NO WAIVER

15.1 A waiver of any provision of this Deed shall not be effective unless given in writing, and then it shall be effective only to the extent that it is expressly stated to be given.

15.2 A failure, delay or indulgence by one party in exercising any power or right shall not operate as a waiver of that power or right. A single exercise or partial exercise of any power or right shall not preclude further exercises of that power or right or the exercise of any other power or right.

16. FURTHER ASSURANCES

Each party agrees to execute and deliver any documents and to do all acts and things as may reasonably be required by the other party or parties to obtain the full benefit of this Deed according to its true intent.

17. GRANTOR'S RIGHT OF DELEGATION

The Grantor may delegate all or any rights, benefits and obligations conferred by this Deed, provided that the exercise of any such rights, benefits or obligations by that

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

8.1: KARAPITI PROPERTY EASEMENT IN GROSS FOR A RIGHT OF WAY

person shall not limit the liability of the Grantor in the performance or observance of the provisions of this Deed.

18. CONTRACTS (PRIVITY) ACT 1982

The Grantor and the Grantee acknowledge for the purposes of the Contracts (Privity) Act 1982 that this Deed contains provisions which confer a benefit on, and are intended to be enforceable by, Contact Energy.

19. GOVERNING LAW

This Deed shall be governed by and construed in accordance with New Zealand law.

20. COUNTERPARTS

This deed may be executed in two or more counterparts, all of which together constitute one and the same deed. A party may enter into this deed by signing a counterpart copy and sending it to the other, including sending it by fax or email.

IN WITNESS WHEREOF this Deed has been duly executed on the date first written above.

SIGNED by

acting for and on behalf of the
Commissioner of Crown Lands pursuant
to a delegation under section 41 of the
State Sector Act 1988

in the presence of:

Witness name

Witness occupation

Witness address

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

8.1: KARAPITI PROPERTY EASEMENT IN GROSS FOR A RIGHT OF WAY

SIGNED by [THE TRUSTEES OF TE
KOTAHITANGA O NGĀTI TŪWHARETOA
TRUST])
)
)

in the presence of:

[Trustee]

[Trustee]

[Trustee]

[Trustee]

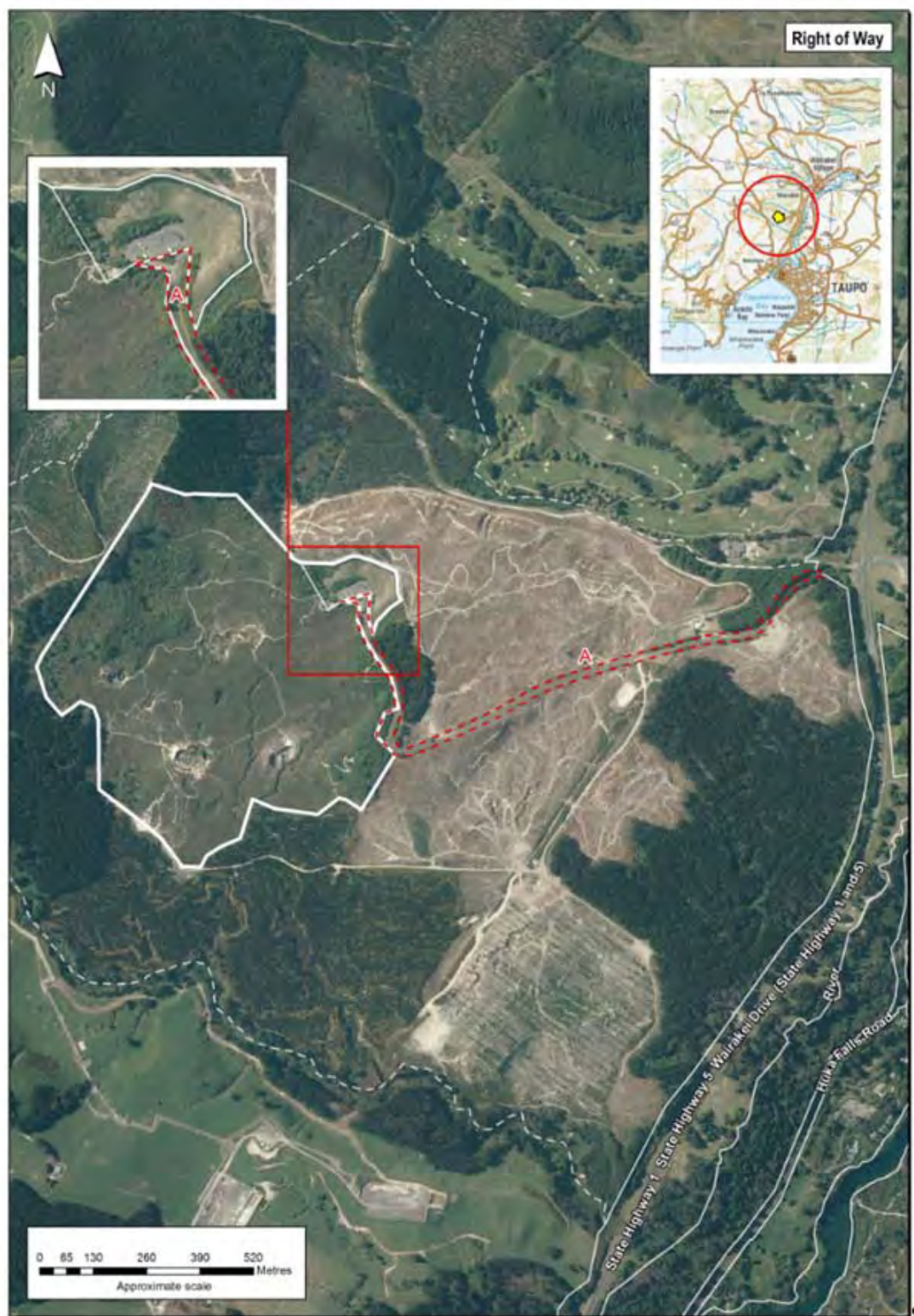
Witness name

Witness Occupation

Witness Address:

8.1: KARAPITI PROPERTY EASEMENT IN GROSS FOR A RIGHT OF WAY

SCHEDULE 1 – EASEMENT DIAGRAM



8.2 PARAKIRI SITE A EASEMENT TO TAUPO DISTRICT COUNCIL

8.2: PARAKIRI SITE A EASEMENT TO TAUPO DISTRICT COUNCIL

[Note: The terms and conditions of this document are yet to be agreed between the parties. The following document will be substituted with the final agreed version prior to ratification by Ngāti Tūwharetoa]

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

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

Grantor

THE TRUSTEES OF TE KOTAHITANGA O NGĀTI TŪWHARETOA

Grantee

TAUPO 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 sewage	[the areas shown with a black line on the aerial plan attached (subject to survey)]		In gross
Right to convey sewage	[the areas shown with a yellow line on the aerial plan attached (subject to survey)]		In gross
Right to convey water	[the areas shown with a blue line on the aerial plan attached (subject to survey)]		In gross
Right to drain water	[the areas shown with a green line on the aerial plan attached (subject to survey)]		In gross
Pedestrian Right of Way	[the areas shown with a red dotted line on the aerial plan attached (subject to survey)]		In gross

8.2: PARAKIRI SITE A EASEMENT TO TAUPO DISTRICT COUNCIL

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]~~ ~~[negated]~~ ~~[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 _____]~~

8.2: PARAKIRI SITE A EASEMENT TO TAUPO DISTRICT COUNCIL

Annexure Schedule 1

Insert type of instrument

Easement

Dated

Page

1

of

3

Pages

Continue in additional Annexure Schedule, if required.

1. Easement Facility

- 1.1 The definition of "easement facility" in clause 1(e) of Schedule 4 of the Land Transfer Regulations 2002 ("Regulations") is deleted and replaced with the following sub-clause:

"(e) *In relation to a right to drain sewage, means pipes, conduits, pumps, tanks (with or without headwalls), manholes, valves, surface boxes, other equipment suitable for that purpose (whether above or under the ground), toilet facilities and anything in replacement or substitution.*"

- 1.2 The definition of "easement facility" in clause 1 of Schedule 4 of the Regulations is varied by adding the following new sub-clauses (g) and (h):

"(g) *In relation to a right to convey sewage, means pipes, conduits, pumps, tanks (with or without headwalls), manholes, valves, surface boxes, other equipment suitable for that purpose (whether above or under the ground), toilet facilities and anything in replacement or substitution; and*

"(h) *In relation to a pedestrian right of way, means that part of the land described as the stipulated area and includes (for the avoidance of doubt) the footpath, the toilet facilities and any other structures located in the stipulated area.*"

2. Additional Provisions Relating to Pedestrian Right of Way

- 2.1 In respect of the pedestrian right of way 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 pedestrian right of way means Taupo District Council and (subject to the provisions of this easement instrument) all other persons to the extent permitted by Taupo District Council either generally or specifically (which may include members of the general public)."

3. Rights and Powers applying to Right to Convey Sewage

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

8.2: PARAKIRI SITE A EASEMENT TO TAUPO DISTRICT COUNCIL

Annexure Schedule 1

Insert type of instrument

Easement

Dated

Page

2

of

3

Pages

Continue in additional Annexure Schedule, if required.

(a) Right to Convey Sewage

- (i) A right to convey sewage includes the right for the grantee in common with the grantor and other persons to whom the grantor may grant similar rights to convey sewage and other waste material and waste fluids through the easement facility and over the servient land.
- (ii) The right to convey sewage and other waste material and waste fluids is limited to the extent required by any period of necessary cleansing, renewal, modification, or repair of the easement facility.
- (iii) The easement facility referred to in clause 3.1(a)(i) is the easement facility laid or to be laid along the stipulated course or stipulated area, as agreed by the grantor at the time of installation of the facility.
- (iv) The provisions set out in the Regulations (including, without limitation, clauses 10 to 14 (inclusive) of the Regulations) shall apply to the right to convey sewage easement created pursuant to this easement to the extent they are not inconsistent with the terms set out in this instrument.

(b) Pedestrian Right of Way

- (i) A pedestrian right of way 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 over and along the easement facility.
- (ii) The right to pass and repass on foot over and along the easement facility with or without any kind of domestic animal.
- (iii) A pedestrian right of way includes:
 - (A) the right to create a footpath, to repair and maintain an existing footpath, (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 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.

8.2: PARAKIRI SITE A EASEMENT TO TAUPO DISTRICT COUNCIL

Annexure Schedule 1

Insert type of instrument

Easement

Dated

Page

3

of

3

Pages

Continue in additional Annexure Schedule, if required.

4. General

- 4.1 The grantor may by agreement with the grantee relocate any easement facility created by this easement instrument in order to facilitate the use or development of the servient land. The grantor shall pay all costs (including the grantee's costs) of and incidental to such relocation of any easement facility.
- 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.

8.2: PARAKIRI SITE A EASEMENT TO TAUPO DISTRICT COUNCIL



4.

8.3 PARAKIRI SITE A LEASE WITH THE CROWN [1]

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

8.3: PARAKIRI SITE A LEASE WITH THE THE CROWN [1]

[Note: The terms and conditions of this document are yet to be agreed between the parties. The following document will be substituted with the final agreed version prior to ratification by Ngāti Tūwharetoa]

**The Trustees of Te Kotahitanga O Ngāti
Tūwharetoa**

Lessor

Her Majesty the Queen, acting by and through the
Minister of Local Government

Lessee

Memorandum of Lease

8.3: PARAKIRI SITE A LEASE WITH THE THE CROWN [1]

Memorandum of Lease

Parties

1. **The Trustees of Te Kotahitanga O Ngāti Tūwharetoa** (the Lessor)
2. **Her Majesty the Queen**, acting by and through the Minister of Local Government (the Lessee)

5. Schedule of Land

Computer Identifier	Register	Area	Legal Description
<i>[insert details following survey]</i>		<i>[insert details following survey]</i>	<i>[the areas shown "B" on the aerial map attached] (subject to survey)]</i>
Encumbrances, Liens and Interests:			

The Lessor leases to the Lessee and the Lessee accepts the lease of the Land for the Term and at the Rent and subject to the conditions, covenants, agreements and restrictions herein set forth in Schedule A and Schedule B.

8.3: PARAKIRI SITE A LEASE WITH THE THE CROWN [1]

Schedule A

Term:	Ten (10) years commencing on and from the Commencement Date.
Commencement Date:	[TBC]
Expiry Date:	[that date being ten (10) years less one day from the Commencement Date] (subject to clause 13.1)
Rent:	\$1.00 plus GST per annum, payable in accordance with clause 2.
Permitted Use:	Any use permitted under the District Plan,

8.3: PARAKIRI SITE A LEASE WITH THE THE CROWN [1]

Schedule B

1. Definitions and Interpretation

- 1.1 For the purposes of the interpretation or construction of this Lease, unless the context provides otherwise:

Definitions

- (a) *Authority* means any Government authority whether national or territorial or any other Government or statutory authority appointed or established by statute in New Zealand having jurisdiction over or in respect of the Land and/or the Improvements.
- (b) *Business Day* means any day other than a Saturday or Sunday or statutory or anniversary holiday in Auckland.
- (c) *Building* means the building(s) on the Land on the Commencement Date and includes any additions to the Building, any new buildings and structures or buildings and structures in replacement for the existing building.
- (d) *GST* means goods and services tax chargeable in accordance with the GST Act.
- (e) *GST Act* means the Goods and Services Tax Act 1985.
- (f) *Improvements* means any Building, structure or other improvements including drains, concrete paving, tiles, carpark sealing, mechanical services, plant, machinery, equipment, fixtures and fittings existing on the Land at the commencement of this Lease and from time to time installed by or on behalf of the Lessee on the Land during the term of this Lease, but excludes the property of other lawful occupiers of the Land or Improvements.
- (g) *Land* means that land described in the Schedule of Land, together with and subject to all interests noted thereon.
- (h) *Regional and District Plans* shall have ascribed to them those definitions set out in section 2 of the Resource Management Act 1991 where there is reference to "Regional Plan" and successor or replacement planning regime imposed by the relevant Authority having jurisdiction in respect thereof.
- (i) *Services* means all pipes, drains, mains, wires, cables, channels, gutters, sewers, and other utilities or services.
- (j) *Tax Invoice* has the meaning given in section 2 of the Goods and Services Tax Act 1985.

8.3: PARAKIRI SITE A LEASE WITH THE THE CROWN [1]

Interpretation

- (k) Words importing any gender shall include all other genders.
- (l) Words importing the singular shall include the plural and vice versa.
- (m) Payments shall be made in the lawful currency of New Zealand.
- (n) Headings shall be ignored.
- (o) References to clauses and schedules are references to clauses and schedules in this Lease and references to parties are references to the parties to this Lease unless expressly stated otherwise.
- (p) Any reference in this Lease to any statute is deemed to include all amendments, revisions, substitutions or consolidations made from time to time to that statute.
- (q) A *person* shall include any individual person, a corporation, a company or other body corporate, an unincorporated body of persons, a public body, firm, partnership, joint venture, association, organisation, trust, State or agency of a State in each case whether or not having separate legal personality.
- (r) *writing* shall include words visibly represented or reproduced.
- (s) Where approvals or consents are required in this Lease they shall not be unreasonably or arbitrarily withheld or delayed and such approvals or consents may be given with conditions which are both reasonable and relevant to the circumstances giving rise to the request to seek approval or consent and shall be required for each separate occasion notwithstanding any prior consent or approval obtained for the like purpose on a prior occasion.
- (t) Notwithstanding that there may be no privity of contract existing between the parties to this Lease and certain named third parties in this Lease nevertheless such third parties shall have the right to enforce any provisions in this Lease which are of benefit to them with such right to enforce being acknowledged and intended in accordance with the requirements of section 4 of the Contracts (Privity) Act 1982.
- (u) The expressions Lessor and Lessee includes their respective successors and assigns and where the context permits the Lessor's or the Lessee's respective tenants and other lawful occupiers of the Land and their respective contractors, agents and invitees (which persons shall be those deemed to be persons under the control of the Lessor or the Lessee, as the case may be).

2. Rent

- 2.1 The Lessee shall pay the Rent to the Lessor on each anniversary of the Commencement Date in accordance with clause 22.1, if demanded by the Lessor.

8.3: PARAKIRI SITE A LEASE WITH THE THE CROWN [1]

3. Payment of Rates and Impositions

- 3.1 The Lessee will promptly pay all applicable rates, taxes (including without limitation land or improvements tax but not tax which is personal to the Lessor which is imposed as a result of any sale or other disposal of the Land or because of income gained by the Lessor for the Land), charges, assessments, levies, impositions and all outgoings whatsoever which now are or which during the said term shall be taxed, rated, charged, assessed, levied or imposed on the Land, the Improvements or their use, or on the Lessor or Lessee in respect thereof by authority of any Authority.
- 3.2 Where any amounts in clause 3.1 are lawfully required to be paid or collected for payment by the Lessor the Lessee agrees to pay such amounts which are liable to be paid under clause 3.1 on demand made by the Lessor without deduction or set off.

4. Utilities and Services

- 4.1 The Lessee will pay all charges for electricity, gas, water or power or other services in respect of the Land and Improvements.
- 4.2 If requested by the Lessor or required by the Authority the Lessee shall install, maintain, and upgrade whenever necessary at its cost any meter or other measuring device necessary for the proper charging of any Services supplied to the Land or Improvements.
- 4.3 The Lessor shall ensure (at its cost) that the usual services are provided and maintained to the buildings on the Land during the Term (including, without limitation, water supply, water drainage, sewage drainage, electricity, gas, telecommunications and computer media).

5. Use of the Land and Improvements

- 5.1 The Lessee shall only use the Land and the Improvements for the Permitted Use

6. Statutory Requirements

- 6.1 The Lessee shall if required by any Authority (either directly or indirectly through the Lessor) comply with all statutes, Regional and District Plans, bylaws and regulations which relate to the Land and Improvements or which relate to the Lessee's use of the Land and Improvements and with all conditions or requirements which may be given or required by any person having any lawful authority and will in particular but without limitation
- (a) comply with the Building Code as amended from time to time;
 - (b) ensure that a warrant of fitness is obtained each year in respect of any Improvements if required under the Building Act 2004;

8.3: PARAKIRI SITE A LEASE WITH THE THE CROWN [1]

- (c) comply with and observe at all times the terms and conditions of all applicable resource consents and their conditions held in respect of the Lessee's use of the Land and Improvements and the requirements imposed and otherwise arising under the Resource Management Act 1991 including without limitation the need to obtain any permit or such other licence as may be required to occupy the Land from time to time during the Term of this Lease;
- (d) obtain, maintain and comply with all applicable permits or licences required for the Permitted Use; and
- (e) ensure that, consistent with the obligation placed on the Lessee under the Health and Safety at Work Act 2015, proper and adequate health and safety procedures are adopted in accordance with such Act.

7. Condition of the Land and the Improvements

- 7.1 The Lessee will at all times during the Term of the Lease keep and maintain the Land in a clean and tidy condition. In addition, the Lessee will keep and maintain at all times the structural integrity, exterior fittings and decorations of the Improvements all in good and substantial repair.
- 7.2 The Lessee will at all times during the continuance of the Term keep the Land clean and free from gorse, brier, broom and noxious weeds

8. Assignment and Subletting

- 8.1 The Lessee will not without the prior consent in writing of the Lessor assign or transfer the Lessee's interests under this Lease (such consent not to be unreasonably or arbitrarily withheld or delayed). The Lessee will meet all the Lessor's reasonable costs in relation to any documentation or enquiries for a proposed assignment or transfer under this clause 8.1 with such costs being payable by the Lessee whether or not the proposed assignment or transfer proceeds

9. Renewal

- 9.1 At least [two (2)] calendar months before the Expiry Date, the Lessee shall give written notice to the Lessor:
 - (a) that the Lessee desires to accept a new lease of the Land on the terms set out in clause 9.2; or
 - (b) that the Lessee does not desire to accept a new lease of the Land.

8.3: PARAKIRI SITE A LEASE WITH THE THE CROWN [1]

- 9.2 On the expiration or effluxion of time of the Term, the Lessee shall have a right to obtain in accordance with the provisions of this Lease a renewed lease of the Land for the term of ten (10) years computed from the expiration of this Lease and subject to the same rental, covenants and provisions of this Lease, including, without limitation, the provision for renewal contained in this clause 9.
- 9.3 Any such notice by the Lessee of the desire to have a renewed lease pursuant to this clause 9 shall be deemed to constitute a contract between the Lessor and the Lessee from the granting and acceptance of a renewed lease. The parties will do all things necessary and sign all documents necessary to give effect to the renewed lease.
- 9.4 If the Lessee fails to give any notice to the Lessor as to whether it desires to accept a new lease of the Land on the terms set out in clause 9.2, or if the Lessee gives notice in writing to the Lessor under clause 9.1(b) that such renewed lease of the Land is not desired, the right of the Lessee to a renewed lease shall cease on the expiry of the term.
- 10. No Warranty**
- 10.1 The Lessor does not in any way warrant that the Land is or will remain suitable or adequate for any of the purposes of the Lessee and to the fullest extent permitted by law all warranties as to suitability and to adequacy implied by law are expressly negated.
- 10.2 The Lessee shall be responsible for satisfying itself (by the carrying out of soil testing, underground investigation, foundation design or such other action or research as may be necessary) as to the suitability of the Land for any use.
- 11. Nuisance and Discharges**
- 11.1 The Lessee shall not commit, permit or suffer on the Land and/or Improvements any act which is a nuisance or annoyance to any neighbouring properties, or occupiers thereof, **provided that** carrying out the Permitted Use in the manner contemplated by this Lease shall not constitute a nuisance or annoyance at any time.
- 11.2 The Lessee will at all times comply with the requirements of any person having lawful authority in respect of the discharge of liquids or substances into the sewerage reticulation system operated by any Authority.

