

NGĀTI MARU

and

THE CROWN

**DEED OF SETTLEMENT SCHEDULE:
DOCUMENTS**

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

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

Ngāti Maru values

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

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

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

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

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

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

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

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

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

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

Protection principles

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

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

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

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

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

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

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

Director-General's actions

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

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

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

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

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2 STATEMENTS OF ASSOCIATION

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

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2: STATEMENTS OF ASSOCIATION

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

[To be inserted prior to this deed being signed]

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Initialling version for presentation to Ngāti Maru for ratification purposes.

DOCUMENTS

2: STATEMENTS OF ASSOCIATION

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

[To be inserted prior to this deed being signed]

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3 DEED OF RECOGNITION

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

1 INTRODUCTION

- 1.1 The Crown has granted this deed as part of the redress under a deed of settlement with –
 - 1.1.1 Ngāti Maru (the **settling group**); and
 - 1.1.2 the trustees of the Ngāti Maru Rūnanga Trust (the **governance entity**).
- 1.2 In the deed of settlement, the settling group made a statement of the settling group's particular cultural, spiritual, historical, and traditional association with the Whangapoua conservation area (part Aotea Conservation Park) (as shown on deed plan OTS-403-340) (the statutory area).
- 1.3 That statement of association is –
 - 1.3.1 in the documents schedule to the deed of settlement; and
 - 1.3.2 copied, for ease of reference, in the schedule to this deed.
- 1.4 The Crown has acknowledged the statement of association in the [Ngāti Maru Claims Settlement Act [year]], being the settlement legislation that gives effect to the deed of settlement.

2 CONSULTATION

- 2.1 The Minister of Conservation and the Director-General of Conservation must, if undertaking an activity specified in clause 2.2 in relation to the statutory area, consult and have regard to the views of the governance entity concerning the settling group's association with that statutory area as described in the statement of association.
- 2.2 Clause 2.1 applies to each of the following activities (the **identified activities**):
 - 2.2.1 preparing a conservation management strategy, or a conservation management plan, under the Conservation Act 1987 or the Reserves Act 1977:
 - 2.2.2 preparing a national park management plan under the National Parks Act 1980:
 - 2.2.3 preparing a non-statutory plan, strategy, programme, or survey in relation to the statutory area that is not a river for any of the following purposes:
 - (a) to identify and protect wildlife or indigenous plants:

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3: DEED OF RECOGNITION

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

3 LIMITS

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

4 TERMINATION

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

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3: DEED OF RECOGNITION

5 NOTICES

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

Partnerships Manager,
Department of Conservation,
[address].

6 AMENDMENT

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

7 NO ASSIGNMENT

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

8 DEFINITIONS

- 8.1 In this deed -

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

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

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

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

governance entity means the trustees of the Ngāti Maru Rūnanga Trust, as defined in the deed of settlement; and

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

Minister means the Minister of Conservation; and

settling group and **Ngāti Maru** have the meaning given to "Ngāti Maru" by the deed of settlement; and

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

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3: DEED OF RECOGNITION

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

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

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

9 INTERPRETATION

9.1 The provisions of this clause apply to this deed's interpretation, unless the context requires a different interpretation.

9.2 Headings do not affect the interpretation.

9.3 A term defined by –

9.3.1 this deed has that meaning; and

9.3.2 the deed of settlement, or the settlement legislation, but not by this deed, has that meanings where used in this deed.

9.4 All parts of speech and grammatical forms of a defined term have corresponding meanings.

9.5 The singular includes the plural and vice versa.

9.6 One gender includes the other genders.

9.7 Something, that must or may be done on a day that is not a business day, must or may be done on the next business day.

9.8 A reference to -

9.8.1 this deed or any other document means this deed or that document as amended, novated, or replaced; and

9.8.2 legislation means that legislation as amended, consolidated, or substituted.

9.9 If there is an inconsistency between this deed and the deed of settlement, the deed of settlement prevails.

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3: DEED OF RECOGNITION

SIGNED as a deed on *[date]*

SIGNED for and on behalf of
THE CROWN by –

The Minister of Conservation in the
presence of –

WITNESS

Name:
Occupation:
Address:

The Director-General of Conservation
in the presence of –

WITNESS

Name:
Occupation:
Address:

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Initialling version for presentation to Ngāti Maru for ratification purposes.

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3: DEED OF RECOGNITION

Schedule

Copy of Statement of Association

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

[statement of association]

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

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Initialling version for presentation to Ngāti Maru for ratification purposes.

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4 PROTOCOLS

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Initialling version for presentation to Ngāti Maru for ratification purposes.

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4: PROTOCOLS: TAONGA TŪTURU PROTOCOL

4.1 Taonga Tūturu Protocol

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4: PROTOCOLS: TAONGA TŪTURU PROTOCOL

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

1 INTRODUCTION

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

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4: PROTOCOLS: TAONGA TŪTURU PROTOCOL

1.4 The purpose of the Protected Objects Act 1975 (“the Act”) is to provide for the better protection of certain objects by, among other things, regulating the export of Taonga Tūturu, and by establishing and recording the ownership of Ngā Taonga Tūturu found after the commencement of the Act, namely 1 April 1976.

1.5 The Minister and Chief Executive have certain roles in terms of the matters mentioned in clause 1.1. In exercising such roles, the Minister and Chief Executive will provide the governance entity with the opportunity for input, into matters set out in clause 1.1, as set out in clauses 5 to 11 of this Protocol.

2 PROTOCOL AREA

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

3 TERMS OF ISSUE

3.1 This Protocol is issued pursuant to section 116 of the Ngāti Maru Claims Settlement Act [*date*] (“the Settlement Legislation”) that implements the Ngāti Maru Deed of Settlement, and is subject to the Settlement Legislation and the Deed of Settlement.

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

4 IMPLEMENTATION AND COMMUNICATION

4.1 The Chief Executive will maintain effective communication with the governance entity by:

4.1.1 maintaining information provided by the governance entity on the office holders of the governance entity and their addresses and contact details;

4.1.2 discussing with the governance entity concerns and issues notified by the governance entity about this Protocol;

4.1.3 as far as reasonably practicable, providing opportunities for the governance entity to meet with relevant Ministry managers and staff;

4.1.4 meeting with the governance entity to review the implementation of this Protocol if requested by either party;

4.1.5 as far as reasonably practicable, training relevant employees within the Ministry on this Protocol to ensure that they are aware of the purpose, content and implications of this Protocol and of the obligations of the Chief Executive under it;

4.1.6 as far as reasonably practicable, inform other organisations with whom it works, central government agencies and stakeholders about this Protocol and provide ongoing information; and

4.1.7 including a copy of the Protocol with the governance entity on the Ministry's website.

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4: PROTOCOLS: TAONGA TŪTURU PROTOCOL

5 THE ROLE OF THE CHIEF EXECUTIVE UNDER THE ACT

General

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

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

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

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4: PROTOCOLS: TAONGA TŪTURU PROTOCOL

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

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

Export Applications

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

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

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

7 EFFECTS ON NGĀTI MARU INTERESTS IN THE PROTOCOL AREA

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

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4: PROTOCOLS: TAONGA TŪTURU PROTOCOL

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

8 REGISTRATION AS A COLLECTOR OF NGĀ TAONGA TŪTURU

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

9 BOARD APPOINTMENTS

- 9.1 The Chief Executive shall:
- 9.1.1 notify the governance entity of any upcoming ministerial appointments on Boards which the Minister for Arts, Culture and Heritage appoints to;
 - 9.1.2 add the governance entity's nominees onto Manatū Taonga/Ministry for Culture and Heritage's Nomination Register for Boards, which the Minister for Arts, Culture and Heritage appoints to; and
 - 9.1.3 notify the governance entity of any ministerial appointments to Boards which the Minister for Arts, Culture and Heritage appoints to, where these are publicly notified.

10 NATIONAL MONUMENTS, WAR GRAVES AND HISTORIC GRAVES

- 10.1 The Chief Executive shall seek and consider the views of the governance entity on any proposed major works or changes to any national monument, war grave or historic grave, managed or administered by the Ministry, which specifically relates to Ngāti Maru interests in the Protocol Area. For the avoidance of any doubt, this does not include normal maintenance or cleaning.
- 10.2 Subject to government funding and government policy, the Chief Executive will provide for the marking and maintenance of any historic war grave identified by the governance entity, which the Chief Executive considers complies with the Ministry's War Graves Policy criteria; that is, a casualty, whether a combatant or non-combatant, whose death was a result of the armed conflicts within New Zealand in the period 1840 to 1872 (the New Zealand Wars).

11 HISTORY PUBLICATIONS

- 11.1 The Chief Executive shall:
- 11.1.1 upon commencement of this protocol provide the governance entity with a list and copies of all history publications commissioned or undertaken by the Ministry that relates substantially to Ngāti Maru; and
 - 11.1.2 where reasonably practicable, consult with the governance entity on any work the Ministry undertakes that relates substantially to Ngāti Maru:
 - (a) from an early stage;
 - (b) throughout the process of undertaking the work; and

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4: PROTOCOLS: TAONGA TŪTURU PROTOCOL

- (c) before making the final decision on the material of a publication.
- 11.2 It is accepted that the author, after genuinely considering the submissions and/or views of, and confirming and correcting any factual mistakes identified by the governance entity, is entitled to make the final decision on the material of the historical publication.
- 12 PROVISION OF CULTURAL AND/OR SPIRITUAL PRACTICES AND PROFESSIONAL SERVICES**
- 12.1 Where the Chief Executive requests cultural and/or spiritual practices to be undertaken by Ngāti Maru within the Protocol Area, the Chief Executive will make a contribution subject to prior mutual agreement, to the costs of undertaking such practices.
- 12.2 Where appropriate, the Chief Executive will consider using the governance entity as a provider of professional services relating to cultural advice, historical and commemorative services sought by the Chief Executive.
- 12.3 The procurement by the Chief Executive of any such services set out in clauses 12.1 and 12.2 is subject to the Government's Mandatory Rules for Procurement by Departments, all government good practice policies and guidelines, and the Ministry's purchasing policy.
- 13 CONSULTATION**
- 13.1 Where the Chief Executive is required to consult under this Protocol, the basic principles that will be followed in consulting with the governance entity in each case are:
- 13.1.1 ensuring that the governance entity is consulted as soon as reasonably practicable following the identification and determination by the Chief Executive of the proposal or issues to be the subject of the consultation;
- 13.1.2 providing the governance entity with sufficient information to make informed decisions and submissions in relation to any of the matters that are the subject of the consultation;
- 13.1.3 ensuring that sufficient time is given for the participation of the governance entity in the decision making process including the preparation of submissions by the governance entity in relation to any of the matters that are the subject of the consultation;
- 13.1.4 ensuring that the Chief Executive will approach the consultation with the governance entity with an open mind, and will genuinely consider the submissions of the governance entity in relation to any of the matters that are the subject of the consultation; and
- 13.1.5 report back to the governance entity, either in writing or in person, in regard to any decisions made that relate to that consultation.
- 14 CHANGES TO POLICY AND LEGISLATION AFFECTING THIS PROTOCOL**
- 14.1 If the Chief Executive consults with Māori generally on policy development or any proposed legislative amendment to the Act that impacts upon this Protocol, the Chief Executive shall:

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- 14.1.1 notify the governance entity of the proposed policy development or proposed legislative amendment upon which Māori generally will be consulted;
- 14.1.2 make available to the governance entity the information provided to Māori as part of the consultation process referred to in this clause; and
- 14.1.3 report back to the governance entity on the outcome of any such consultation.

