

WHANGANUI IWI

and

HER MAJESTY THE QUEEN

in right of New Zealand

**DEED OF ON-ACCOUNT SETTLEMENT
OF HISTORICAL CLAIMS OF WHANGANUI IWI
IN RELATION TO THE WHANGANUI KAITOKE PRISON AND PART OF
THE WHANGANUI FOREST**

31 July 2009

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DEED OF ON-ACCOUNT SETTLEMENT

THIS DEED is made between

WHANGANUI IWI

AND

HER MAJESTY THE QUEEN in right of New Zealand acting by the Minister for Treaty of Waitangi Settlements

BACKGROUND

NEGOTIATIONS

In late 2007, with support from the Crown, Ngāti Apa (North Island) led a consultation process with neighbouring iwi to work through any concerns those groups had with aspects of the Ngāti Apa (North Island) settlement package as contained in the agreement in principle between Ngāti Apa (North Island) and the Crown dated 12 July 2007.

In the course of this consultation process, Ngāti Apa (North Island) engaged with the Southern Whanganui Cluster and Te Runanga o Tupoho, who formed a working party of representatives to engage with Ngāti Apa (North Island) on the redress package set out in the agreement in principle.

On 14 August 2008 Ngāti Apa (North Island) and the working party exchanged letters setting out their respective positions on the issues at hand. In summary, the working party position as outlined in their letter was as follows:

- they accepted and acknowledged that both Ngāti Apa (North Island) and the Whanganui claimants had agreed that the overlapping claim area is between the Whangaehu River and Mōtū Karaka;
- they did not agree to Ngāti Apa (North Island) receiving exclusive redress within the area between the Whangaehu River and Mōtū Karaka unless the Crown gave an assurance that their rights and interests would be upheld and that the Crown also ensured mana whenua rights were sustained and protected within this area, as part of the Whanganui settlement;
- they supported Ngāti Apa (North Island) to settle their historical Treaty claims but wished to ensure that their rights and interests in the area between the Whangaehu River and Mōtū Karaka were protected.

On 21 July 2008, the Associate Minister in Charge of Treaty of Waitangi Negotiations (Hon Mita Ririnui) met with Ngāti Apa (North Island) and the working party to hear their views on any outstanding issues.

On 2 September 2008, the Minister in Charge of Treaty of Waitangi Negotiations, Hon Dr Michael Cullen, wrote to the working party. The key aspects of the Minister's letter were as follows:

- The Minister set out his understanding that the key remaining issues arising through consultation on the agreement in principle were the transfer to Ngāti Apa (North Island) of certain Crown Forest licence lands, the northern part of the Whanganui Forest and the Whanganui Prison.

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- The Minister confirmed that he was willing to enter into a terms of agreement or similar document before the Ngāti Apa (North Island) deed was signed, committing the Crown to enter into an on-account settlement with Whanganui iwi.
- The Minister decided not to amend the Crown's offer to Ngāti Apa (North Island) relating to the amount of land to be offered to Ngāti Apa (North Island) in the Lismore Hill Forest.

AGREEMENTS MADE

On 8 October 2008, the Crown and Ngāti Apa (North Island) entered into the Ngāti Apa deed.

On 14 October 2008, the Crown and the working party entered into a terms of agreement expressing a formal commitment to negotiate the terms of an on-account settlement that would:

- enable the groups represented by the working party to purchase on behalf of Whanganui iwi a half-share in the land under Whanganui Prison being offered to Ngāti Apa (North Island); and
- enable Whanganui iwi to receive half of the rentals associated with the lease over this property; and
- enable the groups represented by the working party to secure on behalf of Whanganui iwi the half of the Whanganui Forest not offered in the Ngāti Apa (North Island) settlement; and
- note that it is the Crown's intention to retain the remaining portions of Lismore Hill Forest and Lismore Sand Forest for a future settlement with Whanganui iwi; and
- note that Whanganui iwi claim strong interests in the Whitiāu Scenic Reserve and intend to seek to negotiate ownership of all or some of that property in the context of its Treaty settlement negotiations.