8.3: PARAKIRI SITE A LEASE WITH THE THE CROWN [1]

12. Destruction and Redevelopment

12.1 The Lessee shall be entitled to carry out repairs, reinstatement or redevelopment to the Improvements on the Land in the event of total or partial destruction or in the event of the Lessee wishing to redevelop or replace the Improvements on the Land provided the following conditions are or will be satisfied:

- (c) any repair, reinstatement or redevelopment shall fully comply with Regional and District Plans and all statutory and regulatory requirements in force at the time; and
- (d) the Lessee is able to obtain all resource and building consents necessary to carry out any works programme; and
- (e) the Lessee will continue to use the Land and Improvements for the Permitted Use,

and upon satisfaction of such conditions the Lessee shall repair, reinstate or rebuild (as the case may be) the Improvements or such part of the Improvement requiring such work in accordance with the conditions set out above.

12.1 In the event that the Lessee is prevented or unable to reinstate or rebuild it may forthwith if it is lawfully able to do so demolish the Improvements and clear the Land or the affected part of all Improvements, rubbish and debris and restore the vacant Land to a compacted level, tidy and clean site. Where the Lessee is unable to reinstate or rebuild for a period of not less than [one(1) year] from the date of the damage and/or destruction or where the Lessee advises the Lessor in writing that it does not wish to conduct from the Land the Permitted Use then the Lessee may serve notice that this Lease shall be at an end and the Lessor and the Lessee shall do all things necessary to perfect a surrender of this Lease and neither of them shall have any claim for compensation, damages or otherwise against the other whatsoever except for any antecedent breach of covenant of this Lease

13. Redevelopment by Lessor

13.1 Should the Lessor wish to redevelop the Land (or a substantial part of it) and vacant possession of the Land is necessary for those redevelopment purposes, then upon the Lessor obtaining both a valid building consent and/or resource consent (as applicable) from the relevant Authority, the Lessor may by written notice to the Lessee, terminate this Lease by specifying a date of termination to be effective not less than six (6) calendar months after the date of service of such notice on the Tenant.

13.2 Upon expiration of the termination notice period specified in clause 13.1 this Lease shall determine, but without prejudice to the rights of either party in relation to any prior breach of this Lease

8.3: PARAKIRI SITE A LEASE WITH THE THE CROWN [1]

14. Improvements

- 14.1 The parties agree that the Improvements during the term of this Lease remain in the ownership of the Lessee.

15. Removal of Improvements

- 15.1 On the expiry or sooner determination of this Lease, the Lessee will, if required by the Lessor, and at the Lessee's sole cost, remove all of the Improvements from the Land and clear the Land or the affected part of all Improvements, rubbish and debris and restore the vacant Land to a compacted level, tidy and clean site.

16. Fencing

- 16.1 The Lessor shall be under no liability whatsoever under the Fencing Act 1978 or otherwise to contribute towards the cost of erection or repair of any boundary fences between the Land hereby agreed to be leased and any land owned or occupied by the Lessor but nothing herein contained shall be deemed to limit any liability imposed by statute upon any present or future lessee to the owner of any adjoining land.

17. Lessee's Acknowledgement of Risk

- 17.1 The Lessee will do all acts and things necessary to remove any contaminant from the Land and the Improvements under the direction and control of any Authority all at the cost to the Lessee provided however that the Lessee shall not be responsible for any contamination which occurred prior the Lessee having any access to the Land pursuant to this Lease and was not otherwise caused by the Lessee.

18. Prior Representations

- 18.1 The covenants, provisions, terms and agreements contained in this Lease expressly or by statutory implication cover and comprise the whole of the agreement between the parties to the Lease (notwithstanding any negotiations or discussions prior to the execution of this Lease or anything contained in any brochure, report or other document prepared by or on behalf of the Lessor or submission to potential lessees of the Land).
- 18.2 The parties expressly agree and declare that no further or other covenants, agreements, provisions or terms whether in respect of the Land or otherwise shall be deemed to be implied or to arise between the parties by way of collateral or other agreement by reason of any promise, representation, warranty or undertaking given or made by any party to the other or others on or prior to the execution of this Lease and the existence of any such implication or collateral or other agreement is hereby expressly negated and the Lessee further acknowledges that the Lessee has not been induced to enter into this Lease by any representation, verbal or otherwise made by or on behalf of the Lease which is not set out in this Lease.

8.3: PARAKIRI SITE A LEASE WITH THE THE CROWN [1]

19. Quiet Enjoyment

- 19.1 Provided the Lessee performs and observes the material covenants provisos conditions and agreements contained in this Lease, the Lessee shall, subject to any constraints or limitations of use arising under this Lease peaceably hold and enjoy the Land and Improvements thereon without hindrance or interruption by the Lessor or any person or persons claiming under the Lessor until the expiration or sooner determination of this Lease.

20. Artefacts

- 20.1 Subject to any rights of ownership vested in the Crown under the Antiquities Act 1975, all fossils, artefacts, coins, articles of value or antiquity and structures and other remains or things of geological, historical, archaeological, or cultural interest or value discovered on or under the surface of the Land, as between the Lessor and the Lessee, shall be deemed to be the absolute property of the Lessor. The Lessee shall use its best endeavours to prevent such articles or things being removed or damaged, and shall notify the Lessor of such discovery and, carry out at the expense of the Lessor, the Lessor's orders as to the delivery up or disposal of such articles or things.

21. Default and Termination

- 21.1 Subject to the relevant provisions of the Property Law Act 2007, if the Lessee breaches any covenant or agreement on the Lessee's part expressed or implied in this Lease (other than the covenant to pay rent) the Lessor may, in addition to the Lessor's right to apply to the Court for an order of possession, cancel this lease by re-entering the Land if the Lessee has failed to remedy that breach within the period specified in a notice served on the Tenant in accordance with section 246 of the Property Law Act 2007.
- 21.2 The term of the Lease shall terminate on the cancellation but without prejudice to the rights of either party against the other.

22 Goods and Service Tax

- 22.1 If GST is chargeable on any supply made by one party (the "Supplier") to another party (the "Recipient") under this Lease the Recipient will pay to the Supplier an amount equal to the GST chargeable on that supply in addition to, at the same time and in the same manner as the consideration otherwise payable under this Lease for that supply and the Supplier will issue a Tax Invoice to the Recipient in respect of that supply on or before the date on which payment for that supply is due under this Lease. For the avoidance of doubt, references in this clause to any supply being made by one party shall, in the context of the Lessor, include supplies it makes as agent and any supplies it makes on its own behalf.

8.3: PARAKIRI SITE A LEASE WITH THE THE CROWN [1]

23. Notices

- 23.1 All notices including requests, demands and other communications under this Lease, to be given by a party to any other party shall be in writing and may be given if personally delivered or sent by an accepted means of electronic transmission to the other party. Any notices personally delivered in the manner set out above shall be deemed given when personally delivered or if sent by electronic transmission in the manner set out above shall be deemed given on the first Business Day following the day of sending of the electronic transmission.

24. Costs

- 24.1 The parties shall each pay their own solicitors costs on preparing and finalising this Lease. The Lessee shall be responsible for payment of all government tax duty or imposts at any time payable on this Lease or any variation to this Lease and shall pay all costs, charges and expenses for which the Lessor shall become liable in consequence of or in connection with any consent sought to unit titling or any breach or default by the Lessee in the performance or observance of any of the terms, covenants and conditions of this Lease and likewise the Lessor shall pay for all costs, charges and expenses for which the Lessee shall become liable in consequence of or in connection with any breach or default of the Lessor in the performance or observance of any of the terms, covenants and conditions of this Lease.

25. Residential Tenancies Act 1986

- 25.1 The Residential Tenancies Act 1986 does not apply to this Lease as it excluded pursuant to the provisions contained in section 5(1)(s) of the said Act.
- 25.2 For the purposes of Section 5(1)(s)(iii) of the Residential Tenancies Act 1986 the Lessee agrees that it will not personally occupy the Building or the Land (or any part of it) during the term of the Lease.

26. Implied Relationship

- 26.1 Nothing contained in this Lease shall be deemed or construed or constitute any party or parties' agent or representative or other party to be deemed to create any trust, commercial partnership or joint venture.

27. Partial Invalidity

- 27.1 The invalidity of any part or provision of this Lease shall not affect the enforceability of any other part or provision thereof.

28. Governing Law

- 28.1 This Lease shall be construed and take effect in accordance with the laws of New Zealand.

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

8.3: PARAKIRI SITE A LEASE WITH THE THE CROWN [1]

29. Further Assurances

- 29.1 Each of the parties agree to execute and deliver any documents and to do all things as may reasonably be required by the other party or parties to obtain the full benefit of this Lease according to its true intent.

8.3: PARAKIRI SITE A LEASE WITH THE THE CROWN [1]



**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

8.4 PARAKIRI SITE A LEASE WITH THE CROWN [2]

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

8.4: PARAKIRI SITE A LEASE WITH THE CROWN [2]

[Note: The terms and conditions of this document are yet to be agreed between the parties. The following document will be substituted with the final agreed version prior to ratification by Ngāti Tūwharetoa]

**The Trustees of Te Kotahitanga O Ngāti
Tūwharetoa**

Lessor

Her Majesty the Queen, acting by and through the
Minister of Local Government

Lessee

Memorandum of Lease

8.4: PARAKIRI SITE A LEASE WITH THE THE CROWN [2]

Memorandum of Lease

Parties

1. **The Trustees of Te Kotahitanga O Ngāti Tūwharetoa** (the Lessor)
2. **Her Majesty the Queen** , acting by and through the Minister of Local Government (the Lessee)

Schedule of Land

Computer Identifier	Register	Area	Legal Description
<i>[insert details following survey]</i>		<i>[insert details following survey]</i>	<i>[the areas shown "A" on the aerial map attached] (subject to survey)]</i>
Encumbrances, Liens and Interests:			

The Lessor leases to the Lessee and the Lessee accepts the lease of the Land for the Term and at the Rent and subject to the conditions, covenants, agreements and restrictions herein set forth in Schedule A and Schedule B.

8.4: PARAKIRI SITE A LEASE WITH THE THE CROWN [2]

Schedule A

Term:	Ten (10) years commencing on and from the Commencement Date.
Commencement Date:	[TBC]
Expiry Date:	[that date being ten (10) years less one day from the Commencement Date] (subject to clause 13.1)
Rent:	\$1.00 plus GST per annum, payable in accordance with clause 2.
Permitted Use:	Harbour Master's Workshop and associated activities.

8.4: PARAKIRI SITE A LEASE WITH THE THE CROWN [2]

Schedule B

1. Definitions and Interpretation

1.1 For the purposes of the interpretation or construction of this Lease, unless the context provides otherwise:

Definitions

- (a) *Authority* means any Government authority whether national or territorial or any other Government or statutory authority appointed or established by statute in New Zealand having jurisdiction over or in respect of the Land and/or the Improvements.
- (b) *Business Day* means any day other than a Saturday or Sunday or statutory or anniversary holiday in Taupo.
- (c) *Building* means the building(s) on the Land on the Commencement Date and includes any additions to the Building, any new buildings and structures or buildings and structures in replacement for the existing building.
- (d) *GST* means goods and services tax chargeable in accordance with the GST Act.
- (e) *GST Act* means the Goods and Services Tax Act 1985.
- (f) *Improvements* means any Building, structure or other improvements including drains, concrete paving, tiles, carpark sealing, mechanical services, plant, machinery, equipment, fixtures and fittings existing on the Land at the commencement of this Lease and from time to time installed by or on behalf of the Lessee on the Land during the term of this Lease, but excludes the property of other lawful occupiers of the Land or Improvements.
- (g) *Land* means that land described in the Schedule of Land, together with and subject to all interests noted thereon.
- (h) *Regional and District Plans* shall have ascribed to them those definitions set out in section 2 of the Resource Management Act 1991 where there is reference to "Regional Plan" and successor or replacement planning regime imposed by the relevant Authority having jurisdiction in respect thereof.
- (i) *Services* means all pipes, drains, mains, wires, cables, channels, gutters, sewers, and other utilities or services.
- (j) *Tax Invoice* has the meaning given in section 2 of the Goods and Services Tax Act 1985.

8.4: PARAKIRI SITE A LEASE WITH THE THE CROWN [2]

Interpretation

- (k) Words importing any gender shall include all other genders.
- (l) Words importing the singular shall include the plural and vice versa.
- (m) Payments shall be made in the lawful currency of New Zealand.
- (n) Headings shall be ignored.
- (o) References to clauses and schedules are references to clauses and schedules in this Lease and references to parties are references to the parties to this Lease unless expressly stated otherwise.
- (p) Any reference in this Lease to any statute is deemed to include all amendments, revisions, substitutions or consolidations made from time to time to that statute.
- (q) A *person* shall include any individual person, a corporation, a company or other body corporate, an unincorporated body of persons, a public body, firm, partnership, joint venture, association, organisation, trust, State or agency of a State in each case whether or not having separate legal personality.
- (r) *writing* shall include words visibly represented or reproduced.
- (s) Where approvals or consents are required in this Lease they shall not be unreasonably or arbitrarily withheld or delayed and such approvals or consents may be given with conditions which are both reasonable and relevant to the circumstances giving rise to the request to seek approval or consent and shall be required for each separate occasion notwithstanding any prior consent or approval obtained for the like purpose on a prior occasion.
- (t) Notwithstanding that there may be no privity of contract existing between the parties to this Lease and certain named third parties in this Lease nevertheless such third parties shall have the right to enforce any provisions in this Lease which are of benefit to them with such right to enforce being acknowledged and intended in accordance with the requirements of section 4 of the Contracts (Privity) Act 1982.

8.4: PARAKIRI SITE A LEASE WITH THE THE CROWN [2]

- (u) The expressions *Lessor* and *Lessee* includes their respective successors and assigns and where the context permits the Lessor's or the Lessee's respective tenants and other lawful occupiers of the Land and their respective contractors, agents and invitees (which persons shall be those deemed to be persons under the control of the Lessor or the Lessee, as the case may be).

2. Rent

- 2.1 The Lessee shall pay the Rent to the Lessor on each anniversary of the Commencement Date in accordance with clause 22.1, if demanded by the Lessor.

3. Payment of Rates and Impositions

- 3.1 The Lessee will promptly pay all applicable rates, taxes (including without limitation land or improvements tax but not tax which is personal to the Lessor which is imposed as a result of any sale or other disposal of the Land or because of income gained by the Lessor for the Land), charges, assessments, levies, impositions and all outgoings whatsoever which now are or which during the said term shall be taxed, rated, charged, assessed, levied or imposed on the Land, the Improvements or their use, or on the Lessor or Lessee in respect thereof by authority of any Authority.
- 3.2 Where any amounts in clause 3.1 are lawfully required to be paid or collected for payment by the Lessor the Lessee agrees to pay such amounts which are liable to be paid under clause 3.1 on demand made by the Lessor without deduction or set off.

4. Utilities and Services

- 4.1 The Lessee will pay all charges for electricity, gas, water or power or other services in respect of the Land and Improvements.
- 4.2 If requested by the Lessor or required by the Authority the Lessee shall install, maintain, and upgrade whenever necessary at its cost any meter or other measuring device necessary for the proper charging of any Services supplied to the Land or Improvements.
- 4.3 The Lessor shall ensure (at its cost) that the usual services are provided and maintained to the buildings on the Land during the Term (including, without limitation, water supply, water drainage, sewage drainage, electricity, gas, telecommunications and computer media).

5. Use of the Land and Improvements

- 5.1 The Lessee shall only use the Land and the Improvements for the Permitted Use.

8.4: PARAKIRI SITE A LEASE WITH THE THE CROWN [2]

6. Statutory Requirements

- 6.1 The Lessee shall if required by any Authority (either directly or indirectly through the Lessor) comply with all statutes, Regional and District Plans, bylaws and regulations which relate to the Land and Improvements or which relate to the Lessee's use of the Land and Improvements and with all conditions or requirements which may be given or required by any person having any lawful authority and will in particular but without limitation:
- (a) comply with the Building Code as amended from time to time;
 - (b) ensure that a warrant of fitness is obtained each year in respect of any Improvements if required under the Building Act 2004;
 - (c) comply with and observe at all times the terms and conditions of all applicable resource consents and their conditions held in respect of the Lessee's use of the Land and Improvements and the requirements imposed and otherwise arising under the Resource Management Act 1991 including without limitation the need to obtain any permit or such other licence as may be required to occupy the Land from time to time during the Term of this Lease;
 - (d) obtain, maintain and comply with all applicable permits or licences required for the Permitted Use; and
 - (e) ensure that, consistent with the obligation placed on the Lessee under the Health and Safety at Work Act 2015, proper and adequate health and safety procedures are adopted in accordance with such Act.

7. Condition of the Land and the Improvements

- 7.1 The Lessee will at all times during the Term of the Lease keep and maintain the Land in a clean and tidy condition. In addition, the Lessee will keep and maintain at all times the structural integrity, exterior fittings and decorations of the Improvements all in good and substantial repair.
- 7.2 The Lessee will at all times during the continuance of the Term keep the Land clean and free from gorse, brier, broom and noxious weeds.

8. Assignment and Subletting

- 8.1 The Lessee will not without the prior consent in writing of the Lessor assign or transfer the Lessee's interests under this Lease (such consent not to be unreasonably or arbitrarily withheld or delayed). The Lessee will meet all the Lessor's reasonable costs in relation to any documentation or enquiries for a proposed assignment or transfer under this clause 8.1 with such costs being payable by the Lessee whether or not the proposed assignment or transfer proceeds.

8.4: PARAKIRI SITE A LEASE WITH THE THE CROWN [2]

- 8.2 Notwithstanding the provisions contained in clause 8.1, the Lessee may as of right (and without being required to obtain the prior consent of the Lessor) assign or transfer this Lease to any party, body or entity that is duly appointed to act as the Lake Taupo Harbourmaster. The Lessor will, at the Lessee's request and cost, do all things necessary and sign all documents necessary to give effect to an assignment or transfer of this Lease pursuant to this clause 8.2.

9. Renewal

- 9.1 At least [two (2)] calendar months before the Expiry Date, the Lessee shall give written notice to the Lessor:

- (a) that the Lessee desires to accept a new lease of the Land on the terms set out in clause 9.2; or
- (b) that the Lessee does not desire to accept a new lease of the Land.

- 9.2 On the expiration or effluxion of time of the Term, the Lessee shall have a right to obtain in accordance with the provisions of this Lease a renewed lease of the Land for the term of ten (10) years computed from the expiration of this Lease and subject to the same rental, covenants and provisions of this Lease, including, without limitation, the provision for renewal contained in this clause 9.

- 9.3 Any such notice by the Lessee of the desire to have a renewed lease pursuant to this clause 9 shall be deemed to constitute a contract between the Lessor and the Lessee from the granting and acceptance of a renewed lease. The parties will do all things necessary and sign all documents necessary to give effect to the renewed lease.

- 9.4 If the Lessee fails to give any notice to the Lessor as to whether it desires to accept a new lease of the Land on the terms set out in clause 9.2, or if the Lessee gives notice in writing to the Lessor under clause 9.1(b) that such renewed lease of the Land is not desired, the right of the Lessee to a renewed lease shall cease on the expiry of the term.

10. No Warranty

- 10.1 The Lessor does not in any way warrant that the Land is or will remain suitable or adequate for any of the purposes of the Lessee and to the fullest extent permitted by law all warranties as to suitability and to adequacy implied by law are expressly negated.
- 10.2 The Lessee shall be responsible for satisfying itself (by the carrying out of soil testing, underground investigation, foundation design or such other action or research as may be necessary) as to the suitability of the Land for any use.

8.4: PARAKIRI SITE A LEASE WITH THE THE CROWN [2]

11. Nuisance and Discharges

- 11.1 The Lessee shall not commit, permit or suffer on the Land and/or Improvements any act which is a nuisance or annoyance to any neighbouring properties, or occupiers thereof, provided that carrying out the Permitted Use in the manner contemplated by this Lease shall not constitute a nuisance or annoyance at any time.
- 11.2 The Lessee will at all times comply with the requirements of any person having lawful authority in respect of the discharge of liquids or substances into the sewerage reticulation system operated by any Authority.