15 DEFINITIONS

15.1 In this Protocol:

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

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

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

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

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

governance entity has the meaning given to it in the Deed of Settlement

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

Ngāti Maru has the meaning set out in clause 10.5 of the Deed of Settlement

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

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

an object that—

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

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4: PROTOCOLS: TAONGA TŪTURU PROTOCOL

- (ii) brought into New Zealand by Māori; or
- (iii) used by Māori; and
- (c) is more than 50 years old.

ISSUED on

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

WITNESS

Name:

Occupation:

Address:

3 NN

Initialling version for presentation to Ngāti Maru for ratification purposes.

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4: PROTOCOLS: TAONGA TŪTURU PROTOCOL

ATTACHMENT A: THE MINISTRY FOR CULTURE AND HERITAGE PROTOCOL AREA

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

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DOCUMENTS

4: PROTOCOLS: TAONGA TŪTURU PROTOCOL

ATTACHMENT B: SUMMARY OF THE TERMS OF ISSUE

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

1. **Amendment and cancellation**

- 1.1 The Minister may amend or cancel this Protocol, but only after consulting with the governance entity and having particular regard to its views (section 116(3)).

2. **Limits**

- 2.1 This Protocol does not -

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

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

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

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

3. **Breach**

- 3.1 Subject to the Crown Proceedings Act 1950, the governance entity may enforce this Protocol if the Crown breaches it without good cause, but damages or monetary compensation will not be awarded (section 118).

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

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Initialling version for presentation to Ngāti Maru for ratification purposes.

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4.2 Primary Industries Protocol

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Initialling version for presentation to Ngāti Maru for ratification purposes.

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Ministry for Primary Industries
Manatū Ahu Matua



**THE PRIMARY INDUSTRIES PROTOCOL WITH NGĀTI
MARU**

**Issued by
the Minister for Primary Industries**

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4: PROTOCOLS: PRIMARY INDUSTRIES PROTOCOL

PART ONE - RELATIONSHIP

PURPOSE

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

CONTEXT

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

PRINCIPLES UNDERLYING THE PROTOCOL

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

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

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

PART TWO - SCOPE AND INTERPRETATION

SCOPE

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

DEFINITIONS AND INTERPRETATION

15. In the Protocol:
 - a. "**Protocol**" means a statement in writing, issued by the Crown through the Minister to the Governance Entity under the Settlement Legislation and the Deed of Settlement and includes this Protocol;
 - b. "**Protocol Area**" means the land area as noted in the attached map at Attachment A, together with the adjacent waters;
 - c. "**Crown**" means The Sovereign in right of New Zealand and includes, where appropriate, the Ministers and Departments of the Crown that are involved in, or bound by, the terms of the Deed to participate in any aspect of the redress under the Deed;

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

TERMS OF ISSUE

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

PART THREE - FISHERIES

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

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

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

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

IWI FORUM FISHERIES PLANS

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

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4: PROTOCOLS: PRIMARY INDUSTRIES PROTOCOL

MANAGEMENT OF CUSTOMARY NON-COMMERCIAL FISHERIES

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

RĀHUI

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

PROVISION OF FISHERIES SERVICES AND RESEARCH

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

PART FOUR – STRATEGIC PARTNERSHIPS

INFORMATION SHARING AND COLLABORATION

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

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4: PROTOCOLS: PRIMARY INDUSTRIES PROTOCOL

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

JOINT WORK PROGRAMMES

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

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4: PROTOCOLS: PRIMARY INDUSTRIES PROTOCOL

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

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

CONSULTATION

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

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4: PROTOCOLS: PRIMARY INDUSTRIES PROTOCOL

PART FIVE – IMPLEMENTATION

MAINTAINING THE RELATIONSHIP

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

ESCALATION OF MATTERS

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

REVIEW AND AMENDMENT

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

ISSUED on

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

WITNESS

Name:

Occupation:

Address:

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Initialling version for presentation to Ngāti Maru for ratification purposes.

DOCUMENTS

4: PROTOCOLS: PRIMARY INDUSTRIES PROTOCOL

ATTACHMENT A: PROTOCOL AREA

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

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DOCUMENTS

4: PROTOCOLS: PRIMARY INDUSTRIES PROTOCOL

ATTACHMENT B: SUMMARY OF TERMS OF ISSUE

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

1. **Amendment and cancellation**

- 1.1 The Minister may amend or cancel this Protocol, but only after consulting with the Governance Entity and having particular regard to its views (*section 116(3)*).

2. **Noting**

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

2.1.1 is for the purpose of public notice only; and

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

3. **Limits**

- 3.1 This Protocol does not:

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

- (a) introducing legislation; or
- (b) changing government policy; or
- (c) issuing a protocol to, or interacting or consulting with anyone the Crown considers appropriate, including any iwi, hapū, marae, whānau, or representative of tāngata whenua; or

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

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

- (a) the Fisheries Act 1996; or
- (b) the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992; or
- (c) the Maori Commercial Aquaculture Claims Settlement Act 2004; or
- (d) the Maori Fisheries Act 2004 (*section 119(3)*).

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DOCUMENTS

4: PROTOCOLS: PRIMARY INDUSTRIES PROTOCOL

4. **Breach**

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

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Initialling version for presentation to Ngāti Maru for ratification purposes.

DOCUMENTS

5 ENCUMBRANCES

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DOCUMENTS

5.1: MURIWAI SITE B RIGHT TO CONVEY WATER EASEMENT

5.1 Muriwai site B right to convey water easement

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

EASEMENT INSTRUMENT
to grant easement

Sections 90A and 90F, Land Transfer Act 1952

Land Registration District

South Auckland

Grantor

Surname must be underlined

[trustees of the Ngāti Maru Settlement Trust]

Grantee

Surname must be underlined

Her Majesty the Queen in Right of New Zealand acting by and through the Minister of Conservation

Grant of easement

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

Dated this

day of

20

ATTESTATION:

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

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

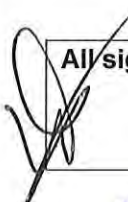
SCHEDULE A

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

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

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


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Easement Instrument	Dated:	Page of pages
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RIGHTS AND POWERS

1 Right to convey water

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

2 General rights

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

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

Easement Instrument	Dated:	Page of pages
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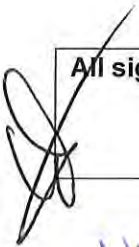
3 Repair, maintenance, and costs

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

4 Rights of entry

- 4.1 For the purpose of performing any duty or in the exercise of any rights conferred or implied in the easement, the Grantee may, with the consent of the Grantor, which must not be unreasonably withheld —
- 4.1.1 enter upon the Servient Tenement by a reasonable route and with all necessary tools, vehicles, and equipment; and
- 4.1.2 remain on the Servient Tenement for a reasonable time for the sole purpose of completing the necessary work; and
- 4.1.3 leave any vehicles or equipment on the Servient Tenement for a reasonable time if work is proceeding.

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



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Easement Instrument	Dated:	Page of pages
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- 4.2 The Grantee must ensure that as little damage or disturbance as possible is caused to the Servient Tenement or to the Grantor.
- 4.3 The Grantee must ensure that all work is performed in a proper and workmanlike manner.
- 4.4 The Grantee must ensure that all work is completed promptly.
- 4.5 The Grantee must immediately make good any damage done to the Servient Tenement by restoring the surface of the land as nearly as possible to its former condition.
- 4.6 The Grantee must compensate the Grantor for all damages caused by the work to any buildings, erections, or fences on the Servient Tenement.

5 Application for Resource Consents

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

6 Equipment Property of Grantee

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

5 Default

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

- (a) the party not in default may serve on the defaulting party written notice requiring the defaulting party to meet a specific obligation and stating that, after the expiration of 7

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

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Easement Instrument	Dated:	Page of pages
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working days from service of the notice of default, the other party may meet the obligation:

- (b) if, at the expiry of the 7-working-day period, the party in default has not met the obligation, the other party may—
 - (i) meet the obligation; and
 - (ii) for that purpose, enter the Servient Tenement:
- (c) the party in default is liable to pay the other party the cost of preparing and serving the default notice and the costs incurred in meeting the obligation:
- (d) the other party may recover from the party in default, as a liquidated debt, any money payable under this clause.

6 Disputes

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

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

7 Other conditions

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

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

Handwritten signatures and initials in the signing box, including a large signature and the initials 'NW'.

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

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

A handwritten signature in black ink is written over the top-left corner of the signing box. Below the signature, the initials 'NW' are written in blue ink.

Initialling version for presentation to Ngāti Maru for ratification purposes.

DOCUMENTS

5.2: MURIWAI SITE B RIGHT OF WAY EASEMENT

5.2 Muriwai site B right of way easement

3 NN

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

EASEMENT INSTRUMENT
to grant easement

Sections 90A and 90F, Land Transfer Act 1952

Land Registration District

South Auckland

Grantor

Surname must be underlined

[the trustees of the Ngāti Maru Settlement Trust]

Grantee

Surname must be underlined

Her Majesty the Queen in Right of New Zealand acting by and through the Minister of Conservation

Grant of easement

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

Dated this

day of

20

ATTESTATION:

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

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


NN

Easement Instrument	Dated:	Page of pages
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<p>Signed on behalf of Her Majesty the Queen by</p> <p>acting under a delegation from the Minister of Conservation</p> <p>_____</p> <p>Signature of Grantee</p>	<p>Signed in my presence by the Grantee</p> <p>_____</p> <p><i>Signature of Witness</i></p> <p>Witness Name:</p> <p>Occupation:</p> <p>Address:</p>
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Certified correct for the purposes of the Land Transfer Act 1952

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Solicitor for the Grantee

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



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SCHEDULE A

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

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



NN

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Easement Instrument	Dated:	Page of pages
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RIGHTS AND POWERS

1 Rights of way and parking rights

- 1.1 The right of way includes the right for the Grantee in common with the Grantor and other persons to whom the Grantor may grant similar rights, at all times, to go, pass and repass on foot, by bicycle or by vehicle over and along the Easement Area and to stop, leave and park vehicles on the area designated as a carpark within the Easement Area ("the carpark").
- 1.2 The right of way includes the right for the public as the Grantee's invitees to pass and repass and go over and along the Easement Area on foot, by bicycle] or by vehicle and to park in the carpark and when the Grantee wishes to carry out work to develop, improve or maintain the Easement Area or undertake conservation activities on adjoining land administered by the Grantee, then the Grantee its employees or contractors may proceed along the Easement Area by foot or by vehicle or any other means of transport and with all necessary tools, vehicles, equipment (including firearms) and dogs to carry out the work.
- 1.3 The right of way includes—
- 1.3.1 the right to repair and maintain the existing recreation tracks and access vehicle track ("the track") on the Easement Area, and (if necessary for any of those purposes) to alter the state of the land over which the easement is granted; and
- 1.3.2 the right to have the Easement Area kept clear at all times of obstructions, deposit of materials, or unreasonable impediment to the use and enjoyment of the track; and
- 1.3.3 the right for the Grantee to improve the Easement Area in any way it considers expedient but consistent with its purposes of recreation and access, including the installation of track markers, stiles but without at any time causing damage to or interfering with the Grantor's use and management of the Grantor's Land; and
- 1.3.4 the right for the Grantee to erect and display notices on the Easement Area and with the Grantor's consent, which must not be unreasonably withheld, on the Grantor's Land.
- 1.4 The right of way does not confer on the public the right to camp on or otherwise occupy the Easement Area without the consent of the Grantor.
- 1.5 No horse or any other animal (including any dogs or other pets of any description whether on a leash or not) may be taken on the Easement Area without the consent of the Grantor.