This deed gives effect to the commitments set out in the terms of agreement.

Notwithstanding this deed, the working party continue to have concerns with the exclusive redress over Lismore Hill Forest given to Ngāti Apa (North Island) under the Ngāti Apa deed.

RATIFICATION

The working party has conducted a ratification process for this deed consisting of:

- distributing the ratification document summarising the deed of on-account settlement and the proposed holding entity, the Pakaitore Trust, to all Whanganui marae; tupuna rohe offices; Waitangi Tribunal Cluster group offices and utilising the beneficiary roll of the Whanganui River Māori Trust Board; and

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- publicly notifying Whanganui iwi by newspaper advertisement, radio announcements and pānui of the place, date, time and purpose of the information/voting hui for this deed;
- holding five information/voting hui focused in the Whanganui region to communicate the deed to Whanganui iwi and providing Whanganui iwi members the opportunity to discuss and vote to ratify the deed and proposed holding entity; and
- a special voting process by postal ballot for those unable to attend the information and voting hui.

Whanganui iwi by virtue of a majority of 96.19% of the valid votes cast by eligible members of Whanganui iwi at the information and voting hui and through the associated special voting process have:

- ratified this deed of on-account settlement and the proposed holding entity, including amendments to the proposed holding entity's Trust Order; and
- granted the working party the right to sign this deed on behalf of Whanganui iwi.

The Crown is satisfied that the Pakaitore Trust is the appropriate holding entity to receive the on-account redress on behalf of Whanganui iwi.

ENTRY INTO THIS DEED

Whanganui iwi and the Crown have negotiated the on-account settlement envisaged by the terms of agreement and, accordingly, wish in a spirit of co-operation and compromise to enter, in good faith, into this deed providing for the transfer of assets on account of the settlement of the Whanganui iwi historical claims.

1: SCOPE AND NATURE OF SETTLEMENT

THIS DEED IS AN ON-ACCOUNT SETTLEMENT OF WHANGANUI IWI HISTORICAL CLAIMS

- 1.1 Whanganui iwi and the Crown agree that this deed is an on-account settlement of the Whanganui iwi historical claims and that those claims and any claims relating to the Whanganui River are not settled by this deed.
- 1.2 Whanganui iwi and the Crown agree that the value of the transfer of assets under this deed will be taken into account when the Crown makes an offer of redress for the final settlement of the Whanganui iwi historical claims.
- 1.3 This deed does not bind Whanganui iwi or operate as a precedent in respect of the nature or composition of the group or groups with which the Crown may negotiate any future settlement of the Whanganui iwi historical claims.
- 1.4 For the purposes of clauses 1.2-1.3:
 - 1.4.1 the value to Whanganui iwi of the transfer of the trustees' interest in the Whanganui Prison is the amount established under the Ngāti Apa deed (as amended to give effect to this deed); and
 - 1.4.2 the value to Whanganui iwi of the transfer of the northern part of the Whanganui Forest is the value agreed or determined under the valuation process specified in parts 1 and 2 of the schedule.

ACKNOWLEDGEMENTS BY WHANGANUI IWI CONCERNING THE SETTLEMENT

- 1.5 Whanganui iwi acknowledge that this deed provides assets that will be of benefit to the well-being and future development of Whanganui iwi and that are of benefit to Whanganui iwi as provided in the order establishing the Pakaitore Trust.

ABORIGINAL TITLE AND CUSTOMARY RIGHTS NOT AFFECTED BY SETTLEMENT

- 1.6 Whanganui iwi and the Crown acknowledge that:
 - 1.6.1 nothing in this deed extinguishes any aboriginal title or customary rights that Whanganui iwi may have, or constitutes or implied any acknowledgement or acceptance by the Crown that such title or rights exist either generally or in any particular case, but this clause does not limit clause 1.1; and
 - 1.6.2 this settlement is not intended:

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- (a) to prevent Whanganui iwi from pursuing claims against the Crown (including claims based on aboriginal title or customary rights); or
- (b) to prevent the Crown from disputing the claims in (a) above or the existence of aboriginal title or customary rights.

