

NGĀTI WHĀTUA O KAIPARA

and

THE CROWN

**DEED AMENDING THE NGĀTI WHĀTUA
O KAIPARA DEED OF SETTLEMENT**

DEED AMENDING THE NGĀTI WHĀTUA O KAIPARA DEED OF SETTLEMENT

TABLE OF CONTENTS

BACKGROUND	1
1. MAKARAU	2
2. EXCLUSIVE RFR LAND DEFINITION.....	5
3. ADDITIONAL TEN ACRE BLOCK LAND.....	6
4. OTHER MATTERS	9
5. DEFINITIONS AND INTERPRETATION.....	9

**DEED AMENDING THE NGĀTI WHĀTUA O KAIPARA DEED OF
SETTLEMENT**

THIS DEED is made between -

**THE TRUSTEES OF NGĀ MAUNGA WHAKAHII O KAIPARA DEVELOPMENT
TRUST**

and

**THE TRUSTEES OF NGĀ MAUNGA WHAKAHII O KAIPARA TARI
PUPURITAONGA TRUST**

and

THE CROWN

BACKGROUND

- A. Ngāti Whātua o Kaipara, the trustees of Ngā Maunga Whakahii o Kaipara Development Trust, the trustees of Ngā Maunga Whakahii o Kaipara Tari Pupuritaonga Trust, and the Crown are parties to a deed of settlement settling the historical claims of Ngāti Whātua o Kaipara, dated 9 September 2011.
- B. The parties to the deed of settlement have agreed the deed of settlement should be amended by -
- (i) vesting Makarau -
 - i. in the trustees of the Development Trust (and not the trustees of the Tari Pupuritaonga Trust); and
 - ii. in fee simple (and not as a local purpose (estuarine habitat) reserve); and
 - (ii) replacing the definition of exclusive RFR land with the definition in clause 2.2; and
 - (iii) including, as part of the Ten Acre Block properties vested in the trustees of the Development Trust, the following additional properties:
 - i. 23 Commercial Road/1 Rata Street, Helensville:
 - ii. 3 Rata Street, Helensville.

DEED AMENDING THE NGĀTI WHĀTUA O KAIPARA DEED OF SETTLEMENT

- C. The deed of settlement provides that it may be amended by written agreement signed by the trustees of the Development Trust and the Crown.
- D. However, the Ngā Maunga Whakahii o Kaipara Development trust deed provides that the trustees of the Development Trust may not enter into a Major Transaction (which includes entry into this deed) unless that Major Transaction is contingent upon approval by way of Special Resolution of the Registered Adult Members of Ngāti Whātua o Kaipara.
- E. The trustees of the Development Trust, and the trustees of the Tari Pupuritaonga Trust, have therefore resolved to enter into this deed, but this deed will not take effect until approved by a Special Resolution passed in accordance with the requirements of the Ngā Maunga Whakahii o Kaipara Development trust deed.
- F. The trustees of the Development Trust, and the trustees of the Tari Pupuritaonga Trust, have resolved, in accordance with the relevant trust deed, to enter into this deed.
- G. The Crown has agreed to enter into this deed.

The parties, therefore, agree as follows.

1. MAKARAU

- 1.1 The following clause is inserted into the deed of settlement immediately before clause 5.1 as clause 5.1A:

"Makarau

"5.1A The settlement legislation is to provide that, on the settlement date, Makarau ceases to be a conservation area under the Conservation Act 1987 and the fee simple estate in Makarau vests in the trustees of the Development Trust."

- 1.2 Clause 5.1.4(a) of the deed of settlement is deleted.
- 1.3 Paragraph 2.10 of the property redress schedule, and the heading to that clause, is deleted and replaced by the following paragraphs:

"Disposal of Makarau

2.10 The trustees of the Development Trust may after the settlement date dispose of, by sale or exchange, the entire site of Makarau provided that any money from the disposal must be used for the management of a reserve site.