12. Destruction and Redevelopment

- 12.1 The Lessee shall be entitled to carry out repairs, reinstatement or redevelopment to the Improvements on the Land in the event of total or partial destruction or in the event of the Lessee wishing to redevelop or replace the Improvements on the Land provided the following conditions are or will be satisfied:

- (a) any repair, reinstatement or redevelopment shall fully comply with Regional and District Plans and all statutory and regulatory requirements in force at the time; and
- (b) the Lessee is able to obtain all resource and building consents necessary to carry out any works programme; and
- (c) the Lessee will continue to use the Land and Improvements for the Permitted Use,

and upon satisfaction of such conditions the Lessee shall repair, reinstate or rebuild (as the case may be) the Improvements or such part of the Improvement requiring such work in accordance with the conditions set out above.

- 12.2 In the event that the Lessee is prevented or unable to reinstate or rebuild it may forthwith if it is lawfully able to do so demolish the Improvements and clear the Land or the affected part of all Improvements, rubbish and debris and restore the vacant Land to a compacted level, tidy and clean site. Where the Lessee is unable to reinstate or rebuild for a period of not less than [one(1) year] from the date of the damage and/or destruction or where the Lessee advises the Lessor in writing that it does not wish to conduct from the Land the Permitted Use then the Lessee may serve notice that this Lease shall be at an end and the Lessor and the Lessee shall do all things necessary to perfect a surrender of this Lease and neither of them shall have any claim for compensation, damages or otherwise against the other whatsoever except for any antecedent breach of covenant of this Lease.

8.4: PARAKIRI SITE A LEASE WITH THE THE CROWN [2]

13. Redevelopment by Lessor

- 13.1 Should the Lessor wish to redevelop the Land (or a substantial part of it) and vacant possession of the Land is necessary for those redevelopment purposes, then upon the Lessor obtaining both a valid building consent and/or resource consent (as applicable) from the relevant Authority, the Lessor may by written notice to the Lessee, terminate this Lease by specifying a date of termination to be effective not less than twelve (12) calendar months after the date of service of such notice on the Tenant.
- 13.2 Upon expiration of the termination notice period specified in clause 13.1, this Lease shall determine, but without prejudice to the rights of either party in relation to any prior breach of this Lease.

14. Improvements

- 14.1 The parties agree that the Improvements during the term of this Lease remain in the ownership of the Lessee.

15. Removal of Improvements

- 15.1 On the expiry or sooner determination of this Lease, the Lessee will, if required by the Lessor, and at the Lessee's sole cost, remove all of the Improvements from the Land and clear the Land or the affected part of all Improvements, rubbish and debris and restore the vacant Land to a compacted level, tidy and clean site.

16. Fencing

- 16.1 The Lessor shall be under no liability whatsoever under the Fencing Act 1978 or otherwise to contribute towards the cost of erection or repair of any boundary fences between the Land hereby agreed to be leased and any land owned or occupied by the Lessor but nothing herein contained shall be deemed to limit any liability imposed by statute upon any present or future lessee to the owner of any adjoining land.

17. Lessee's Acknowledgement of Risk

- 17.1 The Lessee will do all acts and things necessary to remove any contaminant from the Land and the Improvements under the direction and control of any Authority all at the cost to the Lessee provided however that the Lessee shall not be responsible for any contamination which occurred prior the Lessee having any access to the Land pursuant to this Lease and was not otherwise caused by the Lessee.

18. Prior Representations

- 18.1 The covenants, provisions, terms and agreements contained in this Lease expressly or by statutory implication cover and comprise the whole of the agreement between the parties to the Lease (notwithstanding any negotiations or discussions prior to the execution of this Lease or anything contained in any brochure, report or other

8.4: PARAKIRI SITE A LEASE WITH THE THE CROWN [2]

document prepared by or on behalf of the Lessor or submission to potential lessees of the Land).

- 18.2 The parties expressly agree and declare that no further or other covenants, agreements, provisions or terms whether in respect of the Land or otherwise shall be deemed to be implied or to arise between the parties by way of collateral or other agreement by reason of any promise, representation, warranty or undertaking given or made by any party to the other or others on or prior to the execution of this Lease and the existence of any such implication or collateral or other agreement is hereby expressly negated and the Lessee further acknowledges that the Lessee has not been induced to enter into this Lease by any representation, verbal or otherwise made by or on behalf of the Lease which is not set out in this Lease.

19. Quiet Enjoyment

- 19.1 Provided the Lessee performs and observes the material covenants provisos conditions and agreements contained in this Lease, the Lessee shall, subject to any constraints or limitations of use arising under this Lease peaceably hold and enjoy the Land and Improvements thereon without hindrance or interruption by the Lessor or any person or persons claiming under the Lessor until the expiration or sooner determination of this Lease.

20. Artefacts

- 20.1 Subject to any rights of ownership vested in the Crown under the Antiquities Act 1975, all fossils, artefacts, coins, articles of value or antiquity and structures and other remains or things of geological, historical, archaeological, or cultural interest or value discovered on or under the surface of the Land, as between the Lessor and the Lessee, shall be deemed to be the absolute property of the Lessor. The Lessee shall use its best endeavours to prevent such articles or things being removed or damaged, and shall notify the Lessor of such discovery and, carry out at the expense of the Lessor, the Lessor's orders as to the delivery up or disposal of such articles or things.

21. Default and Termination

- 21.1 Subject to the relevant provisions of the Property Law Act 2007, if the Lessee breaches any covenant or agreement on the Lessee's part expressed or implied in this Lease (other than the covenant to pay rent) the Lessor may, in addition to the Lessor's right to apply to the Court for an order of possession, cancel this lease by re-entering the Land if the Lessee has failed to remedy that breach within the period specified in a notice served on the Tenant in accordance with section 246 of the Property Law Act 2007.
- 21.2 The term of the Lease shall terminate on the cancellation but without prejudice to the rights of either party against the other.

8.4: PARAKIRI SITE A LEASE WITH THE THE CROWN [2]

22. Goods and Service Tax

- 22.1 If GST is chargeable on any supply made by one party (the "Supplier") to another party (the "Recipient") under this Lease the Recipient will pay to the Supplier an amount equal to the GST chargeable on that supply in addition to, at the same time and in the same manner as the consideration otherwise payable under this Lease for that supply and the Supplier will issue a Tax Invoice to the Recipient in respect of that supply on or before the date on which payment for that supply is due under this Lease. For the avoidance of doubt, references in this clause to any supply being made by one party shall, in the context of the Lessor, include supplies it makes as agent and any supplies it makes on its own behalf.

23. Notices

- 23.1 All notices including requests, demands and other communications under this Lease, to be given by a party to any other party shall be in writing and may be given if personally delivered or sent by an accepted means of electronic transmission to the other party. Any notices personally delivered in the manner set out above shall be deemed given when personally delivered or if sent by electronic transmission in the manner set out above shall be deemed given on the first Business Day following the day of sending of the electronic transmission.

24. Costs

- 24.1 The parties shall each pay their own solicitors costs on preparing and finalising this Lease. The Lessee shall be responsible for payment of all government tax duty or imposts at any time payable on this Lease or any variation to this Lease and shall pay all costs, charges and expenses for which the Lessor shall become liable in consequence of or in connection with any consent sought to unit titling or any breach or default by the Lessee in the performance or observance of any of the terms, covenants and conditions of this Lease and likewise the Lessor shall pay for all costs, charges and expenses for which the Lessee shall become liable in consequence of or in connection with any breach or default of the Lessor in the performance or observance of any of the terms, covenants and conditions of this Lease.

25. Implied Relationship

- 25.1 Nothing contained in this Lease shall be deemed or construed or constitute any party or parties' agent or representative or other party to be deemed to create any trust, commercial partnership or joint venture.

26. Partial Invalidity

- 26.1 The invalidity of any part or provision of this Lease shall not affect the enforceability of any other part or provision thereof.

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

8.4: PARAKIRI SITE A LEASE WITH THE THE CROWN [2]

27. Governing Law

- 27.1 This Lease shall be construed and take effect in accordance with the laws of New Zealand.

28. Further Assurances

- 28.1 Each of the parties agree to execute and deliver any documents and to do all things as may reasonably be required by the other party or parties to obtain the full benefit of this Lease according to its true intent.

8.4: PARAKIRI SITE A LEASE WITH THE THE CROWN [2]



**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

8.5 PARAKIRI SITE A EASEMENT TO THE CROWN [1]

8.5: PARAKIRI SITE A EASEMENT TO THE CROWN [1]

[Note: The terms and conditions of this document are yet to be agreed between the parties. The following document will be substituted with the final agreed version prior to ratification by Ngāti Tūwharetoa]

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

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

Grantor

THE TRUSTEES OF TE KOTA HITANGA O NGĀTI TŪWHARETOA

Grantee

HER MAJESTY THE QUEEN

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 of Way and Parking Rights	[shown "A" on the aerial plan attached (subject to survey)]	Computer Freehold Register []	In Gross

8.5: PARAKIRI SITE A EASEMENT TO THE CROWN [1]

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 and/or Schedule Five of the Property Law Act 2007

The implied rights and powers are hereby ~~[varied]~~ ~~[negated]~~ ~~[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 required; 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 _____]~~

8.5: PARAKIRI SITE A EASEMENT TO THE CROWN [1]

Annexure Schedule 1

Insert type of instrument

Easement

Dated

Page

1

of

6

Pages

Continue in additional Annexure Schedule, if required.

1. Definitions and Interpretation

In this Easement Instrument, unless the context requires otherwise:

Easement Facility means that part of the surface of the Servient Land comprising the driveway, the parking area(s) delineated on the surface of the Servient Land as vehicle parking spaces, the equipment storage area(s) delineated on the surface of the Servient Land for storage purposes and any other structures and improvements located on the surface of the Servient Land for such purposes;

Easement Instrument means this easement instrument;

Lease means the memorandum of lease entered into between the Grantor (as lessor) and the Grantee (as lessee) and registered at Land Information New Zealand under instrument number [] and includes all variations, renewals and leases granted in substitution;

Servient Land means that part of the Servient Tenement on which the Easement Facility is placed as described in Schedule A of this Easement Instrument.

Grantee means Her Majesty the Queen acting by and through the Minister of Local Government and includes its successors, officers, and agents;

Grantor means the registered proprietor or registered proprietors of the Servient Land and its/their successors in title;

Permitted Use is vehicular access, vehicle parking and associated equipment storage;

Rights include the right, liberty and privilege to:

- (a) go, pass and repass with or without vehicles and motor vehicles over across and along the Servient Land for the purpose of accessing, maintaining or repairing the Easement Facility;
- (b) stop, leave and park vehicles on that part of the Easement Facility delineated on the surface of the Servient Land as vehicle parking spaces;
- (c) store equipment on that part of the Easement Facility delineated on the surface of the Servient Land for storage purposes;

8.5: PARAKIRI SITE A EASEMENT TO THE CROWN [1]

Annexure Schedule 1

Insert type of instrument

Easement

Dated

Page

2

of

6

Pages

Continue in additional Annexure Schedule, if required.

- (d) establish a driveway, to repair and maintain an existing driveway, and (if necessary for any of those purposes) to alter the state of the Servient Land; and
- (e) establish the parking area(s) and storage area(s) to repair and maintain the existing parking area(s) and storage area(s) and (if necessary for any of those purposes) to alter the state of the land over which the easement is granted.

2. Grant of Easement

- 2.1. **Grant:** The Grantor grants and the Grantee accepts the grant of this easement in gross for the Easement Facility to be used for the Permitted Use together with the right to exercise the Rights, together with its tenants, servants, agents, workmen, licensees and invitees, for all time on the basis that no power is implied for the Grantor to determine this easement in gross for any breach of its provisions (express or implied) or for any other cause, the intention being that this easement in gross shall subsist until surrendered.

3. Grantee's Obligations

- 3.1. **Obligations:** The Grantee is responsible for arranging the maintenance, repair and replacement of the Easement Facility so as to keep the Easement Facility in good order and to prevent it from becoming a danger or nuisance. The costs of the maintenance, repair and replacement of the Easement Facility shall be shared as between the Grantee, the Grantor and all other persons entitled to use the Easement Facility in proportion to their respective use of the Easement Facility, unless the incurring of such costs was caused by an act of either the Grantor or Grantee, in which case that party shall be responsible for the costs.
- 3.2. **Undertaking Works:** The Grantee must:
- (a) ensure that all work that is carried out for the maintenance, repair or replacement of the Easement Facility is performed in a safe, proper and workmanlike manner, as well as in compliance with all applicable statutory and regulatory requirements (including, without limitation, any health and safety legislation and requirements); and
 - (b) cause as little damage or disturbance as possible is caused to the Servient Land and immediately make good any damage done to the Servient Land by restoring the surface of the Servient Land as nearly as possible to its former condition.

8.5: PARAKIRI SITE A EASEMENT TO THE CROWN [1]

Annexure Schedule 1

Insert type of instrument

Easement

Dated

Page

3

of

6

Pages

Continue in additional Annexure Schedule, if required.

4. Grantor's obligations

4.1. Obligations: The Grantor shall not (without the prior written consent of the Grantee:

- (c) place or allow anything to be placed any further fences, driveways or other erections on the Easement Facility other than fences, driveways and erections in place as at the date of this instrument and replacements for those fences, driveways and erections; or
- (d) allow any further tree or shrub to grow on the Easement Facility other than trees and shrubs planted on the Easement Facility as at the date of this instrument and replacements for those trees and shrubs; or
- (e) permit to be done any act on the Easement Facility that interferes with or affects the Permitted Use or the exercise by the Grantee of the Rights, in particular and without limiting the generality of this clause 4.1(c) the Grantor shall keep the access route to the Easement Facility clear at all times; or
- (f) interfere with or allow an interference with the Easement Facility or allow any damage to be done to the Easement Facility; or
- (g) grant any rights over the Easement Facility to any party other than the Grantee provided that the Grantor may grant a right of way and parking rights to the lawful tenant or occupier from time to time of the adjoining building located on the Servient Tenement; or
- (h) impose any charges or fees on the Grantee with respect to the Easement Facility for using the Easement Facility for the Permitted Use.

5. Right of entry

5.1. Access: The Grantee may enter upon the Servient Land with all necessary tools, vehicles, and equipment, remain on the Servient Land for a reasonable time for to complete the necessary work, and leave any vehicles or equipment on the Servient Land for a reasonable time if the Work is proceeding.

5.2. Notice: The Grantor acknowledges that it agrees to the Grantee entering onto the Servient Land to undertake Work without the provision of notice.

8.5: PARAKIRI SITE A EASEMENT TO THE CROWN [1]

Annexure Schedule 1

Insert type of instrument

Easement

Dated

Page

4

of

6

Pages

Continue in additional Annexure Schedule, if required.

6. Default by Grantor and Grantee

6.1. Defaults: If the Grantor or the Grantee does not meet the obligations specified in this Easement Instrument:

- (a) The party in default may serve on the defaulting party written notice requiring the defaulting party to meet a specific obligation and stating that, after the expiry of 7 Working Days from service of the notice of default, the other party may meet the obligation;
- (b) If, at the end of the expiry 7 Working Day period, the party in default has not met the obligation, the other party may meet the obligation;
- (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.

7. Disputes

7.1. Dispute Resolution: If a dispute in relation to this Easement Instrument or the Easement Facility arises between the parties:

- (a) the party initiating the dispute must provide full written particulars of the dispute to the other party; and
- (b) the parties 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 (being the New Zealand Law Society that has its head quarters closest to the Servient Land)

8.5: PARAKIRI SITE A EASEMENT TO THE CROWN [1]

Annexure Schedule 1

Insert type of instrument

Easement

Dated

Page

5

of

6

Pages

Continue in additional Annexure Schedule, if required.

8. Miscellaneous provisions

8.1. **Implied rights and powers:** The rights and powers implied in certain easements pursuant to section 90D of the Land Transfer Act 1952 (and currently set out in Schedule 4 of the Land Transfer Regulations 2002) are, as between Grantor and Grantee, substituted and replaced by the terms set out in this Easement Instrument.

8.2. **No substitution of other rights:** The easements created by this Easement Instrument are not in substitution for; and their creation is without prejudice to any statutory rights, powers and limitations on liability of the Grantor from time to time in respect of the Servient Land.

8.3. **Termination and modification of rights:** The Grantor must not surrender, merge, modify or extinguish the easements created by this Easement Instrument without the prior written consent of the Grantee. There is no power for the Grantor to terminate any of the Grantee's rights due to the Grantee breaching any provisions of this Easement Instrument or for any reason, it being the intention of the Grantor and Grantee that the easement in this Easement Instrument will continue forever unless surrendered.

8.4. **Unenforceable terms:** If any part of this Easement Instrument is held by any court or administrative body of competent jurisdiction to be illegal, void or unenforceable, such determination will not impair the enforceability of the remaining parts of this Easement Instrument.

9. Surrender of Easement

9.1. Notwithstanding anything contained in this Easement Instrument, the easements created under this easement instrument shall expire and determine on the final expiry date of the Lease ("Lease Expiry Date"). For the purposes of this clause, the Lease shall not be treated as expired at the end of any term if it is renewed following that term in accordance with the provisions of the Lease.

9.2. With effect from the Lease Expiry Date:

- (a) The Grantor surrenders its rights and interest under this easement instrument and releases and discharges the Grantee from all of the Grantee's obligations and liabilities under this easement instrument;

8.5: PARAKIRI SITE A EASEMENT TO THE CROWN [1]

Annexure Schedule 1

Insert type of instrument

Easement

Dated

Page

6

of

6

Pages

Continue in additional Annexure Schedule, if required.

- (b) The Grantee surrenders its rights and interest under this easement instrument and releases and discharges the Grantor from all of the Grantor's obligations and liabilities under this easement instrument; and
- (c) The Grantor and the Grantee will do all things necessary and sign all documents necessary (including, without limitation, the relevant easement surrender instrument), to give effect to the surrender of this easement instrument.

9.3. For the avoidance of doubt, clauses 9.1 to 9.2 inclusive do not affect any rights or liabilities arising before the surrender.

8.5: PARAKIRI SITE A EASEMENT TO THE CROWN [1]



**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

8.6 PARAKIRI SITE A EASEMENT TO THE CROWN [2]

8.6: PARAKIRI SITE A EASEMENT TO THE CROWN [2]

[Note: The terms and conditions of this document are yet to be agreed between the parties. The following document will be substituted with the final agreed version prior to ratification by Ngāti Tūwharetoa]

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

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

Grantor

THE TRUSTEES OF TE KOTA HITANGA O NGĀTI TŪWHARETOA

Grantee

HER MAJESTY THE QUEEN

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 of Way and Parking Rights	[shown "A" on the aerial plan attached (subject to survey)]	Computer Freehold Register []	In Gross

8.6: PARAKIRI SITE A EASEMENT TO THE CROWN [2]

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 and/or Schedule Five of the Property Law Act 2007

The implied rights and powers are hereby ~~[varied]~~ ~~[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 _____]~~

8.6: PARAKIRI SITE A EASEMENT TO THE CROWN [2]

Annexure Schedule 1

Insert type of instrument

Easement

Dated

Page

1

of

6

Pages

Continue in additional Annexure Schedule, if required.

1. Definitions and Interpretation

In this Easement Instrument, unless the context requires otherwise:

Easement Facility means that part of the surface of the Servient Land comprising the driveway, the parking area(s) delineated on the surface of the Servient Land as vehicle parking spaces, the equipment storage area(s) delineated on the surface of the Servient Land for storage purposes and any other structures and improvements located on the surface of the Servient Land for such purposes;

Easement Instrument means this easement instrument;

Lease means the memorandum of lease entered into between the Grantor (as lessor) and the Grantee (as lessee) and registered at Land Information New Zealand under instrument number [] and includes all variations, renewals and leases granted in substitution;

Servient Land means that part of the Servient Tenement on which the Easement Facility is placed as described in Schedule A of this Easement Instrument.

Grantee means Her Majesty the Queen acting by and through the Minister of Local Government and includes its successors, officers, and agents;

Grantor means the registered proprietor or registered proprietors of the Servient Land and its/their successors in title;

Permitted Use is vehicular access, vehicle parking and associated equipment storage;

Rights include the right, liberty and privilege to:

- (a) go, pass and repass with or without vehicles and motor vehicles over across and along the Servient Land for the purpose of accessing, maintaining or repairing the Easement Facility;
- (b) stop, leave and park vehicles on that part of the Easement Facility delineated on the surface of the Servient Land as vehicle parking spaces;
- (c) store equipment on that part of the Easement Facility delineated on the surface of the Servient Land for storage purposes;

8.6: PARAKIRI SITE A EASEMENT TO THE CROWN [2]

Annexure Schedule 1

Insert type of instrument

Easement

Dated

Page

2

of

6

Pages

Continue in additional Annexure Schedule, if required.