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



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

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

2 General rights

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

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

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

3 Repair, maintenance, and costs

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

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

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

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

3.5 The Grantor must repair at its cost all damage caused to the track through its negligence or improper actions.

4 Rights of entry

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

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



Easement Instrument	Dated:	Page of pages
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- 4.1.1 enter upon the Grantor's Land by a reasonable route and with all necessary tools, vehicles, and equipment; and
- 4.1.2 remain on the Grantor's Land for a reasonable time for the sole purpose of completing the necessary work; and
- 4.1.3 leave any vehicles or equipment on the Grantor's Land for a reasonable time if work is proceeding.


- 4.2 The Grantee must ensure that as little damage or disturbance as possible is caused to the Grantor's Land or to the Grantor.
- 4.3 The Grantee must ensure that all work is performed in a proper and workmanlike manner.
- 4.4 The Grantee must ensure that all work is completed promptly.
- 4.5 The Grantee must immediately make good any damage done to the Grantor's Land by restoring the surface of the land as nearly as possible to its former condition.
- 4.6 The Grantee must compensate the Grantor for all damages caused by the work to any buildings, erections, or fences on the Grantor's Land.

5 Default

- 5.1 If the Grantor or the Grantee does not meet the obligations implied or specified in this easement,—
 - 5.1.1 the party not in default may serve on the defaulting party written notice requiring the defaulting party to meet a specific obligation and stating that, after the expiration of 7 working days from service of the notice of default, the other party may meet the obligation:
 - 5.1.2 if, at the expiry of the 7-working-day period, the party in default has not met the obligation, the other party may —
 - (a) meet the obligation; and
 - (b) for that purpose, enter the Grantor's Land:
 - 5.1.3 the party in default is liable to pay the other party the cost of preparing and serving the default notice and the costs incurred in meeting the obligation:

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

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



Easement Instrument	Dated:	Page of pages
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6 Disputes

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

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

6.1.2 the parties must promptly meet and in good faith try to resolve the dispute using informal dispute resolution techniques, which may include negotiation, mediation, independent expert appraisal, or any other dispute resolution technique that may be agreed by the parties; and

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

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

(b) the arbitration must be conducted by a single arbitrator to be agreed on by the parties or, failing agreement, to be appointed by the President of the New Zealand Law Society.

7 Other conditions

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

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

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

Handwritten signature in black ink and initials 'NN' in blue ink.

DOCUMENTS

5.3: MURIWAI SITE A RIGHT TO CONVEY WATER EASEMENT

5.3 Muriwai site A right to convey water easement

2 NN

Easement Instrument	Dated:	Page of pages
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<p>Signed on behalf of Her Majesty the Queen by</p> <p>acting under a delegation from the Minister of Conservation</p> <p>_____</p> <p>Signature of Grantee</p>	<p>Signed in my presence by the Grantee</p> <p>_____</p> <p><i>Signature of Witness</i></p> <p>Witness Name:</p> <p>Occupation:</p> <p>Address:</p>
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Certified correct for the purposes of the Land Transfer Act 1952

Solicitor for the Grantee

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


NW

SCHEDULE A

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

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



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

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Easement Instrument	Dated:	Page of pages
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RIGHTS AND POWERS

1 Right to convey water

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

2 General rights

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

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

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Easement Instrument	Dated:	Page of pages
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3 Repair, maintenance, and costs

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

4 Rights of entry

- 4.1 For the purpose of performing any duty or in the exercise of any rights conferred or implied in the easement, the Grantee may, with the consent of the Grantor, which must not be unreasonably withheld —
- 4.1.1 enter upon the Servient Tenement by a reasonable route and with all necessary tools, vehicles, and equipment; and
- 4.1.2 remain on the Servient Tenement for a reasonable time for the sole purpose of completing the necessary work; and
- 4.1.3 leave any vehicles or equipment on the Servient Tenement for a reasonable time if work is proceeding.

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

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Easement Instrument	Dated:	Page of pages
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- 4.2 The Grantee must ensure that as little damage or disturbance as possible is caused to the Servient Tenement or to the Grantor.
- 4.3 The Grantee must ensure that all work is performed in a proper and workmanlike manner.
- 4.4 The Grantee must ensure that all work is completed promptly.
- 4.5 The Grantee must immediately make good any damage done to the Servient Tenement by restoring the surface of the land as nearly as possible to its former condition.
- 4.6 The Grantee must compensate the Grantor for all damages caused by the work to any buildings, erections, or fences on the Servient Tenement.

5 Application for Resource Consents

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

6 Equipment Property of Grantee

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

5 Default

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

- (a) the party not in default may serve on the defaulting party written notice requiring the defaulting party to meet a specific obligation and stating that, after the expiration of 7

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



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Easement Instrument	Dated:	Page of pages
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working days from service of the notice of default, the other party may meet the obligation:

- (b) if, at the expiry of the 7-working-day period, the party in default has not met the obligation, the other party may—
 - (i) meet the obligation; and
 - (ii) for that purpose, enter the Servient Tenement:
- (c) the party in default is liable to pay the other party the cost of preparing and serving the default notice and the costs incurred in meeting the obligation:
- (d) the other party may recover from the party in default, as a liquidated debt, any money payable under this clause.

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- (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),—
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7 Other conditions

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

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

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

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DOCUMENTS

5.4: MURIWAI SITE A RESTRICTIVE COVENANT

5.4 Muriwai site A restrictive covenant

3 NN

Instrument to grant Restrictive Land Covenant (in gross)

Grantor

[NGĀTI MARU]

Grantee

HER MAJESTY THE QUEEN

Grant of Restrictive Covenant (in gross)

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

Schedule A

Continue in additional Annexure Schedule, if required

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

Dated this day of 2017

Attestation

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

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

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

[Solicitor for] the Grantee

M
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Covenant provisions

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

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

7 NN

Annexure Schedule 1

Insert type of instrument

Restrictive Land Covenant

Dated

Page

1

of

2

Pages

Continue in additional Annexure Schedule, if required.

1 Restrictive Covenant

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

2 Construction of Covenant in Gross

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

3 Legal Effect of Covenant in Gross

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

Annexure Schedule 1

Insert type of instrument

Restrictive Land Covenant

Dated

Page

2

of

2

Pages

Continue in additional Annexure Schedule, if required.

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

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

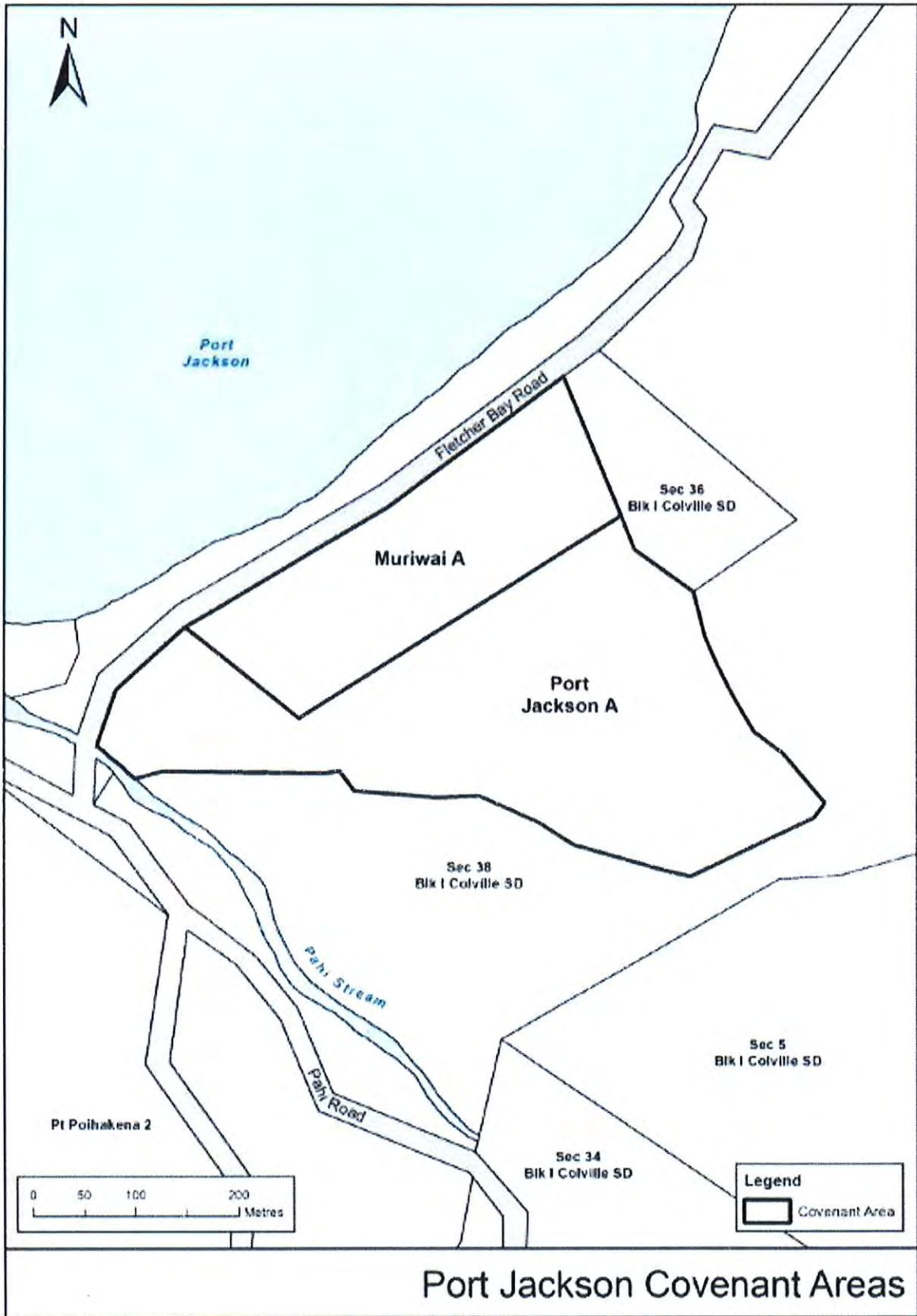
3.4 The provisions of this clause 3 override any other rule of law or equity, but are subject to clause 4.