DEED AMENDING THE NGĀTI WHĀTUA O KAIPARA DEED OF SETTLEMENT

Removal of effluent storage pond from Makarau

- 2.11 The Crown will use reasonable efforts by the settlement date to encourage the adjoining landowner to Makarau, in accordance with the requirements of the relevant Auckland Council plans (including the Regional Farm Dairy Discharges Plan), to –
- (a) remove those parts of the effluent storage pond on Makarau as shown on deed plan OTS-674-02; and
 - (b) undertake any reasonable remediation on Makarau resulting from the removal under paragraph (a) of parts of the effluent storage pond from that area.”
- 1.4 The reference to “paragraph 2.10 of the property redress schedule” is deleted from clause 9.5.4 of the deed of settlement and replaced with a reference to “paragraph 2.11 of the property redress schedule”.
- 1.5 Paragraph 5.1.2(c) of the legislative matters schedule is deleted.
- 1.6 Paragraph 5.2 of the legislative matters schedule is deleted and replaced with the following paragraph:
- “5.2 The settlement legislation is, on the terms in this part, and in parts 6 to 8, to –
- 5.2.1 vest the fee simple estate in Makarau in the trustees of the Development Trust; and
 - 5.2.2 vest the fee simple estate in each of the other sites in paragraph 5.1.1(a) in the trustees of the Tari Pupuritaonga Trust; and
 - 5.2.3 vest the fee simple estate in Parakai Recreation Reserve, in trust for the purposes for which the reserve is from time to time classified under the Reserves Act 1977, in –
 - (a) the trustees of the Development Trust; and
 - (b) the Auckland Council.”
- 1.7 Paragraph 5.9 of the legislative matters schedule is deleted and replaced with the following paragraph:
- “5.9 The settlement legislation is to provide that -
- 5.9.1 Makarau ceases to be a conservation area under the Conservation Act 1987; and

DEED AMENDING THE NGĀTI WHĀTUA O KAIPARA DEED OF SETTLEMENT

5.9.2 the fee simple estate in Makarau vests in the trustees of the Development Trust."

1.8 Paragraph 6.6.1 of the legislative matters schedule is deleted and replaced with the following paragraph:

"6.6.1 create one or more computer freehold registers for the fee simple estate in the property in the names of –

- (a) the trustees of the Tari Pupuritaonga Trust; or
- (b) in the case of Makarau, the trustees of the Development Trust; and".

1.9 Paragraph 6.7.2 of the legislative matters schedule is deleted and replaced with the following paragraph:

"6.7.2 the computer freehold register must be created as soon as reasonably practicable after the settlement date, but no later than –

- (a) 24 months after the settlement date; or
- (b) any date that may be agreed in writing by –
 - (i) the trustees of the Tari Pupuritaonga Trust; or
 - (ii) in the case of Makarau, the trustees of the Development Trust; and".

1.10 Paragraphs 6.8.1 and 6.8.2 of the legislative matters schedule are deleted and replaced with the following paragraphs:

"6.8.1 the vesting of a cultural redress property (other than Parakai Recreation Reserve) in the trustees of the Tari Pupuritaonga Trust, or the trustees of the Development Trust, is to be a disposition for the purposes of Part 4A of the Conservation Act 1987; and

6.8.2 sections 24(2A), 24A, and 24AA of the Conservation Act 1987 do not apply to the disposition of a cultural redress property to the trustees of the Tari Pupuritaonga Trust and section 24 of the Conservation Act 1987 does not apply to the disposition of Makarau to the trustees of the Development Trust; and".

1.11 The words "Local purpose (estuarine habitat) reserve subject to section 23 of the Reserves Act 1977." are deleted from the third column opposite the word "Makarau" in schedule 2 of the legislative matters schedule.

DEED AMENDING THE NGĀTI WHĀTUA O KAIPARA DEED OF SETTLEMENT

2. EXCLUSIVE RFR LAND DEFINITION

2.1 Clause 6.20 of the deed of settlement is deleted and replaced with the following clause:

“6.20 The trustees of the Development Trust are to have a right of first refusal in relation to a disposal by the Crown, or another RFR landowner, of exclusive RFR land, which is the land described in paragraph 15.1.5 of the legislative matters schedule.”