- (d) establish a driveway, to repair and maintain an existing driveway, and (if necessary for any of those purposes) to alter the state of the Servient Land; and
- (e) establish the parking area(s) and storage area(s) to repair and maintain the existing parking area(s) and storage area(s) and (if necessary for any of those purposes) to alter the state of the land over which the easement is granted.

2. Grant of Easement

- 2.1. **Grant:** The Grantor grants and the Grantee accepts the grant of this easement in gross for the Easement Facility to be used for the Permitted Use together with the right to exercise the Rights, together with its tenants, servants, agents, workmen, licensees and invitees, for all time on the basis that no power is implied for the Grantor to determine this easement in gross for any breach of its provisions (express or implied) or for any other cause, the intention being that this easement in gross shall subsist until surrendered.

3. Grantee's Obligations

- 3.1. **Obligations:** The Grantee is responsible for arranging the maintenance, repair and replacement of the Easement Facility so as to keep the Easement Facility in good order and to prevent it from becoming a danger or nuisance. The costs of the maintenance, repair and replacement of the Easement Facility shall be shared as between the Grantee, the Grantor and all other persons entitled to use the Easement Facility in proportion to their respective use of the Easement Facility, unless the incurring of such costs was caused by an act of either the Grantor or Grantee, in which case that party shall be responsible for the costs.

3.2. **Undertaking Works:** The Grantee must:

- (f) ensure that all work that is carried out for the maintenance, repair or replacement of the Easement Facility is performed in a safe, proper and workmanlike manner, as well as in compliance with all applicable statutory and regulatory requirements (including, without limitation, any health and safety legislation and requirements); and
- (g) cause as little damage or disturbance as possible is caused to the Servient Land and immediately make good any damage done to the Servient Land by restoring the surface of the Servient Land as nearly as possible to its former condition.

8.6: PARAKIRI SITE A EASEMENT TO THE CROWN [2]

Annexure Schedule 1

Insert type of instrument

Easement

Dated

Page

3

of

6

Pages

Continue in additional Annexure Schedule, if required.

4. Grantor's obligations

4.1. Obligations: The Grantor shall not (without the prior written consent of the Grantee:

- (h) place or allow anything to be placed any further fences, driveways or other erections on the Easement Facility other than fences, driveways and erections in place as at the date of this instrument and replacements for those fences, driveways and erections; or
- (i) allow any further tree or shrub to grow on the Easement Facility other than trees and shrubs planted on the Easement Facility as at the date of this instrument and replacements for those trees and shrubs; or
- (j) permit to be done any act on the Easement Facility that interferes with or affects the Permitted Use or the exercise by the Grantee of the Rights, in particular and without limiting the generality of this clause 4.1(c) the Grantor shall keep the access route to the Easement Facility clear at all times; or
- (k) interfere with or allow an interference with the Easement Facility or allow any damage to be done to the Easement Facility; or
- (l) grant any rights over the Easement Facility to any party other than the Grantee provided that the Grantor may grant a right of way and parking rights to the lawful tenant or occupier from time to time of the adjoining building located on the Servient Tenement; or
- (m) impose any charges or fees on the Grantee with respect to the Easement Facility for using the Easement Facility for the Permitted Use.

5. Right of entry

5.1. Access: The Grantee may enter upon the Servient Land with all necessary tools, vehicles, and equipment, remain on the Servient Land for a reasonable time for to complete the necessary work, and leave any vehicles or equipment on the Servient Land for a reasonable time if the Work is proceeding.

5.2. Notice: The Grantor acknowledges that it agrees to the Grantee entering onto the Servient Land to undertake Work without the provision of notice.

8.6: PARAKIRI SITE A EASEMENT TO THE CROWN [2]

Annexure Schedule 1

Insert type of instrument

Easement

Dated

Page

4

of

6

Pages

Continue in additional Annexure Schedule, if required.

6. Default by Grantor and Grantee

6.1. Defaults: If the Grantor or the Grantee does not meet the obligations specified in this Easement Instrument:

- (n) The party in default may serve on the defaulting party written notice requiring the defaulting party to meet a specific obligation and stating that, after the expiry of 7 Working Days from service of the notice of default, the other party may meet the obligation;
- (o) If, at the end of the expiry 7 Working Day period, the party in default has not met the obligation, the other party may meet the obligation;
- (p) 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;
- (q) the other party may recover from the party in default, as a liquidated debt, any money payable under this clause.

7. Disputes

7.1. Dispute Resolution: If a dispute in relation to this Easement Instrument or the Easement Facility arises between the parties:

- (d) the party initiating the dispute must provide full written particulars of the dispute to the other party; and
- (e) the parties 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
- (f) 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 (being the New Zealand Law Society that has its head quarters closest to the Servient Land)

8.6: PARAKIRI SITE A EASEMENT TO THE CROWN [2]

Annexure Schedule 1

Insert type of instrument

Easement

Dated

Page

5

of

6

Pages

Continue in additional Annexure Schedule, if required.

8. Miscellaneous provisions

8.1. **Implied rights and powers:** The rights and powers implied in certain easements pursuant to section 90D of the Land Transfer Act 1952 (and currently set out in Schedule 4 of the Land Transfer Regulations 2002) are, as between Grantor and Grantee, substituted and replaced by the terms set out in this Easement Instrument.

8.2. **No substitution of other rights:** The easements created by this Easement Instrument are not in substitution for; and their creation is without prejudice to any statutory rights, powers and limitations on liability of the Grantor from time to time in respect of the Servient Land.

8.3. **Termination and modification of rights:** The Grantor must not surrender, merge, modify or extinguish the easements created by this Easement Instrument without the prior written consent of the Grantee. There is no power for the Grantor to terminate any of the Grantee's rights due to the Grantee breaching any provisions of this Easement Instrument or for any reason, it being the intention of the Grantor and Grantee that the easement in this Easement Instrument will continue forever unless surrendered.

8.4. **Unenforceable terms:** If any part of this Easement Instrument is held by any court or administrative body of competent jurisdiction to be illegal, void or unenforceable, such determination will not impair the enforceability of the remaining parts of this Easement Instrument.

9. Surrender of Easement

9.1. Notwithstanding anything contained in this Easement Instrument, the easements created under this easement instrument shall expire and determine on the final expiry date of the Lease ("Lease Expiry Date"). For the purposes of this clause, the Lease shall not be treated as expired at the end of any term if it is renewed following that term in accordance with the provisions of the Lease.

9.2. With effect from the Lease Expiry Date:

- (g) The Grantor surrenders its rights and interest under this easement instrument and releases and discharges the Grantee from all of the Grantee's obligations and liabilities under this easement instrument;

8.6: PARAKIRI SITE A EASEMENT TO THE CROWN [2]

Annexure Schedule 1

Insert type of instrument

Easement

Dated

Page

6

of

6

Pages

Continue in additional Annexure Schedule, if required.

- (h) The Grantee surrenders its rights and interest under this easement instrument and releases and discharges the Grantor from all of the Grantor's obligations and liabilities under this easement instrument; and
- (i) The Grantor and the Grantee will do all things necessary and sign all documents necessary (including, without limitation, the relevant easement surrender instrument), to give effect to the surrender of this easement instrument.

9.3. For the avoidance of doubt, clauses 9.1 to 9.2 inclusive do not affect any rights or liabilities arising before the surrender.

8.6: PARAKIRI SITE A EASEMENT TO THE CROWN [2]



**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

8.7 FIVE MILE BAY SITE C COVENANT RESTRICTING BUILDING HEIGHT

8.7: FIVE MILE BAY SITE C COVENANT RESTRICTING BUILDING HEIGHT

Easement Instrument to create a Land Covenant

(Section 90F, Land Transfer Act 1952)

(Section [x], Ngāti Tūwharetoa Claims Settlement Act 20[xx])

Land Registration District

South Auckland Land District - Taupo District

Grantor

[NGĀTI TŪWHARETOA POST-SETTLEMENT GOVERNANCE ENTITY]

Grantee

**HER MAJESTY THE QUEEN ACTING THROUGH THE MINISTER OF
CONSERVATION**

Creation of Land Covenant

The Grantor being the registered proprietor of the servient tenement(s) set out in Schedule A of this Instrument **creates the land covenant set out in Schedule A**, with the rights and powers or provisions set out in the Annexure Schedule.

Schedule A

Continue in additional Annexure Schedule, if required

Purpose Nature and extent of land covenant	Shown (plan reference)	Servient Tenement (Computer Register)	Dominant Tenement (Computer Register) or in gross
Building height restriction	Marked "A" on SO []	55.6460 hectares, more or less, being All Section 1 SO 59452. All Gazette 1994, p1411	In gross

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

8.7: FIVE MILE BAY SITE C COVENANT RESTRICTING BUILDING HEIGHT

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 and/or Schedule Five of the Property Law Act 2007.

The implied rights and powers are hereby **[varied]** ~~[negated]~~ ~~[added to]~~ or ~~[substituted]~~ by the provisions set out in Annexure Schedule.

Covenant Provisions

Delete phrases in [] and insert memorandum number as required; 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]~~

The Annexure Schedule.

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

8.7: FIVE MILE BAY SITE C COVENANT RESTRICTING BUILDING HEIGHT

Annexure Schedule

Insert type of instrument

Easement - Land Covenant

Dated

Page

1

of

3

Pages

Continue in additional Annexure Schedule, if required.

Background

- A. The Grantor is the registered proprietor of the Servient Tenement land contained in computer freehold register created under section [x] of the Ngāti Tūwharetoa Claims Settlement Act 20[xx].
- B. A condition of transferring the Servient Tenement land from the Crown to Ngāti Tūwharetoa was that a building height restriction be imposed in terms of any future development of the land. This condition is recorded in section [x] of the Ngāti Tūwharetoa Claims Settlement Act 20[xx].
- C. The Grantor accepts that statutory imposition and has agreed to grant to the Grantee an easement to create a land covenant to effect to a building height restriction upon the terms and conditions set out in this Instrument.
- D. The parties have entered into this Instrument to record the arrangements between them.

Covenants

- 1 The Grantor agrees that all buildings on the Servient Tenement land will not exceed a maximum height of eight (8) metres (this being measured in accordance with provisions of the operative Taupo District Plan).
- 2 The Grantor agrees that all buildings on the Servient Tenement land will otherwise not exceed a maximum height which may be imposed in accordance with provisions of the operative Taupo District Plan through resource consent (subdivision) notice under section 221 of the Resource Management Act 1991.
- 3 The Grantor agrees that it will not permit the Servient Tenement land to be occupied or used as a residence or any other purpose unless the buildings on the land have been completed in accordance with the covenants and local authority compliance certificates have been issued in respect of any subdivision, residential or other building purposes.

Default

- 4 If either party fails (Defaulting Party) to perform or join with the other party (Other Party) in performing any obligation under this Instrument, the following provisions will apply:
 - (a) the Other Party may serve a written notice on the Defaulting Party (Default Notice) specifying the default and requiring the Defaulting Party to perform or to join in performing the obligation and stating that, after the expiry of one month from service of the Default Notice, the other party may perform the obligation;
 - (b) if after the expiry of one month from service of the Default Notice, the Defaulting Party has not performed or joined in performing the obligation, the Other Party may:
 - (i) perform the obligation; and

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

8.7: FIVE MILE BAY SITE C COVENANT RESTRICTING BUILDING HEIGHT

- (ii) for that purpose enter on to the Servient Land;
- (c) the Defaulting Party must pay to the Other Party the costs of:
 - (i) the Default Notice; and
 - (ii) the Other Party in performing the obligation of the Defaulting Party, within one month of receiving written notice of the Other Party's costs; and
- (d) the Other Party may recover any money payable under clause 10(c) from the Defaulting Party as a liquidated debt.

Dispute Resolution

- 5 In the event of any dispute arising between the parties in respect of or in connection with this Instrument, the parties shall, without prejudice to any other right or entitlement they may have under this Instrument or otherwise, explore whether the dispute can be resolved by use of the alternative dispute resolution technique of mediation. The rules governing such techniques shall be agreed between the parties or as recommended by the New Zealand Law Society or as selected by the Chairman of the New Zealand Chapter of LEADR (Lawyers Engaged in Alternative Dispute Resolution).
- 6 In the event the dispute is not resolved within twenty-eight days of written notice by one party to the other of the dispute (or such further period agreed in writing between the parties), either party may refer the dispute to arbitration under the provisions of the Arbitration Act 1996 or any successor legislation. The arbitrator shall be agreed between the parties within 10 days of written notice of the referral by the referring party to the other or failing agreement appointed by the President of the New Zealand Law Society. In either case, the arbitrator shall not be a person who has participated in any informal dispute resolution procedure in respect of the dispute.

Notices

- 7 All notices and communications under this Instrument shall be deemed to have been received when delivered personally, sent by prepaid post or by facsimile to such address as either party shall notify to the other from time to time.

No Power to Terminate

- 8 There is no implied power in this Instrument for the Grantor to terminate the land covenant due to the Grantee breaching any term of this Instrument for any other reason, it being the intention of the parties that the covenant will continue forever unless surrendered.

Interpretation

- 9 In this Instrument, unless the context otherwise requires:

"Servient Tenement land" means the land described in Schedule A of this Instrument.

"Grantee" means Her Majesty the Queen acting through the Minister of Conservation, and includes any licensee, lessee, its employees, contractors, invitees, successors or assigns.

"Grantor" means the Trustees for the time being of the [Ngāti Tūwharetoa Post-Settlement Governance Entity] and includes any other owners from time to time of the Servient

NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS

8.7: FIVE MILE BAY SITE C COVENANT RESTRICTING BUILDING HEIGHT

Tenement land.

"**Instrument**" means this instrument being an easement creating a land covenant.

10 In the interpretation of this Instrument, unless the context otherwise requires:

- (a) the headings and subheadings appear as a matter of convenience and shall not affect the interpretation of this Instrument;
- (b) references to any statute, regulation or other statutory instrument or bylaw are references to the statute, regulation, instrument or bylaw as from time to time amended and includes substitution provisions that substantially correspond to those referred to; and
- (c) the singular includes the plural and vice versa and words incorporating any gender shall include every gender.

Signature / Common Seal of:

[Ngāti Tūwharetoa Post-Settlement Governance Entity])
was affixed in the presence of as Grantor:)

Name:
Position:

Signature / Common Seal for on behalf of:)
Minister of Conservation)
was affixed in the presence of as Grantor:)

Name:
Position:

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

8.8 TAUHARA MOUNTAIN PROPERTY CONSERVATION COVENANT

8.8: TAUHARA MOUNTAIN PROPERTY CONSERVATION COVENANT

CONSERVATION COVENANT - TAUHARA

(Section 27 Conservation Act 1987

and

Section 77 Reserves Act 1977)

THIS DEED of COVENANT is made this XXXX day of XXXX

BETWEEN [Ngāti Tūwharetoa PSGE] (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 20XX and implemented by the [Ngāti Tūwharetoa Settlement Act 20XX].
- 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.

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

8.8: TAUHARA MOUNTAIN PROPERTY CONSERVATION COVENANT

- 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.
- 1.2 any obligation not to do anything must be treated to include an obligation not to suffer, permit or cause the thing to be done.
- 1.3 the agreements contained in this covenant bind and benefit the parties and their administrators and executors, successors and assigns in perpetuity.
- 1.4 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 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, felling, removal or damage of any tree, shrub or other plant;
- 3.1.3 the planting of any species of exotic tree, shrub or other plant, or any other plant not endemic to and not sourced from the location in which the Land is situated ;

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

8.8: TAUHARA MOUNTAIN PROPERTY CONSERVATION COVENANT

- 3.1.4 the erection of any Fence, building, structure or other improvement for any purpose;
- 3.1.5 any burning, top dressing, sowing of seed or use of chemicals (whether for spraying or otherwise) except where the use of chemicals is reasonably necessary to control weeds or pests;
- 3.1.6 any cultivation, earth works or other soil disturbances;
- 3.1.7 any archaeological or other scientific research involving disturbance of the soil;
- 3.1.8 the damming, diverting or taking of Natural Water;
- 3.1.9 any action which will cause deterioration in the natural flow, supply, quantity, or quality of water of any stream, river, lake, pond, marsh, or any other water resource affecting the Land;
- 3.1.10 any other activity which might have 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;
- 3.1.12 the erection of utility transmission lines across the Land.
- 3.2 The Owner must take all reasonable steps to maintain the Land in a condition no worse than at the date of this Covenant, including:
 - 3.2.1 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 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;

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

8.8: TAUHARA MOUNTAIN PROPERTY CONSERVATION COVENANT

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

4 PUBLIC ACCESS

- 4.1 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 without the express permission of the Owner;
- 4.1.3 do not camp on the Land;
- 4.1.4 do not light fires, take any materials, damage the land or plants, leave any rubbish.

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

8.8: TAUHARA MOUNTAIN PROPERTY CONSERVATION COVENANT

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.

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

8.8: TAUHARA MOUNTAIN PROPERTY CONSERVATION COVENANT

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

11.2.1 advise the defaulting party of the default;

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

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

12 DISPUTE RESOLUTION PROCESSES

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

12.2 Mediation

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

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

12.3 Failure of Mediation

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

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

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

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.

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

8.8: TAUHARA MOUNTAIN PROPERTY CONSERVATION COVENANT

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

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

Signature of Witness

Witness Name

Occupation

Address

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:)

Address

8.8: TAUHARA MOUNTAIN PROPERTY CONSERVATION COVENANT

SCHEDULE 1

Description of Land:

South Auckland Land District - Taupo District

36.6900 hectares, more or less, being Section 20, Block III, Tauhara Survey District.

Conservation and Reserve Values to be protected:

- The intrinsic value of natural and historic qualities of the land, and the appreciation that may be derived by the public from the opportunity to view and visit the Land.
- The natural resources on the land, with particular regard to the indigenous flora and fauna, which need to be preserved as far as possible in their natural state.
- The natural environment of the flora and fauna, the natural landscape amenity, and wildlife habitat.
- The historic and cultural values of the land, and their protection and preservation for future generations.

8.8: TAUHARA MOUNTAIN PROPERTY CONSERVATION COVENANT

SCHEDULE 2

Address for Service

The address for service of the Owner is:

The address for service of the Minister is:

Operations Manager, Turangi District

Department of Conservation

69 The Mall

Turangi 3334

Postal:

Private Bag 2

Turangi 3353

Phone: +64 7 384 7106

Email: turangi@doc.govt.nz

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

8.8: TAUHARA MOUNTAIN PROPERTY CONSERVATION COVENANT

SCHEDULE 3

Special Conditions

1. Despite clause 3.1.2, the Owner may authorise the taking or removal of plant materials from native plants, shrubs and trees from the Land in accordance with tikanga Māori for customary purposes.

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

8.8: TAUHARA MOUNTAIN PROPERTY CONSERVATION COVENANT

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

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

8.9 TE HUKA SOUTH PROPERTY CONSERVATION COVENANT

8.9: TE HUKA SOUTH PROPERTY CONSERVATION COVENANT

CONSERVATION COVENANT - TE HUKA SOUTH

(Section 27 Conservation Act 1987

and

Section 77 Reserves Act 1977)

THIS DEED of COVENANT is made this XXXX day of XXXX

BETWEEN [Ngāti Tūwharetoa PSGE] (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 20XX and implemented by the [Ngāti Tūwharetoa Settlement Act 20XX].
- 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.

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
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**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

8.9: TE HUKA SOUTH PROPERTY CONSERVATION COVENANT

- 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.
- 1.2 any obligation not to do anything must be treated to include an obligation not to suffer, permit or cause the thing to be done.
- 1.3 the agreements contained in this Covenant bind and benefit the parties and their administrators and executors, successors and assigns in perpetuity.
- 1.5 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 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 clause 3.2.1, felling, removal or damage of any tree, shrub or other plant;
- 3.1.3 the planting of any species of exotic tree, shrub or other plant, 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;

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

8.9: TE HUKA SOUTH PROPERTY CONSERVATION COVENANT

- 3.1.5 any burning, top dressing, sowing of seed or use of chemicals (whether for spraying or otherwise) except where the use of chemicals is reasonably necessary to control weeds or pests;
- 3.1.6 any cultivation, earth works or other soil disturbances;
- 3.1.7 any archaeological or other scientific research involving disturbance of the soil;
- 3.1.8 the damming, diverting or taking of Natural Water;
- 3.1.9 any action which will cause deterioration in the natural flow, supply, quantity, or quality of water of any stream, river, lake, pond, marsh or any other water resource affecting the Land;
- 3.1.10 any other activity which might have 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;
- 3.1.12 the erection of utility transmission lines across the Land.
- 3.2 The Owner must take all reasonable steps to maintain the Land in a condition no worse than at the date of this Covenant, including:
 - 3.2.1 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 rubbish or other unsightly or offensive material arising from the Owner's use of the Land;
 - 3.2.4 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 Fences on the boundary of the Land in good order and condition and, notwithstanding clause 3.1.4, must rebuild and replace all such Fences when reasonably required except as provided in clause 5.1.2;
- 3.2. complying with all requisite statutes, regulations and bylaws in relation to the Land.