2: TRANSFER OF WHANGANUI PRISON

PRE-CONDITIONS TO TRANSFER

2.1 Clause 2.3 applies if:

2.1.1 within 4 months after the date of this deed:

- (a) the Ngāti Apa governance entity and the Crown enter into a deed (**amending deed**) which provides that:
 - (i) the Ngāti Apa deed is to allow the transfer to the trustees of the trustees' interest in Whanganui Prison if the Ngāti Apa governance entity gives notice under clause 7.28.2 of the Ngāti Apa deed;
 - (ii) the lease of the Whanganui Prison to be granted under clauses 7.33 and 7.34 of the Ngāti Apa deed is amended to allow for notices to be given and received by a single authorised person, and rent and other obligations to be paid in specified shares to separate accounts for each of the owners of the fee simple estate in the Whanganui Prison; and
 - (iii) the trustees accept the obligations under clause 7.33 and 7.34 of the Ngāti Apa deed in respect of the Whanganui Prison (obligation to grant lease to the Crown); and
- (b) the working party notifies the Minister for Treaty of Waitangi Negotiations that the working party is satisfied with the terms of the lease referred to in clause 2.1.1(a)(ii);

2.1.2 the Ngāti Apa governance entity gives notice under clause 7.28.2 of the Ngāti Apa deed in respect of the Whanganui Prison; and

2.1.3 Tracey Waitokia, project manager of the working party, on behalf of the Whanganui iwi, approves the provisions of the amending deed insofar as they relate to clause 2.1.1(a).

2.2 For the avoidance of doubt, clause 2.3 is also conditional on this deed becoming unconditional under clause 6.

TRANSFER

2.3 The Crown must transfer the trustees' interest in the Whanganui Prison to the trustees, on the terms set out in part 7 of the Ngāti Apa deed as amended under

clause 2.1.1(a)(i) if the working party gives notice under clause 7.28A of the Ngāti Apa deed that it elects that the trustees acquire the trustees' interest in the Whanganui Prison. The obligations of the working party and the trustees under the Ngāti Apa deed are binding as if the working party and the trustees were parties to the Ngāti Apa deed.

TERMINATION OF OBLIGATIONS

- 2.4 All obligations of the Crown under clause 2.3 immediately cease if:
- 2.4.1 the Crown's obligation ceases in respect of the Whanganui Prison under clause 7.31 of the Ngāti Apa deed; or
 - 2.4.2 the agreement in respect of the Whanganui Prison constituted under clause 7.30A of the Ngāti Apa deed is cancelled under paragraph 11 of part 22A of the schedule to the Ngāti Apa deed (cancellation for failure to settle).

NGĀTI APA (NORTH ISLAND) DECISION

- 2.5 The Crown must notify the working party and the trustees as soon as it is practically possible, of the decision made by the Ngāti Apa governance entity to exercise its right to acquire the Whanganui Prison under clause 7.28.2 of the Ngāti Apa deed.
- 2.6 If clause 7.31 of the Ngāti Apa deed applies, the Crown agrees to retain the Whanganui Prison in Crown ownership until the Crown enters into a deed settling the Whanganui iwi historical claims.

ENABLING LEGISLATION

- 2.7 The enabling legislation will apply, with any necessary modifications, the provisions required to be included in the Ngāti Apa legislation by clause 7.40 of the Ngāti Apa deed (various provisions facilitating transfer of interest) to the trustees' interest in the Whanganui Prison.