2.2 The definition of exclusive RFR land in paragraph 15.1.5 of the legislative matters schedule is deleted and is replaced with the following definition:

“15.1.5 **exclusive RFR land** -

- (a) means land in the exclusive RFR area if, on the settlement date, -
 - (i) the land is vested in the Crown; or
 - (ii) the fee simple estate in the land is held by the Crown; and
- (b) includes land in the area marked “A” on SO 438209 that, on the settlement date, is a reserve vested in an administering body (within the meaning of the Reserves Act 1977) that derived title from the Crown, provided that the land re-vests in the Crown under section 25 or 27 of the Reserves Act 1977; and
- (c) includes land obtained in exchange for a disposal of exclusive RFR land under paragraph 15.18.5, paragraph 15.18.6, or paragraph 15.21.1; and
- (d) includes the land described in part 7 of the attachments; but
- (e) does not include –
 - (i) land in the area marked “B” on SO 438209 that, on the settlement date, is a State highway (unless the land is identified in this deed as exclusive RFR land); or
 - (ii) a transfer property.”

2.3 The document attached to this deed is inserted as part 7 to the attachments to the deed of settlement and the table of contents to the deed of settlement is consequentially amended.

3. ADDITIONAL TEN ACRE BLOCK LAND

- 3.1 Clause 7.4 of the deed of settlement is deleted and replaced with the following clause:

“7.4 The following sites form part of the Ten Acre Block:

7.4.1 24 Commercial Road, Helensville:

7.4.2 23 Commercial Road/1 Rata Street, Helensville:

7.4.3 3 Rata Street, Helensville:

7.4.4 the Ten Acre Block Recreation Reserve.”

- 3.2 Clause 7.5 of the deed of settlement, and the heading to that clause, are deleted and replaced with the following clause and heading –

24 Commercial Road, 23 Commercial Road/1 Rata Street, and 3 Rata Street, Helensville

“7.5 The settlement legislation will vest in the trustees of the Development Trust on the settlement date the fee simple estate in each of the following sites:

7.5.1 24 Commercial Road, Helensville:

7.5.2 23 Commercial Road/1 Rata Street, Helensville:

7.5.3 3 Rata Street, Helensville.”

- 3.3 The words words “24 Commercial Road, Helensville is to be -” are deleted from clause 7.6 of the deed of settlement and replaced by the words “Each of 24 Commercial Road, 23 Commercial Road/1 Rata Street, and 3 Rata Street, Helensville is to be -”.

- 3.4 Paragraph 1.8 of the property redress schedule and its heading is deleted and replaced with the following paragraph and heading:

“NO INFORMATION OR WARRANTY IN RELATION TO CERTAIN PROPERTIES

1.8 As at the date of this deed, the fee simple estate in each of 23 Commercial Road/1 Rata Street Helensville, 3 Rata Street Helensville, the Ten Acre Block Recreational Reserve, Makarau Bridge Reserve, and Parakai Recreation Reserve is vested in the Auckland Council, the Crown –

1.8.1 has not given any information in relation to those properties; and

DEED AMENDING THE NGĀTI WHĀTUA O KAIPARA DEED OF SETTLEMENT

1.8.2 does not, in relation to those properties, -

- (a) give any representation or warranty, whether express or implied; or
- (b) accept any responsibility or liability."

3.5 Paragraph 2.1 of the property redress schedule is deleted and replaced with the following paragraph:

"2.1 In this deed, unless the context otherwise requires, -

2.1.1 **vested property** means each of the following properties:

- (a) each cultural redress property:
- (b) 24 Commercial Road, Helensville:
- (c) 23 Commercial Road/1 Rata Street, Helensville:
- (d) 3 Rata Street, Helensville; and

2.1.2 **vested council-held property** means each of the following properties:

- (e) Ten Acre Block Recreation Reserve:
- (f) Makarau Bridge Reserve:
- (g) Parakai Recreation Reserve:
- (h) 23 Commercial Road/1 Rata Street, Helensville
- (i) 3 Rata Street, Helensville."