8.9: TE HUKA SOUTH PROPERTY CONSERVATION COVENANT

4 PUBLIC ACCESS

- 4.1 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 or by bicycle;
 - 4.1.2 do not take firearms or animals on the Land;
 - 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.

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

8.9: TE HUKA SOUTH PROPERTY CONSERVATION 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.

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

8.9: TE HUKA SOUTH PROPERTY CONSERVATION COVENANT

12 DISPUTE RESOLUTION PROCESSES

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

12.2 Mediation

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

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

12.3 Failure of Mediation

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

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

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

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:

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

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

8.9: TE HUKA SOUTH PROPERTY CONSERVATION COVENANT

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.

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

8.9: TE HUKA SOUTH PROPERTY CONSERVATION COVENANT

EXECUTED as a Deed

SIGNED by)
[])
as Owner, in the presence of:)

Signature of Witness

Witness Name

Occupation

Address

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:)

Signature of Witness

Witness Name

Occupation

Address

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

8.9: TE HUKA SOUTH PROPERTY CONSERVATION COVENANT

SCHEDULE 1

Description of Land:

18.0000 hectares, more or less, being Section 2 SO 61681. Part Gazette notice B263233.

LINZ ID 19037.

Conservation and Reserve Values to be protected:

- The intrinsic value of the natural resources on the Land, and the appreciation and enjoyment that may be derived by the public from the opportunity to visit it. The Land supports indigenous vegetation and exotic forest with scenic value, providing habitat for indigenous fauna. It is traversed by tracks used by walkers and cyclists, which provides an opportunity to experience a remnant of the indigenous flora and fauna that once dominated the surrounding landscape.
- The natural landscape amenity values of the area and the natural environment values represented by the indigenous and exotic flora and fauna on the Land. The Land is part of a substantial block of indigenous and exotic vegetation that contributes to the natural character and open space values of the landscape.

8.9: TE HUKA SOUTH PROPERTY CONSERVATION COVENANT

SCHEDULE 2

Address for Service

The address for service of the Owner is:

The address for service of the Minister is:

Operations Manager, Turangi District
Department of Conservation
69 The Mall
Turangi 3334

Postal:
Private Bag 2
Turangi 3353

Phone: +64 7 384 7106

Email: turangi@doc.govt.nz

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

8.9: TE HUKA SOUTH PROPERTY CONSERVATION COVENANT

**SCHEDULE 3
Special Conditions**

1. Despite clause 3.1.2, the Owner may authorise the taking or removal of plant materials from native plants, shrubs and trees from the Land in accordance with tikanga Māori for customary purposes.

8.9: TE HUKA SOUTH PROPERTY CONSERVATION COVENANT

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

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

8.10 TE KOWHAI PROPERTY LICENCE TO OCCUPY

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

8.10: TE KOWHAI PROPERTY LICENCE TO OCCUPY

[Note: The terms and conditions of this document are yet to be agreed between the parties. The following document will be substituted with the final agreed version prior to ratification by Ngāti Tūwharetoa]

Parties

1. The Trustess of Te Kotahitanga Ngāti Tūwharetoa

Licensor

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

Licensee

Licence to Occupy

8.10: TE KOWHAI PROPERTY LICENCE TO OCCUPY

Licence to Occupy

Parties

1. **Te Kotahitanga Ngāti Tūwharetoa** (“the Licensor”)
2. **Her Majesty the Queen acting by and through the Minister of Conservation** (“the Licensee”)

Background

- A. The Licensor agrees to grant the Licensee a licence of the Licence Area and the Licensee agrees to take a licence of the Licence Area on the conditions, covenants, agreements and restrictions contained in this Licence.

Operative Part

The Licensee hereby covenants with the Licensor as follows:

1. Definitions and Interpretation

- 1.1 For the purposes of the interpretation or construction of this Licence, unless the context provides otherwise:

Definitions

- (a) *Authority* means any Government authority whether national or territorial or any other Government or statutory authority appointed or established by statute in New Zealand having jurisdiction over or in respect of the Licence Area and/or the Improvements.
- (b) *Business Day* means any day other than a Saturday or Sunday or statutory or anniversary holiday in Taupo.
- (c) *Building* means the building(s) on the Licence Area on the Commencement Date and includes any additions to the Building, any new buildings and structures or buildings and structures in replacement for the existing building.
- (d) *Commencement Date* means [TBC].
- (e) *Expiry Date* means the expiry date of this Licence pursuant to clause 5.1.
- (f) *GST* means goods and services tax chargeable in accordance with the GST Act.
- (g) *GST Act* means the Goods and Services Tax Act 1985.

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

8.10: TE KOWHAI PROPERTY LICENCE TO OCCUPY

- (h) *Improvements* means the building, structures and other improvements located on the Licence Area as set out in Schedule 1, and includes (for the avoidance of doubt) any building, structures, equipment and improvements from time to time installed by or on behalf of the Licensee on the Licence Area during the term of this Licence, but excludes the property of other lawful occupiers of the Licence Area.
- (i) *Licence Area* means the area outlined in Schedule 2.
- (j) *Permitted Use* means the activities set out in Schedule 3.
- (k) *Regional and District Plans* shall have ascribed to them those definitions set out in section 2 of the Resource Management Act 1991 where there is reference to "Regional Plan" and successor or replacement planning regime imposed by the relevant Authority having jurisdiction in respect thereof.
- (l) *Services* means all pipes, drains, mains, wires, cables, channels, gutters, sewers, and other utilities or services.
- (m) *Sign* means any sign, advertisement, notice, advertising device or other distinctive mark erected upon, or affixed to or placed on the Licence Area, Improvements or the exterior of the Improvements.
- (n) *Tax Invoice* has the meaning given in section 2 of the Goods and Services Tax Act 1985.
- (o) *Term* means the period referred to in clause 3.
- (p) *Tongariro Ecology Centre Trust* means the Tongariro Trout Hatchery and Freshwater Ecology Trust being a charitable trust pursuant to the Charitable Trusts Act 1957 and created pursuant to a deed dated [].

Interpretation

- (q) Words importing any gender shall include all other genders.
- (r) Words importing the singular shall include the plural and vice versa.
- (s) Payments shall be made in the lawful currency of New Zealand.
- (t) Headings shall be ignored.
- (u) References to clauses and schedules are references to clauses and schedules in this Licence and references to parties are references to the parties to this Licence unless expressly stated otherwise.
- (v) Any reference in this Licence to any statute is deemed to include all amendments, revisions, substitutions or consolidations made from time to time to that statute.
- (w) A *person* shall include any individual person, a corporation, a company or other body corporate, an unincorporated body of persons, a public body, firm,

8.10: TE KOWHAI PROPERTY LICENCE TO OCCUPY

partnership, joint venture, association, organisation, trust, State or agency of a State in each case whether or not having separate legal personality.

- (x) *writing* shall include words visibly represented or reproduced.
- (y) Where approvals or consents are required in this Licence they shall not be unreasonably or arbitrarily withheld or delayed and such approvals or consents may be given with conditions which are both reasonable and relevant to the circumstances giving rise to the request to seek approval or consent and shall be required for each separate occasion notwithstanding any prior consent or approval obtained for the like purpose on a prior occasion.
- (z) Notwithstanding that there may be no privity of contract existing between the parties to this Licence and certain named third parties in this Licence nevertheless such third parties shall have the right to enforce any provisions in this Licence which are of benefit to them with such right to enforce being acknowledged and intended in accordance with the requirements of section 4 of the Contracts (Privity) Act 1982.
- (aa) The expressions *Licensor* and *Licensee* includes their respective successors and assigns and where the context permits the Licensor's or the Licensee's respective tenants and other lawful occupiers of the Licence Area and their respective contractors, agents and invitees (which persons shall be those deemed to be persons under the control of the Licensor or the Licensee, as the case may be).

2. Grant of Licence

- 2.1 The Licensor grants to the Licensee a licence to carry out the Permitted Use on the Licensed Area subject to the covenants, terms, conditions and restrictions contained in this Licence.

3. Term of Licence

- 3.1 The Licence shall commence on and from the Commencement Date and continue until the Expiry Date.

4. Fee

- 4.1 The Licensee shall pay to the Licensor an annual fee of \$1.00 plus GST on each anniversary of the Commencement Date in accordance with clause 23.1, if demanded by the Licensor.

5. Expiry of Licence

- 5.1 This Licence shall expire on that date three (3) calendar months' following the date that the Licensee provides written notice to the Licensor of the Licensee's desire to terminate this Licence.

6. Utilities and Services

8.10: TE KOWHAI PROPERTY LICENCE TO OCCUPY

- 6.1 The Licensee will pay all charges for electricity, gas, water or power or other services used by the Licensee in respect of the Licence Area and Improvements.

7. Reserves Act 1977

- 7.1 Notwithstanding that the Licence Area has been vested subject to the Reserves Act 1977, this Licence is enforceable in accordance with its terms and is to be treated as having been granted in accordance with the Reserves Act 1977 and the Licensee must comply with any applicable management plan under the Reserves Act 1977.

8. Use of the Licence Area and Improvements

- 8.1 The Licensee shall only use the Licence Area and the Improvements for the Permitted Use.

9. No Lease

- 9.1 This Licence does not create any lease, tenancy or interest in the Licence Area.
- 9.2 This Licence is personal to the Licensee and does not create a proprietary right or interest in respect of the Licence Area (or any part of it). The Licensee does not have an exclusive right to use the Licence Area.
- 9.3 The Licensee acknowledges and accepts that notwithstanding any other provisions of this Licence, but subject to clause 9.4, the Licence Area and any Improvements thereon are capable of being adversely affected by lawful operations which may arise in the course of, or are incidental to, the business or responsibilities of the Licensor. Accordingly, the Licensee agrees:
- (a) not to obstruct or in any way interfere with the lawful operations or responsibilities of the Licensor;
 - (b) only to take action or commence, join in, or pursue any action or procedure against the Licensor if the Licensor is acting unlawfully; and
 - (c) to waive all rights of action which the Licensee or any person claiming through the Licensee may have or, but for this provision, might have in commencing, joining in, or pursuing any action or proceeding against the Licensor or such other persons or any of them or any of their employees or agents in respect of such adverse effects and for the purposes of this sub-clause (9.3(c)) 'adverse effects' shall be limited to works carried out by the Licensor in its capacity as an Authority.
- 9.4 The Licensor, when carrying out its business or responsibilities, will take all reasonable steps to ensure it does not adversely affect the Licensee carrying out its Permitted Use.

8.10: TE KOWHAI PROPERTY LICENCE TO OCCUPY

10. Statutory Requirements

- 10.1 Subject to clause 7, the Licensee shall if required by any Authority (either directly or indirectly through the Licensor) comply with all statutes, Regional and District Plans, bylaws and regulations which relate to the Licence Area and Improvements or which relate to the Licensee's use of the Licence Area and Improvements and with all conditions or requirements which may be given or required by any person having any lawful authority and will in particular, where legally required, but without limitation:
- (a) comply with the Building Code as amended from time to time;
 - (b) ensure that a warrant of fitness is obtained each year in respect of any Improvements if required under the Building Act 2004;
 - (c) comply with and observe at all times the terms and conditions of all applicable resource consents and their conditions held in respect of the Licensee's use of the Licence Area and Improvements and the requirements imposed and otherwise arising under the Resource Management Act 1991 including without limitation the need to obtain any permit or such other licence as may be required to occupy the Licence Area from time to time during the Term of this Licence;
 - (d) obtain, maintain and comply with all applicable permits or licences required for the Permitted Use (including without limitation all applicable permits or licences relating to food, hygiene, sanitation and fire safety);
 - (e) ensure that, consistent with the obligation placed on the Licensee under the Health and Safety at Work Act 2015, proper and adequate health and safety procedures are adopted in accordance with such Act.

11. Assignment and Sublicensing

- 11.1 The Licensee will not assign, charge, transfer, sublicense or otherwise dispose of the Licensee's interests under this Licence or any part of it without the prior written consent of the Licensor (such consent not to be unreasonably or arbitrarily withheld or delayed). The Licensee will meet all the Licensor's reasonable costs in relation to any documentation or enquiries for a proposed assignment or transfer under this clause 11.1 with such costs being payable by the Licensee whether or not the proposed assignment or transfer proceeds.
- 11.2 If the Licensor gives its consent pursuant to clause 11.1 the Licensor may as a condition of granting its consent procure from the transferee, sublicensee or assignee a covenant to be bound by the terms and conditions of this Licence. The Licensor and Licensee (at the Licensee's cost) will do all things necessary and sign all documents necessary to give effect to an assignment or transfer of this Licence pursuant to clause 11.1.

8.10: TE KOWHAI PROPERTY LICENCE TO OCCUPY

12. Signage

- 12.1 The Licensee shall not erect, paint, display or allow any Sign unless the Licensee first obtains the written approval of the Licensors in each case.
- 12.2 The Licensors may require that any Sign complies with any reasonable standards and policies the Licensors may from time to time set as to type, quality, materials, colour and size. If the Licensors sets such standards and policies and the Licensee erects any Signs which in the Licensors's reasonable opinion do not comply with the standards and/or policies the Licensors may require, the Licensee shall, upon receipt of written notice from the Licensors to remove the Signs, immediately remove the Signs at its cost.

13. Protection of Environment

- 13.1 Except as approved in writing by the Licensors the Licensee will not, whether by act or omission:
- (a) interfere with, remove, damage, or endanger the natural features, animals, plants, or historic resources on the Licence Area; or
 - (b) deposit on the Land debris, rubbish or other dangerous or unsightly matter, or contaminate any water body on the Licence Area; or
 - (c) pile or store materials in any place on the Licence Area where it may obstruct the public or create a nuisance; or
 - (d) conduct any noxious, noisome, dangerous or offensive activity on the Licence Area.
- 13.2 The Licensee will keep the Licence Area in a clean and tidy condition and free of weeds and all organisms specified as pests in a relevant pest management strategy.
- 13.3 The Licensee must make adequate provision for suitable sanitary facilities for the Licence Area if required by the Licensors and for the disposal of all refuse material and is to comply with the reasonable directions of the Licensors in regard to these matters.
- 13.4 The Licensee will keep all structures, facilities and Licence Area alterations and their surroundings in a clean and tidy condition. If reasonably required by the Licensors the Licensee will paint all structures and facilities in colours specified in writing by the Licensors and with paints of a type approved in writing by the Licensors.
- 13.5 The Licensee must:
- (a) take all reasonable precautions to ensure no fire hazards arise from its carrying out of the Permitted Use or from any act or neglect of its employees, contractors, invitees or agents;

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

8.10: TE KOWHAI PROPERTY LICENCE TO OCCUPY

- (b) not light or permit to be lit any fire on the Licence Area;
 - (c) not store or permit to be stored fuels or other combustible materials on the Licence Area without the written permission of the Licensor. In that event storage of fuels and combustible materials must be in accordance with the provisions of the Hazardous Substances and New Organisms Act 1996.
- 13.6 The Licensee must ensure that its employees, clients and invitees do not carry out any acts prohibited under this clause 13.
- 13.7 The Licensee must immediately report to the Licensor any act in contravention of clause 13 and wherever possible the names and addresses of any person carrying out such acts; and must provide the Licensor with details of the circumstances surrounding such incidents.

14. No Warranty

- 14.1 The Licensor does not in any way warrant that the Licence Area is or will remain suitable or adequate for any of the purposes of the Licensee and to the fullest extent permitted by law all warranties as to suitability and to adequacy implied by law are expressly negated.
- 14.2 The Licensee shall be responsible for satisfying itself (by the carrying out of soil testing, underground investigation, foundation design or such other action or research as may be necessary) as to the suitability of the Licence Area for any use.

15. Nuisance and Discharges

- 15.1 The Licensee shall not commit, permit or suffer on the Licence Area and/or Improvements any act which is a nuisance or annoyance to any neighbouring properties, or occupiers thereof, provided that carrying out the Permitted Use in the manner contemplated by this Licence shall not constitute a nuisance or annoyance at any time.
- 15.2 The Licensee will at all times comply with the requirements of any person having lawful authority in respect of the discharge of liquids or substances into the sewerage reticulation system operated by any Authority.

16. Licensee's Structures, Facilities and Licence Area Alterations

- 16.1 The Licensee must not erect or bring on to the Licence Area any structure, install any facility or alter the Licence Area in any way without the prior written consent of the Licensor.
- 16.2 In giving approval under clause 16.1 the Licensor may (acting reasonably), impose any reasonable terms and conditions, as the Licensor considers appropriate under this clause.

8.10: TE KOWHAI PROPERTY LICENCE TO OCCUPY

- 16.3 The Licensee must pay to the Licensors all reasonable costs associated with considering the approval pursuant to this clause 16.
- 16.4 The Licensee must not commence any work on the Licence Area until the Licensors has given written approval.
- 16.5 When undertaking any work under this clause the Licensee, where legally required, must comply with all statutory requirements including, without limitation, obtaining building consents and code compliance certificates under the Building Act 2004.

17. Destruction and Redevelopment

- 17.1 The Licensee shall be entitled to carry out repairs, reinstatement or redevelopment to the Improvements on the Licence Area in the event of total or partial destruction provided the following conditions are or will be satisfied:

- (a) any repair, reinstatement or redevelopment shall, where legally required, fully comply with Regional and District Plans and all statutory and regulatory requirements in force at the time; and
- (b) where legally required, the Licensee is able to obtain all resource and building consents necessary to carry out any works programme; and
- (c) the Licensee will continue to use the Licence Area and Improvements for the Permitted Use.

and upon satisfaction of such conditions the Licensee shall repair, reinstate or rebuild (as the case may be) the Improvements or such part of the Improvement requiring such work in accordance with the conditions set out above.

- 17.2 In the event that the Licensee is prevented or unable to reinstate or rebuild, it may forthwith if it is lawfully able to do so demolish the Improvements and clear the Licence Area or the affected part of all Improvements, rubbish and debris and restore the vacant Licence Area to a compacted level, tidy and clean site. Where the Licensee is unable to reinstate or rebuild for a period of not less than [one(1) year] from the date of the damage and/or destruction or where the Licensee advises the Licensors in writing that it does not wish to conduct from the Licence Area the Permitted Use then the Licensee may serve notice that this Licence shall be at an end and the Licensors and the Licensee shall do all things necessary to perfect a surrender of this Licence and neither of them shall have any claim for compensation, damages or otherwise against the other whatsoever except for any antecedent breach of covenant of this Licence.

18. Improvements

- 18.1 As between the parties the Improvements during the term of this Licence remain in the ownership of the Licensee.

8.10: TE KOWHAI PROPERTY LICENCE TO OCCUPY

19. Removal of Improvements

- 19.1 Subject to clauses 19.2 and 19.3, at the end of the Licence the Licensee shall, no later than six (6) months from the Expiry Date and at its cost, remove all of the Improvements from the Licence Area and clear the Licence Area or the affected part of all Improvements, rubbish and debris and restore the vacant Licence Area to a compacted level, tidy and clean site.
- 19.2 If at the end of the Licence the Licensee wishes to sell or dispose of its Improvements, the Improvements must first be offered to the Tongariro Ecology Centre Trust (provided that the Tongariro Ecology Centre Trust is still the administering body for the Licence Area under the Reserves Act 1977) on such terms and at such price as to be agreed by the parties acting reasonably and in good faith.
- 19.3 If at the end of the Licence the Tongariro Ecology Centre Trust is not the administering body for the Licence Area under the Reserves Act 1977, or it elects not to purchase the Improvements, the Improvements must be offered to the Licensors on such terms and at such price as to be agreed by the parties acting reasonably and in good faith.

20. Prior Representations

- 20.1 The covenants, provisions, terms and agreements contained in this Licence expressly or by statutory implication cover and comprise the whole of the agreement between the parties to the Licence (notwithstanding any negotiations or discussions prior to the execution of this Licence or anything contained in any brochure, report or other document prepared by or on behalf of the Licensors or submission to potential Licensees of the Land).
- 20.2 The parties expressly agree and declare that no further or other covenants, agreements, provisions or terms whether in respect of the Licence Area or otherwise shall be deemed to be implied or to arise between the parties by way of collateral or other agreement by reason of any promise, representation, warranty or undertaking given or made by any party to the other or others on or prior to the execution of this Licence and the existence of any such implication or collateral or other agreement is hereby expressly negated and the Licensee further acknowledges that the Licensee has not been induced to enter into this Licence by any representation, verbal or otherwise made by or on behalf of the Licence which is not set out in this Licence.

21. Disclaimer

- 21.1 Under no circumstances shall the Licensors be liable for any repairs, replacement or maintenance to the interior, exterior or structure of the Improvements.