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

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

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





Port Jackson Covenant Areas

NN

Initialling version for presentation to Ngāti Maru for ratification purposes.

DOCUMENTS

5.5: OKAHAROA MA RAKI RIGHT OF WAY EASEMENT

5.5 Okaharoa Ma Raki right of way easement

7 NW

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

EASEMENT INSTRUMENT
to grant easement

Sections 90A and 90F, Land Transfer Act 1952

Land Registration District

South Auckland

Grantor

Surname must be underlined

[the trustees of the Ngāti Maru Settlement Trust]

Grantee

Surname must be underlined

Her Majesty the Queen in Right of New Zealand acting by and through the Minister of Conservation

Grant of easement

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

Dated this

day of

20

ATTESTATION:

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

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


NN



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

Certified correct for the purposes of the Land Transfer Act 1952

--

Solicitor for the Grantee

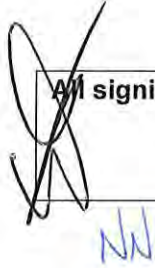
<p>All signing parties and either their witnesses or solicitors must sign or initial in this box.</p> <p> </p>

SCHEDULE A

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

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



Handwritten signature and initials in blue ink.

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

Easement Instrument	Dated:	Page of pages
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RIGHTS AND POWERS

1 Rights of way

- 1.1 The right of way includes the right for the Grantee in common with the Grantor and other persons to whom the Grantor may grant similar rights, at all times, to go over and along the Easement Area.
- 1.2 The right of way includes the right for the Grantee its employees or contractors to proceed along the Easement Area at Okaharoa Ma Raki by foot or by vehicle or any other means of transport and with all necessary tools, vehicles, equipment (including firearms) and dogs to carry out work to develop, improve or maintain the Easement Area or undertake conservation activities at Okaharoa Ma Raki and Ō Kaharoa ki Waenganui D.
- 1.3 The right of way includes—
- 1.3.1 the right to repair and maintain the existing recreation tracks and access vehicle track ("the track") on the Easement Area, and (if necessary for any of those purposes) to alter the state of the land over which the easement is granted; and
- 1.3.2 the right to have the Easement Area kept clear at all times of obstructions, deposit of materials, or unreasonable impediment to the use and enjoyment of the track; and
- 1.3.3 the right for the Grantee to improve the Easement Area in any way it considers expedient but consistent with its purposes of recreation and access, including the installation of track markers, stiles but without at any time causing damage to or interfering with the Grantor's use and management of the Grantor's Land; and
- 1.3.4 the right for the Grantee to erect and display notices on the Easement Area and with the Grantor's consent, which must not be unreasonably withheld, on the Grantor's Land.

2 General rights

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

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



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

3 Repair, maintenance, and costs

- 3.1 The Grantee is responsible for arranging the repair and maintenance of the track on the Easement Area and for the associated costs, so as to keep the track to a standard suitable for its use.
- 3.2 If the Grantee (or grantees if more than one) and the Grantor share the use of the track then each of them is responsible for arranging the repair and maintenance of the track on the Easement Area and for the associated costs, so as to keep the track to a standard suitable for their use.
- 3.3 The Grantee (or grantees if more than one) must (equally if more than one) meet any associated requirements of the relevant local authority.
- 3.4 The Grantee must repair all damage that may be caused by the negligent or improper exercise by the Grantee of any right or power conferred by this easement.
- 3.5 The Grantor must repair at its cost all damage caused to the track through its negligence or improper actions.

4 Rights of entry

- 4.1 For the purpose of performing any duty or in the exercise of any rights conferred or implied in the easement, the Grantee may, with the consent of the Grantor, which must not be unreasonably withheld but may be given subject to any reasonable conditions —
- 4.1.1 enter upon the Grantor's Land by a reasonable route and with all necessary tools, vehicles, and equipment; and
- 4.1.2 remain on the Grantor's Land for a reasonable time for the sole purpose of completing the necessary work; and
- 4.1.3 leave any vehicles or equipment on the Grantor's Land for a reasonable time if work is proceeding.
- 4.2 The Grantee must ensure that as little damage or disturbance as possible is caused to the Grantor's Land or to the Grantor.
- 4.3 The Grantee must ensure that all work is performed in a proper and workmanlike manner.

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



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Easement Instrument	Dated:	Page of pages
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- 4.4 The Grantee must ensure that all work is completed promptly.
- 4.5 The Grantee must immediately make good any damage done to the Grantor's Land by restoring the surface of the land as nearly as possible to its former condition.
- 4.6 The Grantee must compensate the Grantor for all damages caused by the work to any buildings, erections, or fences on the Grantor's Land.

5 Default

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

5.1.1 the party not in default may serve on the defaulting party written notice requiring the defaulting party to meet a specific obligation and stating that, after the expiration of 7 working days from service of the notice of default, the other party may meet the obligation:

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

- (a) meet the obligation; and
- (b) for that purpose, enter the Grantor's Land:

5.1.3 the party in default is liable to pay the other party the cost of preparing and serving the default notice and the costs incurred in meeting the obligation:

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

6 Disputes

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

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

6.1.2 the parties must promptly meet and in good faith try to resolve the dispute using informal dispute resolution techniques, which may include negotiation, mediation, independent expert appraisal, or any other dispute resolution technique that may be agreed by the parties; and

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

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


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Easement Instrument	Dated:	Page of pages
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- (a) the dispute must be referred to arbitration in accordance with the Arbitration Act 1996; and
- (b) the arbitration must be conducted by a single arbitrator to be agreed on by the parties or, failing agreement, to be appointed by the President of the New Zealand Law Society.

7 Other conditions

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

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



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Initialling version for presentation to Ngāti Maru for ratification purposes.

DOCUMENTS

5.6: MANAIA PROPERTY CONSERVATION COVENANT

5.6 Manaia property conservation covenant

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MANAIA PROPERTY CONSERVATION COVENANT

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

THIS DEED of COVENANT is made this day of

BETWEEN NGĀTI MARU RŪNANGA TRUST (the Owner)

AND MINISTER OF CONSERVATION (the Minister)

BACKGROUND

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

OPERATIVE PARTS

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

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1 INTERPRETATION

1.1 In this Covenant unless the context otherwise requires:

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

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

“Fence” includes a gate.

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

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

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

“Working Days” means the period between any one midnight and the next excluding Saturdays, Sundays and statutory holidays in the place where the Land is situated.

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

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

1.1.3 where clauses in this Covenant require further agreement between the parties such agreement must not be unreasonably withheld.

2 OBJECTIVES OF THE COVENANT

2.1 The Land must be managed:

2.1.1 to preserve and protect the Land’s Values;

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

3 IMPLEMENTATION OF OBJECTIVES

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

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- 3.1.1 grazing of the Land by livestock;
 - 3.1.2 subject to clauses 3.2.1 and 3.2.3 and Schedule 3, felling, removal or damage of any tree, shrub or other plant;
 - 3.1.3 subject to Schedule 3, the planting of any species of exotic tree, shrub or other plant, or any other plant not endemic to and not sourced from the location in which the Land is situated;
 - 3.1.4 the erection of any Fence, building, structure or other improvement for any purpose;
 - 3.1.5 any burning, top dressing, sowing of seed or use of chemicals (whether for spraying or otherwise) except where the use of chemicals is reasonably necessary to control weeds or pests;
 - 3.1.6 subject to Schedule 3, any cultivation, earth works or other soil disturbances;
 - 3.1.7 any archaeological or other scientific research involving disturbance of the soil;
 - 3.1.8 the damming, diverting or taking of Natural Water;
 - 3.1.9 any action which will cause degradation of the natural flow, supply, quantity, or quality of water of any stream, river, lake, pond, marsh, or any other watercourse in or on the Land;
 - 3.1.10 any other activity which might have a more than minor adverse effect on the Land's Values;
 - 3.1.11 any prospecting or mining for minerals, coal or other deposit or moving or removal of rock of any kind on or under the Land; and
 - 3.1.12 the erection of utility transmission lines across the Land.
- 3.2 Subject to the Owner having no obligation to do anything to improve the land beyond its condition at the date of this Covenant, the Owner must take all reasonable steps to maintain the Land, including:
- 3.2.1 eradicating or controlling all weeds and pests on the Land to the extent required by any statute; and, in particular, complying with the provisions of, and any notices given under, the Biosecurity Act 1993 and in so doing the Owner may undertake minor clearance of vegetation;
 - 3.2.2 co-operating with the [Fire Authority] when it is responding to a fire that threatens to burn, or is burning, on the Land and follow the directives of any controlling [Rural Fire Officer] in attendance at the fire regarding fire suppression;
 - 3.2.3 keeping the Land free from exotic tree species;
 - 3.2.4 keeping the Land free from rubbish or other unsightly or offensive material arising from the Owner's use of the Land;

- 3.2.5 subject to consultation between the Owner and the Minister and observance of any reasonable conditions imposed by the Owner, granting to the Minister or authorised agent of the Minister or any employee of the Director-General, a right of access on to the Land, with or without motor vehicles, machinery, and implements of any kind, to examine and record the condition of the Land, or to carry out protection or maintenance work on the Land, or to ascertain whether the provisions of this Covenant are being observed;
- 3.2.6 keeping all existing Fences on the boundary of the Land in good order and condition and, notwithstanding clause 3.1.4, must rebuild and replace all such Fences when reasonably required except as provided in clause 5.1.2; and
- 3.2.7 complying with all requisite statutes, regulations and bylaws in relation to the Land.

4 PUBLIC ACCESS

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

5 THE MINISTER'S OBLIGATIONS AND OTHER MATTERS

- 5.1 The Minister must:
 - 5.1.1 have regard to the objectives specified in clause 2.1 when considering any requests for approval under this Covenant;
 - 5.1.2 repair and replace to its former condition any Fence or other improvement on the Land or on its boundary which may have been damaged in the course of the Minister, the Director-General's employees or contractors, or any member of the public exercising any of the rights conferred by this Covenant.

6 JOINT OBLIGATIONS

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

7 DURATION OF COVENANT

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

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8 OBLIGATIONS ON DISPOSAL OF LAND

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

9 CONSENTS

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

10 MISCELLANEOUS MATTERS

10.1 Trespass Act

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

10.2 Reserves Act

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

10.3 Registration

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

10.4 Acceptance of Covenant

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

11 DEFAULT

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

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

12 DISPUTE RESOLUTION PROCESSES

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

13 NOTICES

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

14 SPECIAL CONDITIONS

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

Executed as a Deed

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

Witness: _____

Address: _____

Occupation: _____

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

Witness: _____

Address: _____

Occupation: _____

7 NN

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

Witness: _____

Address: _____

Occupation: _____

3 NW

SCHEDULE 1

Description of Land:

South Auckland Land District—Thames-Coromandel District

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

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

Conservation and Reserve Values:

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

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

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

There is remnant kiwi in the area.]