3.6 Paragraph 2.3 of the property redress schedule is deleted and replaced with the following paragraph:

"2.3 Paragraph 2.2 does not –

2.3.1 apply to a vested council-held property; or

2.3.2 require the Crown to restore or repair a vested property damaged by an event beyond the Crown's control."

3.7 Paragraph 2.7 of the property redress schedule is deleted and replaced with the following paragraph:

"2.7 Paragraph 2.6 does not apply to a vested council-held property."

DEED AMENDING THE NGĀTI WHĀTUA O KAIPARA DEED OF SETTLEMENT

- 3.8 The following paragraphs are added to the definition of **authorised person** in part 5 of the general matters schedule:

“(d) 23 Commercial Road/1 Rata Street, Helensville, a person authorised by the Secretary for Justice; and

(e) 3 Rata Street, Helensville, a person authorised by the Secretary for Justice; and”.

- 3.9 The following definition is inserted in its correct alphabetical order in part 5 of the general matters schedule:

“**vested council-held property** has the meaning given to it by paragraph 2.1.2 of the property redress schedule; and”.

- 3.10 The definition of “vested property” in part 5 of the general matters schedule is amended by deleting the reference to “paragraph 2.1” and inserting a reference to “paragraph 2.1.1”.

- 3.11 The heading to part 16 of the legislative matters schedule is deleted and replaced by the heading “**OTHER REDRESS**”.

- 3.12 The tables of contents to the deed of settlement, and legislative matters schedule, are consequentially amended as a result of the amendment in clause 3.10.

- 3.13 The following paragraph is inserted as paragraph 16.2 of the legislative matters schedule:

“16.2 The settlement legislation is to provide that –

16.2.1 the land at 23 Commercial Road/1 Rata Street is the land being 0.0455 hectares, more or less, being Section 1B Block XIV Kaipara Survey District. All computer freehold register NA171/281. North Auckland Land District; and

16.2.2 the land at 3 Rata Street is the land being 0.1687 hectares, more or less, being Part Section 1C Block XIV Kaipara Survey District. Balance computer freehold register NA958/23. North Auckland Land District; and

16.2.3 the reservation of that part of 23 Commercial Road/1 Rata Street, and 3 Rata Street, that is reserved –

(a) as a park, public garden and recreation ground subject to the Reserves Act 1977 is revoked; and

(b) as a library site subject to the Reserves Act 1977 is revoked; and

DEED AMENDING THE NGĀTI WHĀTUA O KAIPARA DEED OF SETTLEMENT

- 16.2.4 the fee simple estate in the land at 23 Commercial Road/1 Rata Street and 3 Rata Street vests in the trustees of the Development Trust; and
- 16.2.5 the vesting under paragraph 6.2.4 does not include any improvements on the land that are owned by the Auckland Council; and
- 16.2.6 paragraphs 4.4 to 4.7, 5.13, and 6.3 to 6.11, as far as they are relevant, apply to the land at 23 Commercial Road/1 Rata Street, and 3 Rata Street, as if the land was a cultural redress property."

4. OTHER MATTERS

- 4.1 The trustees of the Tari Pupuritaonga Trust approve the changes to the deed of settlement provided in this deed.
- 4.2 The deed of settlement remains unchanged, except to the extent provided by this deed.
- 4.3 This deed takes effect when the trustees of the Development Trust and the trustees of the Tari Pupuritaonga Trust provide confirmation in writing satisfactory to the Crown that this deed has been approved by a Special Resolution passed in accordance with the requirements of the Ngā Maunga Whakahii o Kaipara Development trust deed.

5. DEFINITIONS AND INTERPRETATION

- 5.1 In this deed, unless the context otherwise requires, -

deed of settlement means the deed referred to in paragraph A of the Background; and

Major Transaction, Registered Adult Members, and Special Resolution have the same meanings as in the Ngā Maunga Whakahii o Kaipara Development trust deed; and

party means each of –

- (a) the trustees of the Development Trust; and
- (b) the trustees of the Tari Pupuritaonga Trust; and
- (c) the Crown.

DEED AMENDING THE NGĀTI WHĀTUA O KAIPARA DEED OF SETTLEMENT

- 5.2 Unless the context requires otherwise, -
- 5.2.1 a term or expression defined in the deed of settlement has the same meaning in this deed; and
 - 5.2.2 the rules of interpretation in the deed of settlement apply (with all appropriate changes) to this deed.