22. Artefacts

- 22.1 Subject to any rights of ownership vested in the Crown under the Protected Objects Act 1975, all fossils, artefacts, coins, articles of value or antiquity and structures and other

8.10: TE KOWHAI PROPERTY LICENCE TO OCCUPY

remains or things of geological, historical, archaeological, or cultural interest or value discovered on or under the surface of the Licence Area, as between the Licensor and the Licensee, shall be deemed to be the absolute property of the Licensor. The Licensee shall use its best endeavours to prevent such articles or things being removed or damaged, and shall notify the Licensor of such discovery and, carry out at the expense of the Licensor, the Licensor's orders as to the delivery up or disposal of such articles or things.

23. Goods and Service Tax

- 23.1 If GST is chargeable on any supply made by one party (the "Supplier") to another party (the "Recipient") under this Licence the Recipient will pay to the Supplier an amount equal to the GST chargeable on that supply in addition to, at the same time and in the same manner as the consideration otherwise payable under this Licence for that supply and the Supplier will issue a Tax Invoice to the Recipient in respect of that supply on or before the date on which payment for that supply is due under this Licence. For the avoidance of doubt, references in this clause to any supply being made by one party shall, in the context of the Licensor, include supplies it makes as agent and any supplies it makes on its own behalf.

24. Notices

- 24.1 All notices including requests, demands and other communications under this Licence, to be given by a party to any other party shall be in writing and may be given if personally delivered or sent by an accepted means of electronic transmission to the other party. Any notices personally delivered in the manner set out above shall be deemed given when personally delivered or if sent by electronic transmission in the manner set out above shall be deemed given on the first business day following the day of sending of the electronic transmission.

25. Costs

- 25.1 The parties shall each pay their own solicitors costs on preparing and finalising this Licence. The Licensee shall be responsible for payment of all government tax duty or imposts at any time payable on this Licence or any variation to this Licence and shall pay all costs, charges and expenses for which the Licensor shall become liable in consequence of or in connection with any consent sought to unit titling or any breach or default by the Licensee in the performance or observance of any of the terms, covenants and conditions of this Licence and likewise the Licensor shall pay for all costs, charges and expenses for which the Licensee shall become liable in consequence of or in connection with any breach or default of the Licensor in the performance or observance of any of the terms, covenants and conditions of this Licence.

8.10: TE KOWHAI PROPERTY LICENCE TO OCCUPY

26. Implied Relationship

- 26.1 Nothing contained in this Licence shall be deemed or construed or constitute any party or parties' agent or representative or other party to be deemed to create any trust, commercial partnership or joint venture.

27. Partial Invalidity

- 27.1 The invalidity of any part or provision of this Licence shall not affect the enforceability of any other part or provision thereof.

28. Governing Law

- 28.1 This Licence shall be construed and take effect in accordance with the laws of New Zealand.

29. Further Assurances

- 29.1 Each of the parties agree to execute and deliver any documents and to do all things as may reasonably be required by the other party or parties to obtain the full benefit of this Licence according to its true intent.

8.10: TE KOWHAI PROPERTY LICENCE TO OCCUPY

Schedule 1

Licensee Improvements

Hatchery Operations:

- Two burrow raceways
- Fencing around the raceways
- Sealed service area around the raceways
- Main water supply pipe from a spring (underground)
- Plumbing connecting the raceways to the hatchery/aquarium and settling pond (underground)
- Fish out pond (Settling pond)
- Service road from the spring head to the settling pond (gravel and sealed)

Aquarium:

- Quarantine shed and underground wastewater plumbing
- The main aquarium building

Whio Creche:

- Whio hardening aviary
- Whio storage garage

Maintenance and visitor amenities:

- Toilets at the visitor's centre
- Toilets at the Fish out pond
- Workshop/lunch room
- Two amenity garages
- Feed storage room
- Fuel shed
- Sewage plumbing and pump stations (underground)
- Phone lines
- Power supply
- Domestic plumbing
- Visitor foot tracks
- Timber footbridge
- Service entrance bridge and carpark
- Staff quarters
- Interpretation signage
- Directional signage
- Street lighting
- Pest control equipment

Taupo for Tomorrow Education Programme Improvements:

- Classroom at the Fish out pond

Tongariro National Trout Centre Society Improvements:

- Fish smoking shelter at the Fish out pond

8.10: TE KOWHAI PROPERTY LICENCE TO OCCUPY

Schedule 2

Licence Area



8.10: TE KOWHAI PROPERTY LICENCE TO OCCUPY

Schedule 3

Permitted Use

- Husbandry of Trout and associated animal welfare activities
- Avian fauna hardening and preparation for release into the wild
- Maintenance of hatchery and aquarium facilities
- General site maintenance, including rubbish collection, gardening, and maintenance of walkways and toilets
- Pest and weed control
- Educational activities

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

8.11 PARAKIRI SITE B LEASE WITH THE CROWN

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

8.11: PARAKIRI SITE B LEASE WITH THE CROWN

[Note: The terms and conditions of this document are yet to be agreed between the parties. The following document will be substituted with the final agreed version prior to ratification by Ngāti Tūwharetoa]

The Trustess of Te Kotahitanga Ngāti Tūwharetoa

Lessor

Her Majesty the Queen, acting by and through the
Minister of Local Government

Lessee

Memorandum of Lease

8.11: PARAKIRI SITE B LEASE WITH THE CROWN

Memorandum of Lease

Parties

1. **[Tūwharetoa]** (the Lessor)
2. **Her Majesty the Queen** , acting by and through the Minister of Local Government (the Lessee)

Schedule of Land

Computer Identifier	Register	Area	Legal Description
<i>[insert details following survey]</i>		<i>[insert details following survey]</i>	<i>[the areas shown "A", "B" and "C" on the aerial map attached] (subject to survey)</i>
Encumbrances, Liens and Interests:			

The Lessor leases to the Lessee and the Lessee accepts the lease of the Land for the Term and at the Rent and subject to the conditions, covenants, agreements and restrictions herein set forth in Schedule A and Schedule B.

8.11: PARAKIRI SITE B LEASE WITH THE CROWN

Schedule A

Term:	Twenty (20) years commencing on and from the Commencement Date.
Commencement Date:	[TBC]
Expiry Date:	[that date being twenty (20) years less one day from the Commencement Date]
Rent:	\$1.00 plus GST per annum, payable in accordance with clause 2.
Permitted Use:	Harbour Master's Office, Refuse Station and all associated activities.

NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS

8.11: PARAKIRI SITE B LEASE WITH THE CROWN

Schedule B

1. Definitions and Interpretation

1.1 For the purposes of the interpretation or construction of this Lease, unless the context provides otherwise:

- (a) *Authority* means any Government authority whether national or territorial or any other Government or statutory authority appointed or established by statute in New Zealand having jurisdiction over or in respect of the Land and/or the Improvements.
- (b) *Business Day* means any day other than a Saturday or Sunday or statutory or anniversary holiday in Auckland.
- (c) *Building* means the building(s) on the Land on the Commencement Date and includes any additions to the Building, any new buildings and structures or buildings and structures in replacement for the existing building.
- (d) *GST* means goods and services tax chargeable in accordance with the GST Act.
- (e) *GST Act* means the Goods and Services Tax Act 1985.
- (f) *Improvements* means any Building, structure or other improvements including drains, concrete paving, tiles, carpark sealing, mechanical services, plant, machinery, equipment, fixtures and fittings existing on the Land at the commencement of this Lease and from time to time installed by or on behalf of the Lessee on the Land during the term of this Lease, but excludes the property of other lawful occupiers of the Land or Improvements.
- (g) *Land* means that land described in the Schedule of Land, together with and subject to all interests noted thereon.
- (h) *Regional and District Plans* shall have ascribed to them those definitions set out in section 2 of the Resource Management Act 1991 where there is reference to "Regional Plan" and successor or replacement planning regime imposed by the relevant Authority having jurisdiction in respect thereof.
- (i) *Services* means all pipes, drains, mains, wires, cables, channels, gutters, sewers, and other utilities or services.
- (j) *Tax Invoice* has the meaning given in section 2 of the Goods and Services Tax Act 1985.

Interpretation

- (k) Words importing any gender shall include all other genders.
- (l) Words importing the singular shall include the plural and vice versa.
- (m) Payments shall be made in the lawful currency of New Zealand.

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

8.11: PARAKIRI SITE B LEASE WITH THE CROWN

- (n) Headings shall be ignored.
- (o) References to clauses and schedules are references to clauses and schedules in this Lease and references to parties are references to the parties to this Lease unless expressly stated otherwise.
- (p) Any reference in this Lease to any statute is deemed to include all amendments, revisions, substitutions or consolidations made from time to time to that statute.
- (q) A *person* shall include any individual person, a corporation, a company or other body corporate, an unincorporated body of persons, a public body, firm, partnership, joint venture, association, organisation, trust, State or agency of a State in each case whether or not having separate legal personality.
- (r) *writing* shall include words visibly represented or reproduced.
- (s) Where approvals or consents are required in this Lease they shall not be unreasonably or arbitrarily withheld or delayed and such approvals or consents may be given with conditions which are both reasonable and relevant to the circumstances giving rise to the request to seek approval or consent and shall be required for each separate occasion notwithstanding any prior consent or approval obtained for the like purpose on a prior occasion.
- (t) Notwithstanding that there may be no privity of contract existing between the parties to this Lease and certain named third parties in this Lease nevertheless such third parties shall have the right to enforce any provisions in this Lease which are of benefit to them with such right to enforce being acknowledged and intended in accordance with the requirements of section 4 of the Contracts (Privity) Act 1982.
- (u) The expressions *Lessor* and *Lessee* includes their respective successors and assigns and where the context permits the Lessor's or the Lessee's respective tenants and other lawful occupiers of the Land and their respective contractors, agents and invitees (which persons shall be those deemed to be persons under the control of the Lessor or the Lessee, as the case may be).

2. Rent

- 2.1 The Lessee shall pay the Rent to the Lessor on each anniversary of the Commencement Date in accordance with clause 22.1, if demanded by the Lessor.

3. Payment of Rates and Impositions

- 3.1 The Lessee will promptly pay all applicable rates, taxes (including without limitation land or improvements tax but not tax which is personal to the Lessor which is imposed as a result of any sale or other disposal of the Land or because of income gained by the Lessor for the Land), charges, assessments, levies, impositions and all outgoings whatsoever which now are or which during the said term shall be taxed, rated, charged, assessed, levied or imposed on the Land, the Improvements or their use, or on the Lessor or Lessee in respect thereof by authority of any Authority.

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

8.11: PARAKIRI SITE B LEASE WITH THE CROWN

- 3.2 Where any amounts in clause 3.1 are lawfully required to be paid or collected for payment by the Lessor the Lessee agrees to pay such amounts which are liable to be paid under clause 3.1 on demand made by the Lessor without deduction or set off.

4. Utilities and Services

- 4.1 The Lessee will pay all charges for electricity, gas, water or power or other services in respect of the Land and Improvements.

- 4.2 If requested by the Lessor or required by the Authority the Lessee shall install, maintain, and upgrade whenever necessary at its cost any meter or other measuring device necessary for the proper charging of any Services supplied to the Land or Improvements.

- 4.3 The Lessor shall ensure (at its cost) that the usual services are provided and maintained to the buildings on the Land during the Term (including, without limitation, water supply, water drainage, sewage drainage, electricity, gas, telecommunications and computer media).

5. Reserves Act 1977

- 5.1 The provisions of this Lease shall apply notwithstanding that the Land has been vested subject to the Reserves Act 1977. In the event of any conflict or inconsistency between the provisions of the Reserves Act 1977 and this Lease then the provisions of this Lease shall apply.

6. Use of the Land and Improvements

- 6.1 The Lessee shall only use the Land and the Improvements for the Permitted Use.

7. Statutory Requirements

- 7.1 The Lessee shall if required by any Authority (either directly or indirectly through the Lessor) comply with all statutes, Regional and District Plans, bylaws and regulations which relate to the Land and Improvements or which relate to the Lessee's use of the Land and Improvements and with all conditions or requirements which may be given or required by any person having any lawful authority and will in particular but without limitation:

- (A) comply with the Building Code as amended from time to time;
- (B) ensure that a warrant of fitness is obtained each year in respect of any Improvements if required under the Building Act 2004;
- (C) comply with and observe at all times the terms and conditions of all applicable resource consents and their conditions held in respect of the Lessee's use of the Land and Improvements and the requirements imposed and otherwise arising under the Resource Management Act 1991 including without limitation the need to obtain any permit or such other licence as may be required to occupy the Land from time to time during the Term of this Lease;

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

8.11: PARAKIRI SITE B LEASE WITH THE CROWN

- (D)** obtain, maintain and comply with all applicable permits or licences required for the Permitted Use; and
- (E)** ensure that, consistent with the obligation placed on the Lessee under the Health and Safety at Work Act 2015, proper and adequate health and safety procedures are adopted in accordance with such Act.

8. Condition of the Land and the Improvements

- 8.1 The Lessee will at all times during the Term of the Lease keep and maintain the Land in a clean and tidy condition. In addition, the Lessee will keep and maintain at all times the structural integrity, exterior fittings and decorations of the Improvements all in good and substantial repair.
- 8.2 The Lessee will at all times during the continuance of the Term keep the Land clean and free from gorse, brier, broom and noxious weeds.

9. Assignment and Subletting

- 9.1 The Lessee will not without the prior consent in writing of the Lessor assign or transfer the Lessee's interests under this Lease (such consent not to be unreasonably or arbitrarily withheld or delayed). The Lessee will meet all the Lessor's reasonable costs in relation to any documentation or enquiries for a proposed assignment or transfer under this clause 9.1 with such costs being payable by the Lessee whether or not the proposed assignment or transfer proceeds.
- 9.2 Notwithstanding the provisions contained in clause 9.1, the Lessee may as of right (and without being required to obtain the prior consent of the Lessor) assign or transfer this Lease to any party, body or entity that is duly appointed to act as the Lake Taupo Harbourmaster. The Lessor will, at the Lessee's request and at its cost, do all things necessary and sign all documents necessary to give effect to an assignment or transfer of this Lease pursuant to this clause 9.2.

10. Renewal

- 10.1 At least [two (2)] calendar months before the Expiry Date, the Lessee shall give written notice to the Lessor:
 - (A)** that the Lessee desires to accept a new lease of the Land on the terms set out in clause 10.2; or
 - (B)** that the Lessee does not desire to accept a new lease of the Land.
- 10.2 On the expiration or effluxion of time of the Term, the Lessee shall have a right to obtain in accordance with the provisions of this Lease a renewed lease of the Land for the term of twenty (20) years computed from the expiration of this Lease and subject to the same rental, covenants and provisions of this Lease, including, without limitation, the provision for renewal contained in this clause 10.
- 10.3 Any such notice by the Lessee of the desire to have a renewed lease pursuant to this clause 10 shall be deemed to constitute a contract between the Lessor and the Lessee from the granting and acceptance of a renewed lease. The parties will do all things necessary and sign all documents necessary to give effect to the renewed lease.

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

8.11: PARAKIRI SITE B LEASE WITH THE CROWN

- 10.4 If the Lessee fails to give any notice to the Lessor as to whether it desires to accept a new lease of the Land on the terms set out in clause 10.2, or if the Lessee gives notice in writing to the Lessor under clause 10.1(b) that such renewed lease of the Land is not desired, the right of the Lessee to a renewed lease shall cease on the expiry of the term.

11. No Warranty

- 11.1 The Lessor does not in any way warrant that the Land is or will remain suitable or adequate for any of the purposes of the Lessee and to the fullest extent permitted by law all warranties as to suitability and to adequacy implied by law are expressly negated.
- 11.2 The Lessee shall be responsible for satisfying itself (by the carrying out of soil testing, underground investigation, foundation design or such other action or research as may be necessary) as to the suitability of the Land for any use.

12. Nuisance and Discharges

- 12.1 The Lessee shall not commit, permit or suffer on the Land and/or Improvements any act which is a nuisance or annoyance to any neighbouring properties, or occupiers thereof, provided that carrying out the Permitted Use in the manner contemplated by this Lease shall not constitute a nuisance or annoyance at any time.
- 12.2 The Lessee will at all times comply with the requirements of any person having lawful authority in respect of the discharge of liquids or substances into the sewerage reticulation system operated by any Authority.

13. Destruction and Redevelopment

- 13.1 The Lessee shall be entitled to carry out repairs, reinstatement or redevelopment to the Improvements on the Land in the event of total or partial destruction or in the event of the Lessee wishing to redevelop or replace the Improvements on the Land provided the following conditions are or will be satisfied:
- (A) any repair, reinstatement or redevelopment shall fully comply with Regional and District Plans and all statutory and regulatory requirements in force at the time; and
 - (B) the Lessee is able to obtain all resource and building consents necessary to carry out any works programme; and
 - (C) the Lessee will continue to use the Land and Improvements for the Permitted Use,
- and upon satisfaction of such conditions the Lessee shall repair, reinstate or rebuild (as the case may be) the Improvements or such part of the Improvement requiring such work in accordance with the conditions set out above.
- 13.2 In the event that the Lessee is prevented or unable to reinstate or rebuild it may forthwith if it is lawfully able to do so demolish the Improvements and clear the Land or the affected part of all Improvements, rubbish and debris and restore the vacant Land

8.11: PARAKIRI SITE B LEASE WITH THE CROWN

to a compacted level, tidy and clean site. Where the Lessee is unable to reinstate or rebuild for a period of not less than [one(1) year] from the date of the damage and/or destruction or where the Lessee advises the Lessor in writing that it does not wish to conduct from the Land the Permitted Use then the Lessee may serve notice that this Lease shall be at an end and the Lessor and the Lessee shall do all things necessary to perfect a surrender of this Lease and neither of them shall have any claim for compensation, damages or otherwise against the other whatsoever except for any antecedent breach of covenant of this Lease.

14. Improvements

- 14.1 The parties agree that the Improvements during the term of this Lease remain in the ownership of the Lessee.

15. Removal of Improvements

- 15.1 On the expiry or sooner determination of this Lease, the Lessee will, if required by the Lessor, and at the Lessee's sole cost, remove all of the Improvements from the Land and clear the Land or the affected part of all Improvements, rubbish and debris and restore the vacant Land to a compacted level, tidy and clean site.

16. Fencing

- 16.1 The Lessor shall be under no liability whatsoever under the Fencing Act 1978 or otherwise to contribute towards the cost of erection or repair of any boundary fences between the Land hereby agreed to be leased and any land owned or occupied by the Lessor but nothing herein contained shall be deemed to limit any liability imposed by statute upon any present or future lessee to the owner of any adjoining land.

17. Lessee's Acknowledgement of Risk

- 17.1 The Lessee will do all acts and things necessary to remove any contaminant from the Land and the Improvements under the direction and control of any Authority all at the cost to the Lessee provided however that the Lessee shall not be responsible for any contamination which occurred prior the Lessee having any access to the Land pursuant to this Lease and was not otherwise caused by the Lessee.

18. Prior Representations

- 18.1 The covenants, provisions, terms and agreements contained in this Lease expressly or by statutory implication cover and comprise the whole of the agreement between the parties to the Lease (notwithstanding any negotiations or discussions prior to the execution of this Lease or anything contained in any brochure, report or other document prepared by or on behalf of the Lessor or submission to potential lessees of the Land).
- 18.2 The parties expressly agree and declare that no further or other covenants, agreements, provisions or terms whether in respect of the Land or otherwise shall be deemed to be implied or to arise between the parties by way of collateral or other agreement by reason of any promise, representation, warranty or undertaking given or made by any party to the other or others on or prior to the execution of this Lease and the existence of any such implication or collateral or other agreement is hereby expressly negated and the Lessee further acknowledges that the Lessee has not

8.11: PARAKIRI SITE B LEASE WITH THE CROWN

been induced to enter into this Lease by any representation, verbal or otherwise made by or on behalf of the Lease which is not set out in this Lease.

19. Quiet Enjoyment

- 19.1 Provided the Lessee performs and observes the material covenants provisos conditions and agreements contained in this Lease, the Lessee shall, subject to any constraints or limitations of use arising under this Lease peaceably hold and enjoy the Land and Improvements thereon without hindrance or interruption by the Lessor or any person or persons claiming under the Lessor until the expiration or sooner determination of this Lease.

20. Artefacts

- 20.1 Subject to any rights of ownership vested in the Crown under the Antiquities Act 1975, all fossils, artefacts, coins, articles of value or antiquity and structures and other remains or things of geological, historical, archaeological, or cultural interest or value discovered on or under the surface of the Land, as between the Lessor and the Lessee, shall be deemed to be the absolute property of the Lessor. The Lessee shall use its best endeavours to prevent such articles or things being removed or damaged, and shall notify the Lessor of such discovery and, carry out at the expense of the Lessor, the Lessor's orders as to the delivery up or disposal of such articles or things.

21. Default and Termination

- 21.1 Subject to the relevant provisions of the Property Law Act 2007, if the Lessee breaches any covenant or agreement on the Lessee's part expressed or implied in this Lease (other than the covenant to pay rent) the Lessor may, in addition to the Lessor's right to apply to the Court for an order of possession, cancel this lease by re-entering the Land if the Lessee has failed to remedy that breach within the period specified in a notice served on the Tenant in accordance with section 246 of the Property Law Act 2007.
- 21.2 The term of the Lease shall terminate on the cancellation but without prejudice to the rights of either party against the other.