3 NW

SCHEDULE 2

Address for Service

The address for service of the Owner is:

The address for service of the Minister is:

3 NN

SCHEDULE 3

Special Conditions

Recreational facilities

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

Taking of plant material

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

Propagation

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

Removal of rock

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

Plantation trees

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

Fencing

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

Managing public access

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

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Cultural activities

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

(a) consultation with the Department of Conservation; and

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

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**

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Initialling version for presentation to Ngāti Maru for ratification purposes.

DOCUMENTS

5.7: TARARU MAUNGA CONSERVATION COVENANT

5.7 Tararu Maunga conservation covenant

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TARARU MAUNGA CONSERVATION COVENANT

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

THIS DEED of COVENANT is made this day of

BETWEEN NGĀTI MARU RŪNANGA TRUST (the Owner)

AND MINISTER OF CONSERVATION (the Minister)

BACKGROUND

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

OPERATIVE PARTS

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

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1 INTERPRETATION

1.1 In this Covenant unless the context otherwise requires:

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

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

"Fence" includes a gate.

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

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

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

"Working Days" means the period between any one midnight and the next excluding Saturdays, Sundays and statutory holidays in the place where the Land is situated.

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

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

1.1.3 where clauses in this Covenant require further agreement between the parties such agreement must not be unreasonably withheld.

2 OBJECTIVES OF THE COVENANT

2.1 The Land must be managed:

2.1.1 to preserve and protect the Land's Values;

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

3 IMPLEMENTATION OF OBJECTIVES

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

- 3.1.1 grazing of the Land by livestock;
 - 3.1.2 subject to clauses 3.2.1 and 3.2.3 and Schedule 3, felling, removal or damage of any tree, shrub or other plant;
 - 3.1.3 subject to Schedule 3, the planting of any species of exotic tree, shrub or other plant, or any other plant not endemic to and not sourced from the location in which the Land is situated;
 - 3.1.4 the erection of any Fence, building, structure or other improvement for any purpose;
 - 3.1.5 any burning, top dressing, sowing of seed or use of chemicals (whether for spraying or otherwise) except where the use of chemicals is reasonably necessary to control weeds or pests;
 - 3.1.6 subject to Schedule 3, any cultivation, earth works or other soil disturbances;
 - 3.1.7 any archaeological or other scientific research involving disturbance of the soil;
 - 3.1.8 the damming, diverting or taking of Natural Water;
 - 3.1.9 any action which will cause degradation of the natural flow, supply, quantity, or quality of water of any stream, river, lake, pond, marsh, or any other watercourse in or on the Land;
 - 3.1.10 any other activity which might have a more than minor adverse effect on the Land's Values;
 - 3.1.11 any prospecting or mining for minerals, coal or other deposit or moving or removal of rock of any kind on or under the Land; and
 - 3.1.12 the erection of utility transmission lines across the Land.
- 3.2 Subject to the Owner having no obligation to do anything to improve the land beyond its condition at the date of this Covenant, the Owner must take all reasonable steps to maintain the Land, including:
- 3.2.1 eradicating or controlling all weeds and pests on the Land to the extent required by any statute; and, in particular, complying with the provisions of, and any notices given under, the Biosecurity Act 1993 and in so doing the Owner may undertake minor clearance of vegetation;
 - 3.2.2 co-operating with the [Fire Authority] when it is responding to a fire that threatens to burn, or is burning, on the Land and follow the directives of any controlling [Rural Fire Officer] in attendance at the fire regarding fire suppression;
 - 3.2.3 keeping the Land free from exotic tree species;
 - 3.2.4 keeping the Land free from rubbish or other unsightly or offensive material arising from the Owner's use of the Land;

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- 3.2.5 subject to consultation between the Owner and the Minister and observance of any reasonable conditions imposed by the Owner, granting to the Minister or authorised agent of the Minister or any employee of the Director-General, a right of access on to the Land, with or without motor vehicles, machinery, and implements of any kind, to examine and record the condition of the Land, or to carry out protection or maintenance work on the Land, or to ascertain whether the provisions of this Covenant are being observed;
- 3.2.6 keeping all existing Fences on the boundary of the Land in good order and condition and, notwithstanding clause 3.1.4, must rebuild and replace all such Fences when reasonably required except as provided in clause 5.1.2; and
- 3.2.7 complying with all requisite statutes, regulations and bylaws in relation to the Land.

4 PUBLIC ACCESS

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

5 THE MINISTER'S OBLIGATIONS AND OTHER MATTERS

- 5.1 The Minister must:
 - 5.1.1 have regard to the objectives specified in clause 2.1 when considering any requests for approval under this Covenant;
 - 5.1.2 repair and replace to its former condition any Fence or other improvement on the Land or on its boundary which may have been damaged in the course of the Minister, the Director-General's employees or contractors, or any member of the public exercising any of the rights conferred by this Covenant.

6 JOINT OBLIGATIONS

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

7 DURATION OF COVENANT

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

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8 OBLIGATIONS ON DISPOSAL OF LAND

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

9 CONSENTS

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

10 MISCELLANEOUS MATTERS

10.1 Trespass Act

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

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

10.2 Reserves Act

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

10.3 Registration

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

10.4 Acceptance of Covenant

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

11 DEFAULT

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

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

12 DISPUTE RESOLUTION PROCESSES

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

13 NOTICES

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

14 SPECIAL CONDITIONS

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

Executed as a Deed

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

Witness: _____

Address: _____

Occupation: _____

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

Witness: _____

Address: _____

Occupation: _____

3.NN

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

Witness: _____

Address: _____

Occupation: _____

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SCHEDULE 1

Description of Land:

South Auckland Land District—Thames-Coromandel District

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

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

Conservation and Reserve Values:

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

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

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

3 NW

SCHEDULE 2

Address for Service

The address for service of the Owner is:

The address for service of the Minister is:

3 NW

SCHEDULE 3

Special Conditions

Recreational facilities

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

Taking of plant material

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

Propagation

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

Removal of rock

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

Plantation trees

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

Fencing

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

Managing public access

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

7 NW

Cultural activities

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

(a) consultation with the Department of Conservation; and

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

3 NW

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**

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DOCUMENTS

5.8: DICKSON PARK PROPERTY RIGHT OF WAY EASEMENT

5.8 Dickson Park property right of way easement

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Easement Instrument	Dated:	Page of pages
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<p>Signed on behalf of Her Majesty the Queen by</p> <p>acting under a delegation from the Minister of Conservation</p> <p>_____</p> <p>Signature of Grantee</p>	<p>Signed in my presence by the Grantee</p> <p>_____</p> <p><i>Signature of Witness</i></p> <p>Witness Name:</p> <p>Occupation:</p> <p>Address:</p>
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Certified correct for the purposes of the Land Transfer Act 1952

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Solicitor for the Grantee

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



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SCHEDULE A

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

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

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

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Easement Instrument	Dated:	Page of pages
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RIGHTS AND POWERS

1 Rights of way

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

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



Handwritten signature and initials in blue ink.

Easement Instrument	Dated:	Page of pages
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1.7 The public may not light any fires or deposit any rubbish or other materials on the Easement Area.

2 General rights

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

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

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

3 Repair, maintenance, and costs

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

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

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

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

3.5 The Grantor must repair at its cost all damage caused to the track through its negligence or improper actions.

4 Rights of entry

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

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

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



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

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

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

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

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

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

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

5 Default

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

5.1.1 the party not in default may serve on the defaulting party written notice requiring the defaulting party to meet a specific obligation and stating that, after the expiration of 7 working days from service of the notice of default, the other party may meet the obligation:

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

(a) meet the obligation; and

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

5.1.3 the party in default is liable to pay the other party the cost of preparing and serving the default notice and the costs incurred in meeting the obligation:

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

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




Easement Instrument	Dated:	Page of pages
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6 Disputes

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

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

6.1.2 the parties must promptly meet and in good faith try to resolve the dispute using informal dispute resolution techniques, which may include negotiation, mediation, independent expert appraisal, or any other dispute resolution technique that may be agreed by the parties; and

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

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

(b) the arbitration must be conducted by a single arbitrator to be agreed on by the parties or, failing agreement, to be appointed by the President of the New Zealand Law Society.



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

DOCUMENTS

5.9: DANBY FIELD PROPERTY RIGHT OF WAY AND DRAINAGE EASEMENT

5.9 Danby Field property right of way and drainage easement

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

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

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

Grantor

[NGĀTI MARU]

Grantee

THAMES COROMANDEL DISTRICT COUNCIL

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

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

Schedule A

Continue in additional Annexure Schedule, if required

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



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

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

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

The implied rights and powers are hereby **[varied and added to] [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 _____]

NW

2

Annexure Schedule 1

Insert type of instrument

Easement

Dated

Page

1

of

2

Pages

Continue in additional Annexure Schedule, if required.

1. Easement Facility

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

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

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

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

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

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

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

(a) Right of Way (Pedestrian Only)

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

Annexure Schedule 1

Insert type of instrument

Easement

Dated

Page 2 of 2 Pages

Continue in additional Annexure Schedule, if required.

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

4. General

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

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

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

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DOCUMENTS

5.10: TE IPUOMOEHAU CONSERVATION COVENANT

5.10 Te Ipuomoehau conservation covenant

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TE IPUOMOEHAU CONSERVATION COVENANT

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

THIS DEED of COVENANT is made this day of

BETWEEN NGĀTI MARU RŪNANGA TRUST (the Owner)

AND MINISTER OF CONSERVATION (the Minister)

BACKGROUND

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

OPERATIVE PARTS

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

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1 INTERPRETATION

1.1 In this Covenant unless the context otherwise requires:

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

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

“Fence” includes a gate.

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

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

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

“Working Days” means the period between any one midnight and the next excluding Saturdays, Sundays and statutory holidays in the place where the Land is situated.

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

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

1.1.3 where clauses in this Covenant require further agreement between the parties such agreement must not be unreasonably withheld.