DEED AMENDING THE NGĀTI WHĀTUA O KAIPARA DEED OF SETTLEMENT

SIGNED as a deed on [*date*]

SIGNED by
the trustees of
**NGĀ MAUNGA WHAKAHII O
KAIPARA DEVELOPMENT TRUST –**

- as Trustees of Ngā Maunga Whakahii o Kaipara Development Trust, for and on behalf of that Trust
- as Trustees of Ngā Maunga Whakahii o Kaipara Tari Pupuritaonga Trust, for and on behalf of that Trust

in the presence of –

Takutaimoana Wikiriwhi

WITNESS

Name:

Occupation:

Address:



Gloria May Timoti

WITNESS



Name:

Occupation: *TUMUAKI*

Address: *250 OATA RD, MURIWAI.
AUCKLAND.*



Waata Herewini Richards

WITNESS



Name:


Occupation: *TUMUAKI*

Address: *250 OATA RD, MURIWAI.
AUCKLAND.*

DEED AMENDING THE NGĀTI WHĀTUA O KAIPARA DEED OF SETTLEMENT



Haahi Rangji Walker

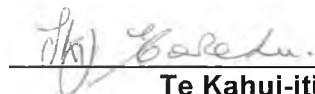
WITNESS


Name: JASON FOX
Occupation: TUMUAKI,
Address: 250 OAIA RD,
MURIWAI, AUCKLAND.



Rangimarie Naida Glavish

WITNESS


Name: JASON FOX
Occupation: TUMUAKI,
Address: 250 OAIA RD,
MURIWAI, AUCKLAND.


Te Kahui-iti Morehu

WITNESS


Name: JASON FOX
Occupation: TUMUAKI
Address: 250 OAIA RD, MURIWAI,
AUCKLAND.

DEED AMENDING THE NGĀTI WHĀTUA O KAIPARA DEED OF SETTLEMENT



Margaret Anne Kawharu

WITNESS



Name: JASON FOX

Occupation: TUMUAKI

Address: 250 OATA RD
MURIWAI, AUCKLAND.


Rhys Charles Freeman

WITNESS


Name: JASON FOX

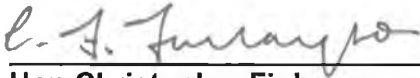
Occupation: TUMUAKI.

Address: 250 OATA RD
MURIWAI, AUCKLAND.

DEED AMENDING THE NGĀTI WHĀTUA O KAIPARA DEED OF SETTLEMENT

SIGNED for and on behalf of
THE CROWN

by the Minister for Treaty of Waitangi
Negotiations in the presence of:


Hon Christopher Finlayson

WITNESS

B. Concedine
Name:

Occupation: Private Secretary

Address: Wellington

7 EXCLUSIVE RFR LAND

Legal Description	Area
Sec 4 SO 413969	13.5682
Sec 2 SO 413336	26.7095
Sec 3 SO 413336	24.853
Pt Allot E229 PSH OF Waiwera	27.8149
Lot 3 DP 327701	74.23
Lot 1 DP 310813	10.277
Pt Lot 2 DP 147264	9.4827
Sec 5 SO 332426	0.765
Sec 6 SO 332426	0.5233
Sec 2 SO 413969	3.1068
Sec 6 SO 413969	3.5148
Sec 1 SO 337876	3.3420
Sec 28 SO 70137	0.0001
Sec 14 SO 70137	0.0005
Sec 18 SO 70137	0.0008
Sec 23 SO 70137	0.0001
Pt Sec 22 SO 70137	0.0004
Sec 19 SO 70137	0.0001
Pt Sec 22 SO 70137	0.0001
Sec 21 SO 70137	0.0002
Sec 15 SO 70137	0.0008
Sec 26 SO 70137	0.0002
Sec 25 SO 70137	0.0001
Sec 16 SO 70137	0.0019
Sec 3 SO 308135	0.2778
Sec 4 SO 70785	0.68
Pt Lot 2 DP 126248	0.6815
Sec 2 SO 376934	0.4074
Sec 2 SO 70726	0.1384
Pt Lot 1 DP 195049	1.6169
Sec 2 SO 317214	0.4474
Sec 1 SO 317214	1.8422
Sec 3 SO 317214	6.5023
Sec 4 SO 317214	6.2386
Sec 5 SO 317214	0.8338
Sec 14 SO 317214	0.8248
Sec 3 SO 311206	0.0179
Sec 1 SO 316594	0.0609
Sec 2 SO 316594	0.0608
Sec 1 SO 69891	0.1549
Sec 1 SO 70075	0.868
Sec 9 SO 308950	0.7353
Sec 10 SO 308950	0.1181