22. Goods and Service Tax

- 22.1 If GST is chargeable on any supply made by one party (the "Supplier") to another party (the "Recipient") under this Lease the Recipient will pay to the Supplier an amount equal to the GST chargeable on that supply in addition to, at the same time and in the same manner as the consideration otherwise payable under this Lease for that supply and the Supplier will issue a Tax Invoice to the Recipient in respect of that supply on or before the date on which payment for that supply is due under this Lease. For the avoidance of doubt, references in this clause to any supply being made by one party shall, in the context of the Lessor, include supplies it makes as agent and any supplies it makes on its own behalf.

23. Notices

- 23.1 All notices including requests, demands and other communications under this Lease, to be given by a party to any other party shall be in writing and may be given if personally delivered or sent by an accepted means of electronic transmission to the other party. Any notices personally delivered in the manner set out above shall be

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

8.11: PARAKIRI SITE B LEASE WITH THE CROWN

deemed given when personally delivered or if sent by electronic transmission in the manner set out above shall be deemed given on the first business day following the day of sending of the electronic transmission.

24. Costs

- 24.1 The parties shall each pay their own solicitors costs on preparing and finalising this Lease. The Lessee shall be responsible for payment of all government tax duty or imposts at any time payable on this Lease or any variation to this Lease and shall pay all costs, charges and expenses for which the Lessor shall become liable in consequence of or in connection with any consent sought to unit titling or any breach or default by the Lessee in the performance or observance of any of the terms, covenants and conditions of this Lease and likewise the Lessor shall pay for all costs, charges and expenses for which the Lessee shall become liable in consequence of or in connection with any breach or default of the Lessor in the performance or observance of any of the terms, covenants and conditions of this Lease.

25. Implied Relationship

- 25.1 Nothing contained in this Lease shall be deemed or construed or constitute any party or parties' agent or representative or other party to be deemed to create any trust, commercial partnership or joint venture.

26. Partial Invalidity

- 26.1 The invalidity of any part or provision of this Lease shall not affect the enforceability of any other part or provision thereof.

27. Governing Law

- 27.1 This Lease shall be construed and take effect in accordance with the laws of New Zealand.

28. Further Assurances

- 28.1 Each of the parties agree to execute and deliver any documents and to do all things as may reasonably be required by the other party or parties to obtain the full benefit of this Lease according to its true intent.

8.11: PARAKIRI SITE B LEASE WITH THE CROWN



**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

8.12 PARAKIRI SITE B EASEMENT TO THE CROWN

8.12: PARAKIRI SITE B EASEMENT TO THE CROWN

[Note: The terms and conditions of this document are yet to be agreed between the parties. The following document will be substituted with the final agreed version prior to ratification by Ngāti Tūwharetoa]

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

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

Grantor

THE TRUSTEES OF TE KOTA HITANGA O NGĀTI TŪWHARETOA

Grantee

HER MAJESTY THE QUEEN

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 convey water, Right to drain water and Right to convey telecommunications and computer media	[the area shown "A" on the aerial plan attached (subject to survey)]	[]	In gross

8.12: PARAKIRI SITE B EASEMENT TO THE CROWN

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]~~ ~~[negated]~~ ~~[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 required; 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 _____]~~

8.12: PARAKIRI SITE B EASEMENT TO THE CROWN

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 clauses 1(a), 1(b) and 1(d) of Schedule 4 of the Land Transfer Regulations 2002 ("Regulations") are deleted and replaced with the following:

- "(a) *In relation to a 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 all structures and equipment located or constructed in the stipulated area and includes (for the avoidance of doubt) the jetties and any equipment or structure associated with the jetties and anything in replacement or substitution.*
- (b) *In relation to a right to convey electricity or a right to convey telecommunications and computer media, means wires, cables (containing wire or other media conducting materials), towers, poles, transformers, switching gear, other equipment suitable for that purpose (whether above or under the ground) and all structures and equipment located or constructed in the stipulated area and includes (for the avoidance of doubt) the jetties and any equipment or structure associated with the jetties and anything in replacement or substitution.*
- (d) *In relation to a right to drain water, means pipes, conduits, pumps, tanks (with or without headwalls), manholes, valves, surface boxes, other equipment suitable for that purpose (whether above or under the ground) and all structures and equipment located or constructed in the stipulated area and includes (for the avoidance of doubt) the jetties and any equipment or structure associated with the jetties and anything in replacement or substitution."*

2. Surrender of Easement

2.1. If at any time the grantee no longer acts as the Lake Taupo Harbourmaster, the grantee may (at its sole option):

- (a) transfer its interests under this easement instrument to any person acting as the Lake Taupo Harbourmaster; or

8.12: PARAKIRI SITE B EASEMENT TO THE CROWN

Annexure Schedule 1

Insert type of instrument

Easement

Dated

Page

2

of

2

Pages

Continue in additional Annexure Schedule, if required.

- (b) surrender the grantee's rights under this easement instrument by providing written notice of such surrender and specifying the effective surrender date ("Surrender Date") to the grantor.

2.2. If the grantee elects to transfer its interests under this easement instrument pursuant to clause 2.1(a), then each party will (at the grantee's cost) do all things necessary and sign all documents necessary to give effect to such transfer.

2.3. If the grantee elects to surrender its rights under this easement instrument pursuant to clause 2.1(b) then, with effect from the Surrender Date:

- (a) the grantor surrenders its rights under this easement instrument and releases and discharges the grantee from all of the grantee's obligations and liabilities under this easement instrument;
- (b) the grantee surrenders its rights under this easement instrument and releases and discharges the grantor from all of the grantor's obligations and liabilities under this easement instrument;
- (c) the easements created under this easement instrument shall determine, but without prejudice to the rights of either party in relation to any prior breach of this easement instrument; and
- (d) each party will (at the grantee's cost) do all things necessary and sign all documents necessary (including, without limitation, an easement surrender instrument) to give effect to the surrender of this easement instrument.

3. Reserves Act 1977

3.1. The provisions of this easement instrument shall apply notwithstanding that the servient land has been vested subject to the Reserves Act 1977. In the event of any conflict or inconsistency between the provisions of the Reserves Act 1977 and this easement instrument then the provisions of this easement instrument shall apply.

8.12: PARAKIRI SITE B EASEMENT TO THE CROWN



8.13 TE HUKA PROPERTY RIGHT OF WAY EASEMENT TO THE CROWN

NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS

8.13: TE HUKA PROPERTY RIGHT OF WAY EASEMENT TO THE CROWN

[Note: The terms and conditions of this document are yet to be agreed between the parties. The following document will be substituted with the final agreed version prior to ratification by Ngāti Tūwharetoa]

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

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

Grantor

THE TRUSTEES OF TE KOTA HITANGA O NGĀTI TŪWHARETOA

Grantee

HER MAJESTY THE QUEEN in Right of New Zealand acting by and through the Minister of Conservation

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 of Way	[shown with a dashed red line on aerial map attached (subject to survey)]	Section 1 on SO 500211	In Gross

8.12: PARAKIRI SITE B EASEMENT TO THE CROWN

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 and/or Schedule Five of the Property Law Act 2007

The implied rights and powers are hereby **varied** ~~[negated]~~ ~~[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 required; 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 —]~~

8.12: PARAKIRI SITE B EASEMENT TO THE CROWN

Annexure Schedule 1

Insert type of instrument

Easement

Dated

Page

1

of

5

Pages

Continue in additional Annexure Schedule, if required.

1. Background

- 1.1. The Grantor is the registered proprietor of the Servient Tenement which is held for scenic purposes under the Reserves Act 1977, known as Huka Falls Scenic Reserve.
- 1.2. The parties acknowledge and agree that the Grantee maintains public access, vehicular and pedestrian access, carparking facilities, visitor information and ancillary facilities, toilet facilities and signage on the Easement Land associated with Huka Falls Scenic Reserve.
- 1.3. The Grantor has agreed to grant to the Grantee a right of way over the Easement Land and on the terms and conditions set out in this easement.
- 1.4. The parties have entered into this Easement to record the arrangements between them.

2. Right of Way

- 2.1. The Grantor grants to the Grantee a right of way over the Easement Land.

3. Easement Facility

- 3.1. The definition of "easement facility" in clause 1(c) of Schedule 4 of the Land Transfer Regulations 2002 ("Regulations") is deleted and replaced with the following sub-clause:

"(c) In relation to a right of way, means that part of the surface of the land described as the stipulated area and includes, for the avoidance of doubt, the Improvements as that term is defined in clause 6 (whether above or under the surface) located in the stipulated area."

4. Right of Way Easement

- 4.1. The Grantee shall have the full, free, uninterrupted and unrestrictive right, liberty and privilege to pass and repass from time to time and at all times over and along the Easement Land for the purposes of and incidental to carrying out the Grantee's obligations in clause 4.
- 4.2. Subject to clause 4.1, the Grantee, together with the general public, shall have the right to:
 - (a) pass and re-pass from time to time on foot from the public road to the Huka Falls over and along the designated routes on the Easement Land;
 - (b) pass and re-pass from time to time with or without vehicles from the public road entrance to the car park area located on the Easement Land over and along the designated routes and the right to park vehicles in the designated car park area; and

8.12: PARAKIRI SITE B EASEMENT TO THE CROWN

Annexure Schedule 1

Insert type of instrument

Easement

Dated

Page

2

of

5

Pages

Continue in additional Annexure Schedule, if required.

- (c) maintain, repair and replace the existing structures, equipment, services or Improvements (as defined in clause 6.1) that relate or are incidental to the rights granted under this easement instrument.

5. Grantee's obligations

5.1.

- (a) The Grantee will:

- (i) maintain and repair the car park and driveway from the public road entrance, including the seal and markings;
- (ii) maintain and repair the bridge located on the Easement Land to ensure visitor safety;
- (iii) maintain and repair the exterior and interior of the information kiosk/toilets and sewage works on the Easement Land together with all related pumps, pipes, electrical equipment and lines;
- (iv) maintain and repair gates, fences and all signs on the Easement Land, excluding those of any third party;
- (v) meet the operational costs of cleaning the interior and exterior of the kiosk and toilets, power, telephone and water supply located on the Easement Land;
- (vi) [pay all rates, taxes and other charges payable in respect of the Easement Land, including charges for water, electricity and other utilities or services supplied or used on the Easement Land];
- (vii) provide waste bins and remove rubbish, waste or abandoned vehicles on the Easement Land;
- (viii) mow any grass, road verges and spray weeds impinging on the driveway or carpark on the Easement Land;
- (ix) maintain the native trees and plants on the Easement Land, including any pruning and spraying or removal of exotic species such as pines and noxious plants;
- (x) undertake any bio-security requirements required under the Biosecurity Act 1993 and its amendments;
- (xi) control the hours of vehicular access to the car park due to the need to protect improvements on the Easement Land after hours;

8.12: PARAKIRI SITE B EASEMENT TO THE CROWN

Annexure Schedule 1

Insert type of instrument

Easement

Dated

Page

3

of

5

Pages

Continue in additional Annexure Schedule, if required.

- (i) comply, where required, with all relevant legislation and rules in place from time to time, including the Building Act 2004, the Resource Management Act 1991, the relevant District Plan and the relevant Regional Plan;
 - (ii) obtain and comply with all statutory, regulatory or other consents or permits required to undertake any work or activity; and
 - (iii) discharge the Grantee's obligations under the Health and Safety at Work Act 2015.
- (b) The Grantee will not be liable to contribute towards the cost of repairing any damage to the Easement Land which was the sole result of the Grantor's negligent use of the Easement Land.

6. Equipment and Structures Property of Grantee

6.1. Any equipment, structures or services infrastructure constructed or installed on the Easement Land by the Grantee ("Improvements") 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 by the Grantor, 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 the cost of this from the Grantee.

6.2. Notwithstanding any other provision contained in this Easement, and for the avoidance of doubt, the Grantee may (at its option) charge fees for the commercial use of any Improvements.

7. Dispute Resolution

7.1. (a) In the event of any dispute arising between the parties in respect of or in connection with this Easement, the parties shall, without prejudice to any other right or entitlement they may have under this Easement or otherwise, explore whether the dispute can be resolved by use of the alternative dispute resolution technique of mediation. The rules governing such techniques shall be agreed between the parties or as recommended by the New Zealand Law Society or as selected by the Chairman of the New Zealand Chapter of LEADR (Lawyers Engaged in Alternative Dispute Resolution).

8.12: PARAKIRI SITE B EASEMENT TO THE CROWN

Annexure Schedule 1

Insert type of instrument

Easement

Dated

Page

4

of

5

Pages

Continue in additional Annexure Schedule, if required.

(b) In the event the dispute is not resolved within twenty-eight days of written notice by one party to the other of the dispute (or such further period agreed in writing between the parties), either party may refer the dispute to arbitration under the provisions of the Arbitration Act 1996 or any successor legislation. The arbitrator shall be agreed between the parties within 10 days of written notice of the referral by the referring party to the other or failing agreement appointed by the President of the New Zealand Law Society. In either case, the arbitrator shall not be a person who has participated in any informal dispute resolution procedure in respect of the dispute.

8. Notices

8.1. All notices and communications under this Easement shall be deemed to have been received when delivered personally, sent by prepaid post or by facsimile to such address as either party shall notify to the other from time to time.

9. No Power to Terminate

9.1. There is no implied power in this Easement for the Grantor to terminate the easement rights due to the Grantee breaching any term of this Easement for any other reason, it being the intention of the parties that the easement rights will continue forever unless surrendered.

10. Access

10.1. The Grantee acknowledges that Craters of the Moon Trust (being a registered charitable trust under number 554561) has rights to occupy and use the Easement Land pursuant to the terms contained in a recreation permit it has entered into with the Grantor.

10.2. The Grantee acknowledges that Bike Taupo Advocacy Group Incorporated (being an incorporated society under number 1305789) has rights to occupy and use the Easement Land pursuant to the terms contained in a recreation permit it has entered into with the Grantor.

11. Assignment

11.1. The Grantee may at any time and at its sole option transfer its interests under this easement instrument to any party.

11.2. If the Grantee elects to transfer its interests pursuant to clause 11.1, each party will (at the Grantee's cost) do all things and sign all documents necessary to give effect to such transfer.

8.12: PARAKIRI SITE B EASEMENT TO THE CROWN

Annexure Schedule 1

Insert type of instrument

Easement

Dated

Page

5

of

5

Pages

Continue in additional Annexure Schedule, if required.

12. Definitions and Interpretation

12.1. **Definitions:** In this Easement unless the context otherwise requires:

“**Easement**” means this easement;

“**Easement Land**” means that part of the Servient Tenement over which the right of way under this Easement is granted marked [] on SO Plan 500211;

“**Grantee**” means Her Majesty the Queen in right of New Zealand acting by and through the Minister of Conservation and includes the servants, tenants, agents, workmen, licensees and invitees of the Grantee and members of the public;

“**Grantor**” means the trustees from time to time of [] and includes any licensee, lessee, its employees, contractors, invitees, successors or assigns; and

“**Servient Tenement**” means all the land comprised in Section 1 on SO Plan 500211.

12.2. **Interpretation:** In the interpretation of this Easement, unless the context otherwise requires:

- (a) The headings and subheadings appear as a matter of convenience and shall not affect the interpretation of this Easement;
- (b) References to any statute, regulation or other statutory instrument or bylaw are references to the statute, regulation, instrument or bylaw as from time to time amended and includes substitution provisions that substantially correspond to those referred to; and
- (c) The singular includes the plural and vice versa and words incorporating any gender shall include every gender.

8.12: PARAKIRI SITE B EASEMENT TO THE CROWN



**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

8.14 TE HUKA PROPERTY EASEMENT TO THE TAUPO DISTRICT COUNCIL

8.14: TE HUKA PROPERTY EASEMENT TO THE TAUPŌ DISTRICT COUNCIL

[Note: The terms and conditions of this document are yet to be agreed between the parties. The following document will be substituted with the final agreed version prior to ratification by Ngāti Tūwharetoa]

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

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

Grantor

THE TRUSTEES OF TE KOTAHITANGA O NGĀTI TŪWHARETOA

Grantee

TAUPŌ 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 convey sewage [and a Right to drain sewage]	[the areas shown with a red dotted line on the aerial plan attached (subject to survey)]	[]	In gross

8.14: TE HUKA PROPERTY EASEMENT TO THE TAUPŌ DISTRICT COUNCIL

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]~~ ~~[negated]~~ ~~[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 required; 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 _____]~~

8.14: TE HUKA PROPERTY EASEMENT TO THE TAUPO DISTRICT COUNCIL

Annexure Schedule 1

Insert type of instrument

Easement

Dated

Page

1

of

1

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 ("Regulations") is varied by adding the following new sub-clause (g):

"(g) In relation to a right to convey sewage, means pipes, conduits, pumps, tanks (with or without headwalls), manholes, valves, surface boxes, other equipment suitable for that purpose (whether above or under the ground) and anything in replacement or substitution;"

2. Rights and Powers applying to Right to Convey Sewage

- 2.1. The Regulations are varied by adding the following rights and powers in respect of the right to convey sewage easement created by this instrument as set out below:

(a) Right to Convey Sewage

- (i) A right to convey sewage includes the right for the grantee in common with the grantor and other persons to whom the grantor may grant similar rights to convey sewage and other waste material and waste fluids through the easement facility and over the servient land.
- (ii) The right to convey sewage and other waste material and waste fluids is limited to the extent required by any period of necessary cleansing, renewal, modification, or repair of the easement facility.
- (iii) The easement facility referred to in clause 2.1(a)(i) is the easement facility laid or to be laid along the stipulated course or stipulated area, as agreed by the grantor at the time of installation of the facility.
- (iv) The provisions set out in the Regulations (including, without limitation, clauses 10 to 14 (inclusive) of the Regulations) shall apply to the right to convey sewage easement created pursuant to this easement to the extent they are not inconsistent with the terms set out in this instrument.

8.14: TE HUKA PROPERTY EASEMENT TO THE TAUPO DISTRICT COUNCIL



**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

8.15 WAIPAPA ROAD CONSERVATION AREA EASEMENT

8.15: WAIAPAPA ROAD CONSERVATION AREA EASEMENT

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

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

Grantor

[INSERT TRUSTEES OF TE KOTAHITANGA O NGĀTI TŪWHARETOA TRUST]

Grantee

TAUPO 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 and convey water. Right to drain and convey stormwater. Right to convey sewage.	[Outlined in red and marked 'A' on the plan attached (subject to survey)]	[Sections 1, 2 and 3 SO 27633 (subject to survey)]	In gross

8.15: WAIAPAPA ROAD CONSERVATION AREA EASEMENT

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

Delete phrases in [] and insert memorandum number as required; continue in 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 ~~and/or Schedule Five of the Property Law Act 2007.~~

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

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

~~[the provisions set out in Annexure Schedule]~~

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]~~

8.15: WAIAPAPA ROAD CONSERVATION AREA EASEMENT

ANNEXURE SCHEDULE

1. DEFINITIONS

" **Stormwater**" means rain, spring, soakage or seepage and includes water accumulated on other land and from any public land or street;

"**Easement Facility**" means any pipes, conduits, open drains, open channels, pumps, tanks (with or without headwalls), manholes, valves, surface boxes and other equipment suitable for that purpose (whether above or under the ground), as at the date of this Instrument;

"**Grantee**" means the person shown as grantee on the first page of this Instrument and where applicable includes its successors and its agents, employees, contractors, tenants, licensees and invitees (provided that invitees shall not include members of the public);

"**Grantor**" means the person named as grantor on the first page of this Instrument and where applicable includes its successors in title and its agents, employees, contractors, tenants, licensees and invitees;

"**Servient Land**" means the servient tenement described in Schedule A of this Instrument; and

"**Stipulated Course**" means the area shown 'A' on the diagram attached.

GRANT OF EASEMENTS

2.1 **Rights to Drain and Convey Stormwater:** The Grantor grants to the Grantee as an easement in gross in perpetuity the right to drain and convey stormwater without obstruction and in any quantity through the Easement Facility via the existing closed conduits now laid through the Stipulated Course and to discharge the stormwater beyond the Servient Land.

2A.1 **Right to Drain Sewage:** The Grantor grants to the Grantee as an easement in gross in perpetuity the right to drain and convey sewage and other waste material and waste fluid without obstruction and in any quantity through the Easement Facility now laid through the Stipulated Course and to discharge it into the public sewer beyond the Servient Land.

2B.1 **Rights to Drain and Convey Water:** The Grantor grants to the Grantee as an easement in gross in perpetuity the right to drain and convey water without obstruction and in any quantity through the Easement Facility via the existing closed conduits now laid through the Stipulated Course and to discharge the water and water beyond the Servient Land.