2 OBJECTIVES OF THE COVENANT

2.1 The Land must be managed:

2.1.1 to preserve and protect the Land’s Values;

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

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3 IMPLEMENTATION OF OBJECTIVES

- 3.1 Unless agreed in writing by the parties the Owner must not carry out or permit on or in relation to the Land:
- 3.1.1 grazing of the Land by livestock;
 - 3.1.2 subject to clauses 3.2.1 and 3.2.3 and Schedule 3, felling, removal or damage of any tree, shrub or other plant;
 - 3.1.3 subject to Schedule 3, the planting of any species of exotic tree, shrub or other plant, or any other plant not endemic to and not sourced from the location in which the Land is situated;
 - 3.1.4 the erection of any Fence, building, structure or other improvement for any purpose;
 - 3.1.5 any burning, top dressing, sowing of seed or use of chemicals (whether for spraying or otherwise) except where the use of chemicals is reasonably necessary to control weeds or pests;
 - 3.1.6 subject to Schedule 3, any cultivation, earth works or other soil disturbances;
 - 3.1.7 any archaeological or other scientific research involving disturbance of the soil;
 - 3.1.8 the damming, diverting or taking of Natural Water;
 - 3.1.9 any action which will cause degradation of the natural flow, supply, quantity, or quality of water of any stream, river, lake, pond, marsh, or any other watercourse in or on the Land;
 - 3.1.10 any other activity which might have a more than minor adverse effect on the Land's Values;
 - 3.1.11 any prospecting or mining for minerals, coal or other deposit or moving or removal of rock of any kind on or under the Land; and
 - 3.1.12 the erection of utility transmission lines across the Land.
- 3.2 Subject to the Owner having no obligation to do anything to improve the land beyond its condition at the date of this Covenant, the Owner must take all reasonable steps to maintain the Land, including:
- 3.2.1 eradicating or controlling all weeds and pests on the Land to the extent required by any statute; and, in particular, complying with the provisions of, and any notices given under, the Biosecurity Act 1993 and in so doing the Owner may undertake minor clearance of vegetation;
 - 3.2.2 co-operating with the [Fire Authority] when it is responding to a fire that threatens to burn, or is burning, on the Land and follow the directives of any controlling [Rural Fire Officer] in attendance at the fire regarding fire suppression;

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- 3.2.3 keeping the Land free from exotic tree species;
- 3.2.4 keeping the Land free from rubbish or other unsightly or offensive material arising from the Owner's use of the Land;
- 3.2.5 subject to consultation between the Owner and the Minister and observance of any reasonable conditions imposed by the Owner, granting to the Minister or authorised agent of the Minister or any employee of the Director-General, a right of access on to the Land, with or without motor vehicles, machinery, and implements of any kind, to examine and record the condition of the Land, or to carry out protection or maintenance work on the Land, or to ascertain whether the provisions of this Covenant are being observed;
- 3.2.6 keeping all existing Fences on the boundary of the Land in good order and condition and, notwithstanding clause 3.1.4, must rebuild and replace all such Fences when reasonably required except as provided in clause 5.1.2; and
- 3.2.7 complying with all requisite statutes, regulations and bylaws in relation to the Land.

4 PUBLIC ACCESS

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

5 THE MINISTER'S OBLIGATIONS AND OTHER MATTERS

- 5.1 The Minister must:
 - 5.1.1 have regard to the objectives specified in clause 2.1 when considering any requests for approval under this Covenant;
 - 5.1.2 repair and replace to its former condition any Fence or other improvement on the Land or on its boundary which may have been damaged in the course of the Minister, the Director-General's employees or contractors, or any member of the public exercising any of the rights conferred by this Covenant.

6 JOINT OBLIGATIONS

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

7 DURATION OF COVENANT

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



8 OBLIGATIONS ON DISPOSAL OF LAND

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

9 CONSENTS

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

10 MISCELLANEOUS MATTERS

10.1 Trespass Act

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

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

10.2 Reserves Act

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

10.3 Registration

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

10.4 Acceptance of Covenant

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

11 DEFAULT

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

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

12 DISPUTE RESOLUTION PROCESSES

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



13 NOTICES

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

14 SPECIAL CONDITIONS

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

Executed as a Deed

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

Witness: _____

Address: _____

Occupation: _____

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

Witness: _____

Address: _____

Occupation: _____

Handwritten marks

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

Witness: _____

Address: _____

Occupation: _____

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SCHEDULE 1

Description of Land:

South Auckland Land District—Thames-Coromandel District

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

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

Conservation and Reserve Values:

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

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

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

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SCHEDULE 2

Address for Service

The address for service of the Owner is:

The address for service of the Minister is:

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SCHEDULE 3

Special Conditions

Recreational facilities

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

Taking of plant material

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

Propagation

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

Removal of rock

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

Plantation trees

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

Fencing

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

Managing public access

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

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Cultural activities

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

(a) consultation with the Department of Conservation; and

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

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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

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DOCUMENTS

5.11: TE WHAKAIRI CONSERVATION COVENANT

5.11 Te Whakairi conservation covenant

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TE WHAKAIRI CONSERVATION COVENANT

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

THIS DEED of COVENANT is made this day of

BETWEEN NGĀTI MARU RŪNANGA TRUST (the Owner)

AND MINISTER OF CONSERVATION (the Minister)

BACKGROUND

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

OPERATIVE PARTS

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

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1 INTERPRETATION

1.1 In this Covenant unless the context otherwise requires:

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

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

"Fence" includes a gate.

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

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

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

"Working Days" means the period between any one midnight and the next excluding Saturdays, Sundays and statutory holidays in the place where the Land is situated.

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

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

1.1.3 where clauses in this Covenant require further agreement between the parties such agreement must not be unreasonably withheld.

2 OBJECTIVES OF THE COVENANT

2.1 The Land must be managed:

2.1.1 to preserve and protect the Land's Values;

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

3 IMPLEMENTATION OF OBJECTIVES

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

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- 3.1.1 grazing of the Land by livestock;
 - 3.1.2 subject to clauses 3.2.1 and 3.2.3 and Schedule 3, felling, removal or damage of any tree, shrub or other plant;
 - 3.1.3 subject to Schedule 3, the planting of any species of exotic tree, shrub or other plant, or any other plant not endemic to and not sourced from the location in which the Land is situated;
 - 3.1.4 the erection of any Fence, building, structure or other improvement for any purpose;
 - 3.1.5 any burning, top dressing, sowing of seed or use of chemicals (whether for spraying or otherwise) except where the use of chemicals is reasonably necessary to control weeds or pests;
 - 3.1.6 subject to Schedule 3, any cultivation, earth works or other soil disturbances;
 - 3.1.7 any archaeological or other scientific research involving disturbance of the soil;
 - 3.1.8 the damming, diverting or taking of Natural Water;
 - 3.1.9 any action which will cause degradation of the natural flow, supply, quantity, or quality of water of any stream, river, lake, pond, marsh, or any other watercourse in or on the Land;
 - 3.1.10 any other activity which might have a more than minor adverse effect on the Land's Values;
 - 3.1.11 any prospecting or mining for minerals, coal or other deposit or moving or removal of rock of any kind on or under the Land; and
 - 3.1.12 the erection of utility transmission lines across the Land.
- 3.2 Subject to the Owner having no obligation to do anything to improve the land beyond its condition at the date of this Covenant, the Owner must take all reasonable steps to maintain the Land, including:
- 3.2.1 eradicating or controlling all weeds and pests on the Land to the extent required by any statute; and, in particular, complying with the provisions of, and any notices given under, the Biosecurity Act 1993 and in so doing the Owner may undertake minor clearance of vegetation;
 - 3.2.2 co-operating with the [Fire Authority] when it is responding to a fire that threatens to burn, or is burning, on the Land and follow the directives of any controlling [Rural Fire Officer] in attendance at the fire regarding fire suppression;
 - 3.2.3 keeping the Land free from exotic tree species;
 - 3.2.4 keeping the Land free from rubbish or other unsightly or offensive material arising from the Owner's use of the Land;

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- 3.2.5 subject to consultation between the Owner and the Minister and observance of any reasonable conditions imposed by the Owner, granting to the Minister or authorised agent of the Minister or any employee of the Director-General, a right of access on to the Land, with or without motor vehicles, machinery, and implements of any kind, to examine and record the condition of the Land, or to carry out protection or maintenance work on the Land, or to ascertain whether the provisions of this Covenant are being observed;
- 3.2.6 keeping all existing Fences on the boundary of the Land in good order and condition and, notwithstanding clause 3.1.4, must rebuild and replace all such Fences when reasonably required except as provided in clause 5.1.2; and
- 3.2.7 complying with all requisite statutes, regulations and bylaws in relation to the Land.

4 PUBLIC ACCESS

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

5 THE MINISTER'S OBLIGATIONS AND OTHER MATTERS

- 5.1 The Minister must:
 - 5.1.1 have regard to the objectives specified in clause 2.1 when considering any requests for approval under this Covenant;
 - 5.1.2 repair and replace to its former condition any Fence or other improvement on the Land or on its boundary which may have been damaged in the course of the Minister, the Director-General's employees or contractors, or any member of the public exercising any of the rights conferred by this Covenant.

6 JOINT OBLIGATIONS

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

7 DURATION OF COVENANT

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

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8 OBLIGATIONS ON DISPOSAL OF LAND

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

9 CONSENTS

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

10 MISCELLANEOUS MATTERS

10.1 Trespass Act

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

10.2 Reserves Act

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

10.3 Registration

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

10.4 Acceptance of Covenant

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

11 DEFAULT

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

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

12 DISPUTE RESOLUTION PROCESSES

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

12.2 Mediation

- 12.2.1 If the dispute is not capable of resolution by agreement within 14 days of written notice by one party to the other (or such further period as the parties may agree to in writing) either party may refer the dispute to mediation with a mediator agreed between the parties.
- 12.2.2 If the parties do not agree on a mediator, the President of the New Zealand Law Society is to appoint the mediator.

12.3 Failure of Mediation

- 12.3.1 In the event that the matter is not resolved by mediation within 2 months of the date of referral to mediation the parties agree that the provisions in the Arbitration Act 1996 will apply.
- 12.3.2 Notwithstanding anything to the contrary in the Arbitration Act 1996, if the parties do not agree on the person to be appointed as arbitrator, the appointment is to be made by the President of the New Zealand Law Society.
- 12.3.3 The parties further agree that the results of arbitration are to be binding upon the parties.

13 NOTICES

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

14 SPECIAL CONDITIONS

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

Executed as a Deed

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

Witness: _____

Address: _____

Occupation: _____

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

Witness: _____

Address: _____

Occupation: _____

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

Witness: _____

Address: _____

Occupation: _____

7 NW

SCHEDULE 1

Description of Land:

South Auckland Land District—Thames-Coromandel District

All that piece of land containing 66.3 hectares, approximately, being Part Waiwhakaurunga Block. Subject to survey.

As shown on OTS-403-311 and known as Te Whakairi.

Conservation and Reserve Values:

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

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

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

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SCHEDULE 2

Address for Service

The address for service of the Owner is:

The address for service of the Minister is:

NW 3

SCHEDULE 3

Special Conditions

Recreational facilities

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

Taking of plant material

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

Propagation

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

Removal of rock

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

Plantation trees

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

Fencing

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

Managing public access

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

Cultural activities

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

(a) consultation with the Department of Conservation; and

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

NW 7

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

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DOCUMENTS

5.12: PĀNEHENEHE CONSERVATION COVENANT

5.12 Pānehenehe conservation covenant

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PĀNEHENEHE CONSERVATION COVENANT

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

THIS DEED of COVENANT is made this day of

BETWEEN NGĀTI MARU RŪNANGA TRUST (the Owner)

AND MINISTER OF CONSERVATION (the Minister)

BACKGROUND

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

OPERATIVE PARTS

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

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1 INTERPRETATION

1.1 In this Covenant unless the context otherwise requires:

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

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

"Fence" includes a gate.

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

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

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

"Working Days" means the period between any one midnight and the next excluding Saturdays, Sundays and statutory holidays in the place where the Land is situated.

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

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

1.1.3 where clauses in this Covenant require further agreement between the parties such agreement must not be unreasonably withheld.