DEED AMENDING THE NGĀTI WHĀTUA O KAIPARA DEED OF SETTLEMENT

7: EXCLUSIVE RFR LAND

Lot 2 DP 197355	1.6954
Sec 4 SO 308403	0.1196
Lot 200 DP 378416	1.0502
Lot 201 DP 378416	1.616
Lot 203 DP 378416	1.1022
Sec 5 SO 347291	0.2086
Sec 4 SO 347291	0.0004
Allot 707 PSH OF Paremoremo	0.989
Section 3 SO 395478	0.1472
Section 1 SO 395478	0.0011
Sec 28 SO 408188	0.0603
Sec 11 SO 408188	0.0002
Sec 4 SO 408188	0.0005
Sec 13 SO 408188	0.0001
Sec 27 SO 408188	0.0966
Sec 15 SO 408188	0.0001
Pt Lot 42 DP 41141	0.0653
Pt Lot 44 DP 41141	0.0645
Sec 34 SO 408188	0.073
Sec 2 SO 408188	0.0009
Lot 25 DP 121676	0.3216
Sec 5 SO 406216	0.0003
Sec 6 SO 406216	0.0003
Sec 48 SO 406216	0.3566
Sec 8 SO 406216	0.0002
Sec 4 SO 388255	0.001
Sec 3 SO 388255	0.0026
Sec 9 SO 406216	0.0006
Sec 10 SO 406216	0.001
Sec 11 SO 406216	0.0018
Sec 1 SO 406394	0.0004
Sec 2 SO 406394	0.0002
Sec 9 SO 406394	0.0002
Sec 6 SO 406394	0.0004
Sec 10 SO 406394	0.302
Sec 7 SO 406394	0.0002
Sec 2 SO 402787	0.0021
Part Lot 5 DP 104543	4.3196
Sec 13 SO 406216	0.0004
Sec 1 SO 395294	0.1852
Sec 2 SO 395294	0.1261
Sec 1 SO 413278	0.2627
Sec 2 SO 413278	0.0015
Sec 14 SO 406216	0.0008
Sec 15 SO 406216	0.0007
Sec 18 SO 406216	0.0006

DEED AMENDING THE NGĀTI WHĀTUA O KAIPARA DEED OF SETTLEMENT

7: EXCLUSIVE RFR LAND

Sec 45 SO 406216	0.0001
Pt Lot 11 DP 105188	0.2405
Sec 2 SO 406030	0.0009
Sec 3 SO 406030	0.7771
Sec 4 SO 404849	0.0003
Section 3 SO 395476	0.2933
Sec 21 SO 406216	0.0012
Sec 9 SO 406030	0.0001
Sec 8 SO 406030	0.0001
Sec 7 SO 406030	0.0001
Sec 16 SO 406030	0.0755
Lot 4 DP 42965	0.0968
Sec 2 SO 379841	0.0007
Pt Lot 4 DP155739	0.13
Sec 22 SO 406216	0.0001
Sec 30 SO 408188	0.0598
Sec 6 SO 395477	0.001
Sec 1 SO 406216	0.0006
Sec 5 SO 395477	0.0022
Sec 2 SO 395477	0.0015
Sec 4 SO 406216	0.0007
Lot 1 DP 127964	0.1995
Sec 16 SO 406216	0.0002
Sec 6 SO 406030	0.0001
Lot 7 DP 155739	0.0237