2.2 The Grantee also has the right, subject to clause 3, to enter the Stipulated Course and any other parts of the Servient Land as are reasonable to carry out the following work:

- (a) to inspect, maintain, repair, dig up, alter, upgrade, renew or replace the Easement Facility (including replacement with an Easement Facility of the same or larger diameter); and

8.15: WAIAPAPA ROAD CONSERVATION AREA EASEMENT

- (b) to do anything else in the full exercise of the rights in this Instrument, with the Grantee's agents, contractors and employees, and with or without tools, plant, equipment, and vehicles but, for the avoidance of doubt, the rights granted under this Instrument do not include a right to locate or construct any open channel on the Servient Land.
- 2.3 The Grantee may leave any vehicles or equipment on the Servient Land for a reasonable period of time if work is being carried out on or in connection with the Easement Facility.
- 2.4. The Grantee will ensure that any work it performs is carried out in a proper and workmanlike manner.
- 2.5 The Grantee will not be liable for, or pay any compensation for any damage to any improvements such as fences, structures, paving, surfacing, tree, shrub or plants etc, that have extended or encroached upon the Stipulated Course if such damage arises due to a breach of the Grantor's obligations in clause 4 of this Instrument.
- 2.6 The Grantee has no obligation to drain and convey stormwater, sewage, or water through the Easement Facility via any mix of closed conduits through the Servient Land continuously or at all.

3. ACCESS

- 3.1 The Grantee's right of access in clause 2.2 may only be exercised on giving no less than 24 hours prior notice to the Grantor, except in an emergency.
- 3.2 When obtaining access to the Stipulated Course, the Grantee must:
 - (a) so far as is practicable, use existing driveways and other areas suitable for access;
 - (b) in exercise of the powers hereby granted, endeavour to take reasonable and proper care not to damage the Servient Land or any property of the Grantor;
 - (c) reinstate the surface of the Servient Land to the same condition as soon as possible after any works have been completed, and resurface it if necessary with appropriate materials; and
 - (d) repair any fences or other improvements and replace any trees, shrubs and plants which have been destroyed or severely damaged on the Servient Land by the Grantee while accessing the Stipulated Course.

**NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS**

8.15: WAIAPAPA ROAD CONSERVATION AREA EASEMENT

4. GRANTOR'S OBLIGATIONS

4.1 The Grantor may not:

- (a) plant any trees, shrubs or other vegetation or erect or establish any structure or surfacing whatsoever (excluding approved standard pathways, driveways and boundary fences that may cross over the Stipulated Course or Easement Facility for a short length) on any part of the Stipulated Course, or do any act or acts which:
 - (i) in the opinion of the Grantee interfere with the Grantee's rights under this Instrument; or
 - (ii) endanger or cause nuisance to the Grantee's operations or works or employees, agents or contractors in the course of their duties under this Instrument; or
 - (iii) transgress any by-law of the Grantee or any statutory regulation relating to any of the Grantee's installations, works, or facilities on the Stipulated Course;
 - (iv) change the existing surface levels of the Stipulated Course except with the Grantee's prior written approval;
 - (v) cause or allow any damage to occur to the Easement Facility; or
 - (vi) do anything or allow anything to be done which would interfere with, or affect, the rights of the Grantee under this Instrument.

5. MAINTENANCE

The Grantee shall maintain the Easement Facility in the Stipulated Course so that it does not become a nuisance or a danger.

6. NO POWER TO TERMINATE

There is no implied power in this Instrument for the Grantor to terminate the rights granted under this Instrument due to the Grantee breaching any term of this Instrument or for any other reason, it being the intention of the parties that the rights granted will continue forever unless surrendered.

7. STATUTORY RIGHTS

The easement rights in this Instrument vary those set out in the Fourth Schedule to the Land Transfer Regulations 2002, but otherwise this Instrument does not affect any statutory powers which the Grantee may have.

8. DISPUTES

If any dispute arises between the Grantor and Grantee about the rights in this Instrument which cannot be resolved by negotiation, the parties must submit at the

8.15: WAIAPAPA ROAD CONSERVATION AREA EASEMENT

request of either party to the arbitration of an independent arbitrator. This arbitrator is to be appointed jointly by the parties and, if they cannot agree on one within 14 days, by the President for the time being of the New Zealand Law Society. The arbitration will be determined in accordance with the Arbitration Act 1996 and its amendments or any statute which replaces it. The parties' execution of this Instrument is to be treated as a submission to arbitration.

9. GRANTEE'S RIGHTS AND OBLIGATIONS

- 9.1 The Grantee may exercise and enjoy with regard to this Instrument all authorities, powers, rights, remedies, immunities from liability, privileges, liberties and licences contained or implied herein or (without being limited or restricted by anything herein) which it now or in the future may possess or be entitled to or have vested in it by virtue of any statute or at law. In particular nothing contained in this Instrument shall be deemed to abrogate, limit, restrict or abridge any of the rights, powers and remedies vested in the Grantee by the Local Government Act 1974 or the Public Works Act 1981 or any amendment thereto or any Act or Acts passed in substitution therefore.
- 9.2 Any installations laid by the Grantee on the Easement Facility shall remain at all times the property of the Grantee subject to its exclusive supervision and control, and may at any time be removed by the Grantee in its sole discretion without incurring any liability to the Grantor except as may be herein expressly provided.
- 9.3 The Grantee may assign, transfer or licence all or any part of its interest in this Instrument or part thereof, provided it has first obtained the written consent of the Grantor.

10. INDEMNITY

The Grantee shall indemnify the Grantor against all actions, suits, proceedings, claims and demands which may be brought or made against the Grantor as a direct result of the exercise by the Grantee of any of the rights granted by this Instrument.

11. NOTICES

Any notice required to be given under this Instrument shall be in writing and shall be deemed sufficiently served if sent by any of the following means:

- (a) by delivering it personally, when delivered;
- (b) by sending it by prepaid post to the recipient's last known address in New Zealand or in the case of a body corporate, its registered office, four (4) working days after it is sent;
- (b) by sending it to the facsimile number as advised by the recipient to the notifying party, when a successful transmission report is produced; or
- (c) by sending it to the email address as advised by the recipient to the notifying party, when acknowledged by the recipient orally or by return email (with the exception of automatically generated return emails which shall not constitute an acknowledgement).

8.15: WAIAPAPA ROAD CONSERVATION AREA EASEMENT



9. RFR DEED OVER QUOTA

9: RFR DEED OVER QUOTA

DEED GRANTING A RIGHT OF FIRST REFUSAL OVER QUOTA

BETWEEN

Te Kotahitanga o Ngāti Tūwharetoa (the **Governance Entity**)

AND

HER MAJESTY THE QUEEN in right of New Zealand acting by the Minister for Primary Industries (the **Crown**).

BACKGROUND

- A. Te Kotahitanga o Ngāti Tūwharetoa and the Crown are parties to a deed of settlement to settle the Historical Claims of Te Kotahitanga o Ngāti Tūwharetoa dated [Insert the date of the Deed of Settlement] (the **Deed of Settlement**).
- B. Under the Deed of Settlement, the Crown agreed that (if the Deed of Settlement became unconditional) the Crown would, by or on the Settlement Date under that Deed, provide the Governance Entity with a deed in this form granting the Governance Entity a right of first refusal over certain Quota.
- C. The Deed of Settlement has become unconditional and this Deed is entered into:
 - (i). by the Crown in satisfaction of its obligations referred to in clauses 9.13 to 9.17 of the Deed of Settlement; and
 - (ii). by the Governance Entity in satisfaction of its obligations under clause 9.15 of the Deed of Settlement.

IT IS AGREED as follows:

1. THIS DEED APPLIES IF THE MINISTER SETS A TACC OF A CERTAIN KIND

1.1 This Deed applies only if, during the period of 50 years from the Settlement Date:

- 1.1.1 the Minister for Primary Industries declares, under the Fisheries Legislation, a species to be subject to the Quota Management System; and
- 1.1.2 the Minister for Primary Industries nominates that species as an 'applicable species', meaning one to which the Governance Entity wish to have a right of first refusal (**RFR**), and
- 1.1.3 the Minister for Primary Industries sets, under the Fisheries Legislation, a Total Allowable Commercial Catch (a **TACC**) for that Applicable Species for a Quota Management Area that includes some or all of the RFR Area (an **Applicable TACC**).

9: RFR DEED OVER QUOTA

2. **THIS DEED APPLIES ONLY TO QUOTA ALLOCATED TO THE CROWN UNDER AN APPLICABLE TACC**

2.1 This Deed applies only to Quota (Applicable Quota) that:

2.1.1 relates to an Applicable TACC; and

2.1.2 has been allocated to the Crown as either:

(a) Individual Transferable Quota (and not as Provisional Individual Transferable Quota) under section 49(1) of the Fisheries Act 1996; or

(b) Provisional Individual transferable Quota that has become Individual Transferable Quota under section 49(3) of the Fisheries Act 1996.

3. **THE CROWN MUST OFFER MINIMUM AMOUNT OF APPLICABLE QUOTA TO THE GOVERNANCE ENTITY**

3.1 Before the Crown sells any Applicable Quota relating to an Applicable TACC, the Crown must offer (in accordance with clause 5) the Governance Entity the right to purchase the Required Minimum Amount or more of the Applicable Quota relating to that Applicable TACC calculated in accordance with clause 4.1 or clause 4.2 (whichever is applicable).

4. **CALCULATION OF REQUIRED MINIMUM AMOUNT OF APPLICABLE QUOTA TO BE OFFERED**

4.1 Where:

4.1.1 the Crown has been allocated Applicable Quota relating to an Applicable TACC; and

4.1.2 no person was eligible under section 45 of the Fisheries Act 1996 to receive Quota in relation to that Applicable TACC,

the Required Minimum Amount of that Applicable Quota must be calculated in accordance with the following formula:

$$x = \left[\frac{2}{5} \times \frac{A}{B} \times C \right]$$

4.2 Where:

4.2.1 the Crown has been allocated Applicable Quota relating to an Applicable TACC; and

4.2.2 a person, or persons, were eligible under section 45 of the Fisheries Act 1996 to receive Quota in relation to that Applicable TACC,

the Required Minimum Amount of that Applicable Quota must be calculated in accordance with the following formula:

$$x = \text{the lesser of } \left[\frac{2}{5} \times \frac{A}{B} \right] \times C \text{ or } \left[\frac{A}{B} \times D \right]$$

9: RFR DEED OVER QUOTA

4.3 For the purposes of this clause:

"A" is the population of Ngāti Tūwharetoa living within the quota management area;

"B" is the total population of all iwi living within the quota management area;

"C" is the total amount of Quota relating to the relevant Applicable TACC;

"D" is the amount of Applicable Quota held by the Crown in relation to the relevant Applicable TACC; and

"X" is the Required Minimum Amount of Applicable Quota.

4.4 For the purposes of this clause, the population of an iwi living within a quota management area must be determined from the 2003 census.

5. **CROWN MUST GIVE NOTICE BEFORE SELLING APPLICABLE QUOTA**

Crown must give RFR Notice

5.1 Before the Crown Sells any Applicable Quota, the Crown must give a written notice (an **RFR Notice**) to the Governance Entity which offers to sell not less than the Required Minimum Amount of that Applicable Quota to the Governance Entity at the price and on the terms and conditions set out in the RFR Notice.

Crown may withdraw RFR Notice

5.2 The Crown may withdraw an RFR Notice at any time before the Governance Entity accepts the offer in that RFR Notice under clause 6.

Effect of withdrawing RFR Notice

5.3 If the Crown withdraws an RFR Notice, clause 3 still applies to the Applicable Quota referred to in that RFR Notice.

Crown has no obligation in relation to balance of Applicable Quota

5.4 Where the Crown has given, in accordance with clause 5.1, an RFR Notice in relation to Applicable Quota relating to an Applicable TACC, the Crown has no obligations under this Deed in relation to the balance of the Applicable Quota (if any) not referred to in that RFR Notice that also relate to that Applicable TACC.

6. **ACCEPTANCE OF RFR NOTICE BY THE GOVERNANCE ENTITY**

6.1 A contract for the Sale of the Applicable Quota referred to in an RFR Notice (or a lesser amount referred to in the acceptance) is constituted between the Crown and the Governance Entity, at the price and on the terms and conditions set out in the RFR Notice, if the Governance Entity accepts the offer in that RFR Notice (or accepts a lesser amount) of Applicable Quota:

6.1.1 by notice in writing to the Crown; and

6.1.2 by the relevant Expiry Date.

9: RFR DEED OVER QUOTA

7. NON-ACCEPTANCE BY THE GOVERNANCE ENTITY

7.1 If:

7.1.1 the Crown gives the Governance Entity an RFR Notice; and

7.1.2 the Governance Entity does not accept all the Applicable Quota offered in the RFR Notice by notice in writing to the Crown by the Expiry Date, the Crown:

- (a) may, at any time during the period of two years from the Expiry Date, sell any of the Applicable Quota referred to in that RFR Notice that is not accepted by the Governance Entity. If the price per Quota Share, and the other terms and conditions of the Sale, are not more favourable to the purchaser than the price per Quota Share, and the other terms and conditions, set out in the RFR Notice to the Governance Entity; but
- (b) must, promptly after entering into an agreement to sell any Applicable Quota referred to in the RFR Notice to a purchaser, give written notice to the Governance Entity of that fact and disclose the terms of that agreement; and
- (c) must not sell any of that Applicable Quota referred to in the RFR Notice after the end of the two year period after the Expiry Date without first offering to sell that Applicable Quota to the Governance Entity in an RFR Notice under clause 5.1.

8. RE-OFFER REQUIRED

8.1 If:

8.1.1 the Crown gives the Governance Entity an RFR Notice;

8.1.2 the Governance Entity does not accept all the Applicable Quota offered in the RFR Notice by notice in writing to the Crown by the Expiry Date; and

8.3 the Crown during the period of two years from the Expiry Date proposes to offer any of those Applicable Quota not accepted by the Governance Entity for Sale again but at a price (per Quota Share), or on other terms and conditions, more favourable to the purchaser than on the terms and conditions in the RFR Notice,

the Crown may do so only if it first offers that Applicable Quota for Sale on those more favourable terms and conditions to the Governance Entity in another RFR Notice under clause 5.1.

9. EFFECT OF THIS DEED

9.1 Nothing in this Deed will require the Crown to:

9.1.1 purchase any provisional catch history, or other catch rights, under section 37 of the Fisheries Act 1996;

9.1.2 introduce any of the Applicable Species into the Quota Management System; or

9.1.3 offer for sale any Applicable Quota held by the Crown.

9: RFR DEED OVER QUOTA

9.2 The Governance Entity acknowledges that the introduction of any of the Applicable Species into a Quota Management System may not result in any or any significant, holdings by the Crown of Applicable Quota for that species.

9.3 Nothing in this Deed affects, or limits, and the rights and obligations created by this Deed are subject to:

9.3.1 any requirement at common law or under legislation that:

- (a) must be complied with before any Applicable Quota is sold to the Governance Entity; or
- (b) the Crown must sell the Applicable Quota to a third party; and

9.3.3 any legal requirement that:

- (a) prevents or limits the Crown's ability to sell the Applicable Quota to the Governance Entity; and
- (b) the Crown cannot satisfy after taking reasonable steps to do so (and, to avoid doubt, reasonable steps do not include changing the law).

10. THIS DEED DOES NOT APPLY IN CERTAIN CASES

10.1 Neither clause 3 nor clause 5.1 apply if the Crown is Selling Applicable Quota to the Governance Entity.

11. TIME LIMITS

11.1 Time is of the essence for the time limits imposed on the Crown and the Governance Entity under this Deed.

11.2 The Crown and the Governance Entity may agree in writing to an extension of a time limit.

12. ENDING OF RIGHT OF FIRST REFUSAL

RFR ends on Sale which complies with this Deed

12.1 The obligations of the Crown set out in this Deed end in respect of any Applicable Quota on a transfer of the Applicable Quota in accordance with this Deed.

12.2 The obligations of the Crown set out in this Deed end 50 years after Settlement Date.

13. NOTICES

13.1 The provision of this clause apply to Notices under this Deed:

Notices to be signed

13.1.1 the Party giving a Notice must sign it;

9: RFR DEED OVER QUOTA

Notice to be in writing

13.1.2 any Notice to a Party must be in writing addressed to that Party at that Party's address or facsimile number;

Addresses for notice

13.1.3 until any other address or facsimile number of a Party is given by Notice to the other Party, they are as follows:

[the **Governance Entity**]

[INSERT]

The Crown

Justice Centre
19 Aitken Street
Wellington

Delivery

13.1.4 delivery of a Notice may be made:

- (a) by hand;
- (b) by post with prepaid postage; or
- (c) by facsimile;

Timing of delivery

13.1.5 a Notice:

- (a) delivered by hand will be treated as having been received at the time of delivery;
- (b) delivered by prepaid post will be treated as having been received on the third day after posting; or
- (c) sent by facsimile will be treated as having been received on the day of transmission; and

Deemed date of delivery

13.1.6 if a Notice is treated as having been received on a day that is not a Business Day, or after 5:00pm on a Business Day, that Notice will (despite clause 13.1.5) be treated as having been received the next Business Day.

14 AMENDMENT

14.1 This Deed may not be amended unless the amendment is in writing and signed by, or on behalf of, the Governance Entity and the Crown.

9: RFR DEED OVER QUOTA

15. **NO ASSIGNMENT**

15.1 The Governance Entity may not assign its rights or obligations under this Deed.

16. **DEFINITIONS AND INTERPRETATION**

Definitions

16.1 In this Deed, unless the context otherwise requires:

Applicable Quota means Quota of the kind referred to in clause 2;

Applicable Species means a species which nominates as one to which they wish to have a right of first refusal (RFR), under circumstances set out in clause 1;

Applicable TACC has the meaning given to that term by clause 1.1.2;

Business Day means the period of 9:00am to 5:00pm on any day other than:

- (a) Saturday, Sunday, Good Friday, Easter Monday, Anzac Day, the Sovereign's Birthday, Labour Day and Waitangi Day;
- (b) if Waitangi Day or Anzac Day falls on a Saturday or Sunday, the following Monday;
- (c) a day in the period commencing with 25 December in any year, and ending with the close of 15 January in the following year; and
- (d) the days observed as the anniversaries of the provinces of Wellington and Auckland;

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

Deed means this Deed giving a right of first refusal over Quota;

Deed of Settlement has the meaning given by clause A of the Background to this Deed;

Expiry Date, in respect of an RFR Notice, means the date one calendar month after the RFR Notice is received by the Governance Entity;

Fisheries Legislation means the Fisheries Act 1983 and the Fisheries Act 1996;

Individual Transferable Quota has the same meaning as in section 2(1) of the Fisheries Act 1996;

Minister for Primary Industries is the Minister of the Crown who is for the time being responsible for the administration of the Fisheries Legislation;

Party means the Governance Entity or the Crown;

Provisional Individual Transferable Quota has the same meaning as under section 2(1) of the Fisheries Act 1996;

9: RFR DEED OVER QUOTA

Quota means quota under the Fisheries Legislation;

Quota means Quota in relation to an Applicable Species (being a species referred to in clause 1);

Quota Management Area means any area declared by or under the Fisheries Legislation to be a quota management area;

Quota Management System means a quota management system established under Part IV of the Fisheries Act 1996;

Quota Share has the same meaning as in the Fisheries Act 1996;

Required Minimum Amount, in relation to Applicable Quota, means an amount of that Applicable Quota calculated under clause 4.1 or clause 4.2 (whichever is applicable);

RFR Notice and Notice means a notice under clause 5.1;

Sell means to transfer ownership of Quota for valuable consideration and Sale has a corresponding meaning, but neither term includes the transfer by the Crown of Quota under section 22 of the Fisheries Act 1996;

Settlement Date means the date which is 40 Business Days after the Deed of Settlement becomes unconditional;

RFR Area means the area identified in the map included in schedule 1; and

Total Allowable Commercial Catch or **TACC** means a total allowable commercial catch for a species under section 20 of the Fisheries Act 1996.

- 16.2 Terms or expressions that are not defined in this Deed, but are defined in the Deed of Settlement, have the meaning given to them by the Deed of Settlement unless the context requires otherwise.

Interpretation

- 16.3 In the interpretation of this Deed, unless the context requires otherwise:

16.3.1 headings appear as a matter of convenience and are not to affect the interpretation of this Deed;

16.3.2 defined terms appear in this Deed with capitalised initial letters and have the meanings given to them by this Deed;

16.3.3 where a word or expression is defined in this deed, other parts of speech and grammatical forms of that word or expressing have corresponding meanings;

16.3.4 the singular includes the plural and vice versa.

16.3.5 words importing one gender include the other genders;

16.3.6 a reference to legislation is a reference to that legislation as amended, consolidated or substituted;

- SIGNED** as a Deed on []

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NGĀTI TŪWHARETOA DEED OF SETTLEMENT:
DOCUMENTS

9: RFR DEED OVER QUOTA

SCHEDULE 1
MAP OF RFR AREA