2 OBJECTIVES OF THE COVENANT

2.1 The Land must be managed:

2.1.1 to preserve and protect the Land's Values;

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

3 IMPLEMENTATION OF OBJECTIVES

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

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- 3.1.1 grazing of the Land by livestock;
 - 3.1.2 subject to clauses 3.2.1 and 3.2.3 and Schedule 3, felling, removal or damage of any tree, shrub or other plant;
 - 3.1.3 subject to Schedule 3, the planting of any species of exotic tree, shrub or other plant, or any other plant not endemic to and not sourced from the location in which the Land is situated;
 - 3.1.4 the erection of any Fence, building, structure or other improvement for any purpose;
 - 3.1.5 any burning, top dressing, sowing of seed or use of chemicals (whether for spraying or otherwise) except where the use of chemicals is reasonably necessary to control weeds or pests;
 - 3.1.6 subject to Schedule 3, any cultivation, earth works or other soil disturbances;
 - 3.1.7 any archaeological or other scientific research involving disturbance of the soil;
 - 3.1.8 the damming, diverting or taking of Natural Water;
 - 3.1.9 any action which will cause degradation of the natural flow, supply, quantity, or quality of water of any stream, river, lake, pond, marsh, or any other watercourse in or on the Land;
 - 3.1.10 any other activity which might have a more than minor adverse effect on the Land's Values;
 - 3.1.11 any prospecting or mining for minerals, coal or other deposit or moving or removal of rock of any kind on or under the Land; and
 - 3.1.12 the erection of utility transmission lines across the Land.
- 3.2 Subject to the Owner having no obligation to do anything to improve the land beyond its condition at the date of this Covenant, the Owner must take all reasonable steps to maintain the Land, including:
- 3.2.1 eradicating or controlling all weeds and pests on the Land to the extent required by any statute; and, in particular, complying with the provisions of, and any notices given under, the Biosecurity Act 1993 and in so doing the Owner may undertake minor clearance of vegetation;
 - 3.2.2 co-operating with the [Fire Authority] when it is responding to a fire that threatens to burn, or is burning, on the Land and follow the directives of any controlling [Rural Fire Officer] in attendance at the fire regarding fire suppression;
 - 3.2.3 keeping the Land free from exotic tree species;
 - 3.2.4 keeping the Land free from rubbish or other unsightly or offensive material arising from the Owner's use of the Land;

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- 3.2.5 subject to consultation between the Owner and the Minister and observance of any reasonable conditions imposed by the Owner, granting to the Minister or authorised agent of the Minister or any employee of the Director-General, a right of access on to the Land, with or without motor vehicles, machinery, and implements of any kind, to examine and record the condition of the Land, or to carry out protection or maintenance work on the Land, or to ascertain whether the provisions of this Covenant are being observed;
- 3.2.6 keeping all existing Fences on the boundary of the Land in good order and condition and, notwithstanding clause 3.1.4, must rebuild and replace all such Fences when reasonably required except as provided in clause 5.1.2; and
- 3.2.7 complying with all requisite statutes, regulations and bylaws in relation to the Land.

4 PUBLIC ACCESS

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

5 THE MINISTER'S OBLIGATIONS AND OTHER MATTERS

- 5.1 The Minister must:
 - 5.1.1 have regard to the objectives specified in clause 2.1 when considering any requests for approval under this Covenant;
 - 5.1.2 repair and replace to its former condition any Fence or other improvement on the Land or on its boundary which may have been damaged in the course of the Minister, the Director-General's employees or contractors, or any member of the public exercising any of the rights conferred by this Covenant.

6 JOINT OBLIGATIONS

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

7 DURATION OF COVENANT

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

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8 OBLIGATIONS ON DISPOSAL OF LAND

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

9 CONSENTS

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

10 MISCELLANEOUS MATTERS

10.1 Trespass Act

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

10.2 Reserves Act

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

10.3 Registration

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

10.4 Acceptance of Covenant

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

11 DEFAULT

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

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

12 DISPUTE RESOLUTION PROCESSES

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

12.2 Mediation

- 12.2.1 If the dispute is not capable of resolution by agreement within 14 days of written notice by one party to the other (or such further period as the parties may agree to in writing) either party may refer the dispute to mediation with a mediator agreed between the parties.
- 12.2.2 If the parties do not agree on a mediator, the President of the New Zealand Law Society is to appoint the mediator.

12.3 Failure of Mediation

- 12.3.1 In the event that the matter is not resolved by mediation within 2 months of the date of referral to mediation the parties agree that the provisions in the Arbitration Act 1996 will apply.
- 12.3.2 Notwithstanding anything to the contrary in the Arbitration Act 1996, if the parties do not agree on the person to be appointed as arbitrator, the appointment is to be made by the President of the New Zealand Law Society.
- 12.3.3 The parties further agree that the results of arbitration are to be binding upon the parties.

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13 NOTICES

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

14 SPECIAL CONDITIONS

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

Executed as a Deed

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

Witness: _____

Address: _____

Occupation: _____

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

Witness: _____

Address: _____

Occupation: _____

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

Witness: _____

Address: _____

Occupation: _____

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SCHEDULE 1

Description of Land:

South Auckland Land District—Thames-Coromandel District

All that piece of land containing 10.5 hectares, approximately, being Part Waiwhakaurunga Block. Subject to survey.

As shown on OTS-403-312 and known as Pānehenehe

Conservation and Reserve Values:

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

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

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

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SCHEDULE 2

Address for Service

The address for service of the Owner is:

The address for service of the Minister is:

11 3

SCHEDULE 3

Special Conditions

Recreational facilities

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

Taking of plant material

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

Propagation

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

Removal of rock

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

Plantation trees

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


Fencing

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

Managing public access

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

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Cultural activities

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

(a) consultation with the Department of Conservation; and

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

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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**

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DOCUMENTS

5.13: MOTUTAPERE CONSERVATION COVENANT

5.13 Motutapere conservation covenant

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MOTUTAPERE CONSERVATION COVENANT

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

THIS DEED of COVENANT is made this day of

BETWEEN NGĀTI MARU RŪNANGA TRUST (the Owner)

AND MINISTER OF CONSERVATION (the Minister)

BACKGROUND

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

OPERATIVE PARTS

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

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1 INTERPRETATION

1.1 In this Covenant unless the context otherwise requires:

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

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

"Fence" includes a gate.

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

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

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

"Working Days" means the period between any one midnight and the next excluding Saturdays, Sundays and statutory holidays in the place where the Land is situated.

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

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

1.1.3 where clauses in this Covenant require further agreement between the parties such agreement must not be unreasonably withheld.

2 OBJECTIVES OF THE COVENANT

2.1 The Land must be managed:

2.1.1 to preserve and protect the Land's Values;

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

3 IMPLEMENTATION OF OBJECTIVES

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

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- 3.1.1 grazing of the Land by livestock;
 - 3.1.2 subject to clauses 3.2.1 and 3.2.3 and Schedule 3, felling, removal or damage of any tree, shrub or other plant;
 - 3.1.3 subject to Schedule 3, the planting of any species of exotic tree, shrub or other plant, or any other plant not endemic to and not sourced from the location in which the Land is situated;
 - 3.1.4 the erection of any Fence, building, structure or other improvement for any purpose;
 - 3.1.5 any burning, top dressing, sowing of seed or use of chemicals (whether for spraying or otherwise) except where the use of chemicals is reasonably necessary to control weeds or pests;
 - 3.1.6 subject to Schedule 3, any cultivation, earth works or other soil disturbances;
 - 3.1.7 any archaeological or other scientific research involving disturbance of the soil;
 - 3.1.8 the damming, diverting or taking of Natural Water;
 - 3.1.9 any action which will cause degradation of the natural flow, supply, quantity, or quality of water of any stream, river, lake, pond, marsh, or any other watercourse in or on the Land;
 - 3.1.10 any other activity which might have a more than minor adverse effect on the Land's Values;
 - 3.1.11 any prospecting or mining for minerals, coal or other deposit or moving or removal of rock of any kind on or under the Land; and
 - 3.1.12 the erection of utility transmission lines across the Land.
- 3.2 Subject to the Owner having no obligation to do anything to improve the land beyond its condition at the date of this Covenant, the Owner must take all reasonable steps to maintain the Land, including:
- 3.2.1 eradicating or controlling all weeds and pests on the Land to the extent required by any statute; and, in particular, complying with the provisions of, and any notices given under, the Biosecurity Act 1993 and in so doing the Owner may undertake minor clearance of vegetation;
 - 3.2.2 co-operating with the [Fire Authority] when it is responding to a fire that threatens to burn, or is burning, on the Land and follow the directives of any controlling [Rural Fire Officer] in attendance at the fire regarding fire suppression;
 - 3.2.3 keeping the Land free from exotic tree species;
 - 3.2.4 keeping the Land free from rubbish or other unsightly or offensive material arising from the Owner's use of the Land;

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- 3.2.5 subject to consultation between the Owner and the Minister and observance of any reasonable conditions imposed by the Owner, granting to the Minister or authorised agent of the Minister or any employee of the Director-General, a right of access on to the Land, with or without motor vehicles, machinery, and implements of any kind, to examine and record the condition of the Land, or to carry out protection or maintenance work on the Land, or to ascertain whether the provisions of this Covenant are being observed;
- 3.2.6 keeping all existing Fences on the boundary of the Land in good order and condition and, notwithstanding clause 3.1.4, must rebuild and replace all such Fences when reasonably required except as provided in clause 5.1.2; and
- 3.2.7 complying with all requisite statutes, regulations and bylaws in relation to the Land.

4 PUBLIC ACCESS

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

- 4.1.1 only access the Land by foot;
- 4.1.2 do not take firearms or animals on the Land; and
- 4.1.3 do not camp on the Land.

5 THE MINISTER'S OBLIGATIONS AND OTHER MATTERS

5.1 The Minister must:

- 5.1.1 have regard to the objectives specified in clause 2.1 when considering any requests for approval under this Covenant;
- 5.1.2 repair and replace to its former condition any Fence or other improvement on the Land or on its boundary which may have been damaged in the course of the Minister, the Director-General's employees or contractors, or any member of the public exercising any of the rights conferred by this Covenant.

6 JOINT OBLIGATIONS

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

7 DURATION OF COVENANT

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

8 OBLIGATIONS ON DISPOSAL OF LAND

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

9 CONSENTS

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

10 MISCELLANEOUS MATTERS

10.1 Trespass Act

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

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

10.2 Reserves Act

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

10.3 Registration

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

10.4 Acceptance of Covenant

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

11 DEFAULT

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

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

12 DISPUTE RESOLUTION PROCESSES

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

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13 NOTICES

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

14 SPECIAL CONDITIONS

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

Executed as a Deed

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

Witness: _____

Address: _____

Occupation: _____

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

Witness: _____

Address: _____

Occupation: _____

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

Witness: _____

Address: _____

Occupation: _____

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SCHEDULE 1

Description of Land:

South Auckland Land District—Thames-Coromandel District

All that piece of land containing 12.3 hectares, approximately, being Part Hihi and Piraunui Block. Subject to survey.

As shown on OTS-403-313 and known as Motutapere.

Conservation and Reserve Values:

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

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

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

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SCHEDULE 2

Address for Service

The address for service of the Owner is:

The address for service of the Minister is:

NW 3

SCHEDULE 3

Special Conditions

Recreational facilities

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

Taking of plant material

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

Propagation

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

Removal of rock

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

Plantation trees

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

Fencing

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

Managing public access

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

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Cultural activities

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

(a) consultation with the Department of Conservation; and

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

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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**

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DOCUMENTS

5.14: MOTUTAPERE RIGHT OF WAY EASEMENT

5.14 Motutapere right of way easement

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

EASEMENT INSTRUMENT
to grant easement

Sections 90A and 90F, Land Transfer Act 1952

Land Registration District

South Auckland

Grantor

Surname must be underlined

[the trustees of Ngāti Maru Settlement Trust]

Grantee

Surname must be underlined

Her Majesty the Queen in Right of New Zealand acting by and through the Minister of Conservation

Grant of easement

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

Dated this

day of

20

ATTESTATION:

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

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


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SCHEDULE A

Easement Instrument	Dated:	Page of pages
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Purpose (nature and extent) of easement	Shown (plan reference)	Servient tenement (Identifier/CT)	Dominant Tenement (identifier CT or in gross)
Right of Way	The 4m strip marked [] on SO [] [currently dotted red on OTS-403-313] The Easement Area	[Part Hihi and Piraunui Block as edged orange on OTS-403-313] The Grantor's Land	In gross

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



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

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Easement Instrument	Dated:	Page of pages
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RIGHTS AND POWERS

1 Rights of way

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

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

Easement Instrument	Dated:	Page of pages
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1.7 The public may not light any fires or deposit any rubbish or other materials on the Easement Area.

2 General rights

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

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

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

3 Repair, maintenance, and costs

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

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

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

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

3.5 The Grantor must repair at its cost all damage caused to the track through its negligence or improper actions.

4 Rights of entry

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

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

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


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

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

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

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

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

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

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

5 Default

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

5.1.1 the party not in default may serve on the defaulting party written notice requiring the defaulting party to meet a specific obligation and stating that, after the expiration of 7 working days from service of the notice of default, the other party may meet the obligation:

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

(a) meet the obligation; and

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

5.1.3 the party in default is liable to pay the other party the cost of preparing and serving the default notice and the costs incurred in meeting the obligation:

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

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


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Easement Instrument	Dated:	Page of pages
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6 Disputes

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

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

6.1.2 the parties must promptly meet and in good faith try to resolve the dispute using informal dispute resolution techniques, which may include negotiation, mediation, independent expert appraisal, or any other dispute resolution technique that may be agreed by the parties; and

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

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

(b) the arbitration must be conducted by a single arbitrator to be agreed on by the parties or, failing agreement, to be appointed by the President of the New Zealand Law Society.

7 Other conditions

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

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

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



DOCUMENTS

5.15: KAITARAKIHI CONSERVATION COVENANT

5.15 Kaitarakihi conservation covenant

KAITARAKIHI CONSERVATION COVENANT

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

THIS DEED of COVENANT is made this day of

BETWEEN NGĀTI MARU RŪNANGA TRUST (the Owner)

AND MINISTER OF CONSERVATION (the Minister)

BACKGROUND

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

OPERATIVE PARTS

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

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1 INTERPRETATION

1.1 In this Covenant unless the context otherwise requires:

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

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

“Fence” includes a gate.

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

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

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

“Working Days” means the period between any one midnight and the next excluding Saturdays, Sundays and statutory holidays in the place where the Land is situated.

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

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

1.1.3 where clauses in this Covenant require further agreement between the parties such agreement must not be unreasonably withheld.

2 OBJECTIVES OF THE COVENANT

2.1 The Land must be managed:

2.1.1 to preserve and protect the Land’s Values;

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

3 IMPLEMENTATION OF OBJECTIVES

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

- 3.1.1 grazing of the Land by livestock;
 - 3.1.2 subject to clauses 3.2.1 and 3.2.3 and Schedule 3, felling, removal or damage of any tree, shrub or other plant;
 - 3.1.3 subject to Schedule 3, the planting of any species of exotic tree, shrub or other plant, or any other plant not endemic to and not sourced from the location in which the Land is situated;
 - 3.1.4 the erection of any Fence, building, structure or other improvement for any purpose;
 - 3.1.5 any burning, top dressing, sowing of seed or use of chemicals (whether for spraying or otherwise) except where the use of chemicals is reasonably necessary to control weeds or pests;
 - 3.1.6 subject to Schedule 3, any cultivation, earth works or other soil disturbances;
 - 3.1.7 any archaeological or other scientific research involving disturbance of the soil;
 - 3.1.8 the damming, diverting or taking of Natural Water;
 - 3.1.9 any action which will cause degradation of the natural flow, supply, quantity, or quality of water of any stream, river, lake, pond, marsh, or any other watercourse in or on the Land;
 - 3.1.10 any other activity which might have a more than minor adverse effect on the Land's Values;
 - 3.1.11 any prospecting or mining for minerals, coal or other deposit or moving or removal of rock of any kind on or under the Land; and
 - 3.1.12 the erection of utility transmission lines across the Land.
- 3.2 Subject to the Owner having no obligation to do anything to improve the land beyond its condition at the date of this Covenant, the Owner must take all reasonable steps to maintain the Land, including:
- 3.2.1 eradicating or controlling all weeds and pests on the Land to the extent required by any statute; and, in particular, complying with the provisions of, and any notices given under, the Biosecurity Act 1993 and in so doing the Owner may undertake minor clearance of vegetation;
 - 3.2.2 co-operating with the [Fire Authority] when it is responding to a fire that threatens to burn, or is burning, on the Land and follow the directives of any controlling [Rural Fire Officer] in attendance at the fire regarding fire suppression;
 - 3.2.3 keeping the Land free from exotic tree species;
 - 3.2.4 keeping the Land free from rubbish or other unsightly or offensive material arising from the Owner's use of the Land;

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- 3.2.5 subject to consultation between the Owner and the Minister and observance of any reasonable conditions imposed by the Owner, granting to the Minister or authorised agent of the Minister or any employee of the Director-General, a right of access on to the Land, with or without motor vehicles, machinery, and implements of any kind, to examine and record the condition of the Land, or to carry out protection or maintenance work on the Land, or to ascertain whether the provisions of this Covenant are being observed;
- 3.2.6 keeping all existing Fences on the boundary of the Land in good order and condition and, notwithstanding clause 3.1.4, must rebuild and replace all such Fences when reasonably required except as provided in clause 5.1.2; and
- 3.2.7 complying with all requisite statutes, regulations and bylaws in relation to the Land.

4 PUBLIC ACCESS

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

5 THE MINISTER'S OBLIGATIONS AND OTHER MATTERS

- 5.1 The Minister must:
 - 5.1.1 have regard to the objectives specified in clause 2.1 when considering any requests for approval under this Covenant;
 - 5.1.2 repair and replace to its former condition any Fence or other improvement on the Land or on its boundary which may have been damaged in the course of the Minister, the Director-General's employees or contractors, or any member of the public exercising any of the rights conferred by this Covenant.

6 JOINT OBLIGATIONS

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

7 DURATION OF COVENANT

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

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8 OBLIGATIONS ON DISPOSAL OF LAND

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

9 CONSENTS

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

10 MISCELLANEOUS MATTERS

10.1 Trespass Act

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

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

10.2 Reserves Act

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

10.3 Registration

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

10.4 Acceptance of Covenant

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

11 DEFAULT

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

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

12 DISPUTE RESOLUTION PROCESSES

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

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13 NOTICES

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

14 SPECIAL CONDITIONS

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

Executed as a Deed

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

Witness: _____

Address: _____

Occupation: _____

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

Witness: _____

Address: _____

Occupation: _____

NW 7

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

Witness: _____

Address: _____

Occupation: _____

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SCHEDULE 1

Description of Land:

South Auckland Land District—Thames-Coromandel District

All that piece of land containing 8.8 hectares, approximately, being Part Hihi and Piraunui Block and Part Taparahi 1. Subject to survey.

As shown on OTS-403-314 and known as Kaitarakihi.

Conservation and Reserve Values:

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

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

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

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SCHEDULE 2

Address for Service

The address for service of the Owner is:

The address for service of the Minister is:

NW

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SCHEDULE 3

Special Conditions

Recreational facilities

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

Taking of plant material

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

Propagation

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

Removal of rock

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

Plantation trees

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

Fencing

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

Managing public access

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

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Cultural activities

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

(a) consultation with the Department of Conservation; and

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

NW 7

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**

NW
3

DOCUMENTS

5.16: KAITARAKIHI RIGHT OF WAY EASEMENT

5.16 Kaitarakihi right of way easement

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Easement Instrument	Dated:	Page of pages
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<p>Signed on behalf of Her Majesty the Queen by</p> <p>acting under a delegation from the Minister of Conservation</p> <p>_____</p> <p>Signature of Grantee</p>	<p>Signed in my presence by the Grantee</p> <p>_____</p> <p><i>Signature of Witness</i></p> <p>Witness Name:</p> <p>Occupation:</p> <p>Address:</p>
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Certified correct for the purposes of the Land Transfer Act 1952

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Solicitor for the Grantee

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

Easement Instrument	Dated:	Page of pages
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Purpose (nature and extent) of easement	Shown (plan reference)	Servient tenement (Identifier/CT)	Dominant Tenement (identifier CT or in gross)
Right of Way	The 4m strip marked [] on SO [] [currently dotted red on OTS-403-314] The Easement Area	[Part Hihi and Piraunui Block and part Taparahi No. 1 as edged orange on OTS-403-314] The Grantor's Land	In gross

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

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



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Easement Instrument	Dated:	Page of pages
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RIGHTS AND POWERS

1 Rights of way

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

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

Easement Instrument	Dated:	Page of pages
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1.7 The public may not light any fires or deposit any rubbish or other materials on the Easement Area.

2 General rights

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

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

2.3 The Grantee may transfer or otherwise assign this easement but only to a Crown body, local authority or other public body that has responsibility for managing public access.

3 Repair, maintenance, and costs

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

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

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

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

3.5 The Grantor must repair at its cost all damage caused to the track through its negligence or improper actions.

4 Rights of entry

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

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

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

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4.1.2 remain on the Grantor's Land for a reasonable time for the sole purpose of completing the necessary work; and

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

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

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

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

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

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

5 Default

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

5.1.1 the party not in default may serve on the defaulting party written notice requiring the defaulting party to meet a specific obligation and stating that, after the expiration of 7 working days from service of the notice of default, the other party may meet the obligation:

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

(a) meet the obligation; and

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

5.1.3 the party in default is liable to pay the other party the cost of preparing and serving the default notice and the costs incurred in meeting the obligation:

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

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

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Easement Instrument	Dated:	Page of pages
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6 Disputes

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

7 Other conditions

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



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

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