3: TRANSFER OF PART OF THE WHANGANUI FOREST

NOTIFICATION OF INTEREST

- 3.1 The Crown must give the working party a copy of a notice given by the Ngāti Apa governance entity under clause 7.28.2 of the Ngāti Apa deed in respect of the Ngāti Apa Whanganui Forest, during the period of 5 business days commencing on the date the Crown receives the notice.
- 3.1A The working party may at any time before the expiry of the notice period specified in clause 3.2 give notice to the Ministry of Agriculture and Forestry that it wishes to negotiate the terms of the forestry right. Immediately on receipt of this notice the working party and the Ministry of Agriculture and Forestry must commence negotiations with the purpose to sign, by the expiry of the notice period specified in clause 3.2, an agreement settling the terms of the forestry right (except for the rental which is to be agreed or determined under part 2 of the schedule). The parties will have regard to terms generally contained in forestry rights of a similar nature.
- 3.2 The working party may, at any time during the period of 30 business days that commences on the date of receipt by the working party of the copy of the notice under clause 3.1, give notice to the Crown that they are interested in the trustees acquiring, on behalf of Whanganui iwi, either the northern part of the Whanganui Forest (including trees) or the northern part of the Whanganui Forest (excluding trees), provided that the working party may only give a notice of interest in the northern part of the Whanganui Forest (excluding trees) if the terms of the forestry right have been agreed by the date the notice is given.
- 3.2A For the avoidance of doubt:
- (a) if the working party gives notice under clause 3.2 that it is interested in the trustees acquiring the northern part of the Whanganui Forest (excluding trees) the working party may not give notice that it is interested in the trustees acquiring the northern part of the Whanganui Forest (including trees) and vice versa; and
 - (b) negotiations relating to the forestry right under clause 3.1A will cease immediately if the working party gives notice under clause 3.2 that it is interested in the trustees acquiring the northern part of the Whanganui Forest (including trees).

VALUATION AND ELECTION TO PURCHASE

- 3.3 If the working party gives notice in accordance with clause 3.2 that it is interested in the trustees acquiring the northern part of the Whanganui Forest:
- 3.3.1 the value of the northern part of the Whanganui Forest must be determined or agreed in accordance with the valuation process; and
 - 3.3.2 the working party must notify the Crown whether or not it elects that the trustees acquire the northern part of the Whanganui Forest within 30 business days of the date the value is determined or agreed in accordance with the valuation process.
- 3.4 The working party and the Crown must use reasonable endeavours:
- 3.4.1 to ensure the valuation process operates in the manner, and within the timeframes, specified in parts 1 and 2 of the schedule; and
 - 3.4.2 if the valuation process is delayed, to minimise the delay.

TERMS OF TRANSFER

- 3.5 If the working party gives notice in accordance with clause 3.3.2 that it elects that the trustees acquire the northern part of the Whanganui Forest the trustees and the Crown shall be deemed to have entered into an agreement for the transfer of the northern part of the Whanganui Forest on the terms set out in parts 1 and 2 of the schedule.
- 3.6 If the working party gives the notice referred to in clause 3.5 in respect of the northern part of the Whanganui Forest (excluding trees), the trustees and the Crown must, by or on the Whanganui Forest transfer date, sign the forestry right at the commencement rent established under the valuation process and providing that the commencement date for the right is the Whanganui Forest transfer date.

TERMINATION OF OBLIGATIONS

- 3.7 All obligations of the Crown under this deed in relation to the northern part of the Whanganui Forest immediately cease if:
- 3.7.1 the Crown's obligations cease in respect of the Ngāti Apa Whanganui Forest under clause 7.31 of the Ngāti Apa deed;
 - 3.7.2 the agreement in respect of the Ngāti Apa Whanganui Forest constituted under clause 7.30 of the Ngāti Apa deed is cancelled under paragraph 11 of part 22 of the schedule to the Ngāti Apa deed (cancellation for failure to settle);
 - 3.7.3 the working party does not give notice in accordance with clause 3.2 that it is interested in the trustees acquiring the northern part of the Whanganui Forest;

- 3.7.4 after giving notice in accordance with clause 3.2 that it is interested in the trustees acquiring the northern part of the Whanganui Forest, the working party:
- (a) does not notify the Crown in accordance with clause 3.3.2 whether or not it elects that the trustees acquire the northern part of the Whanganui Forest; or
 - (b) notifies the Crown under clause 3.3.2 that it does not elect that the trustees acquire the northern part of the Whanganui Forest; or
- 3.7.5 at any time before an agreement is constituted under clause 3.5, the working party notifies the Crown that it is not interested in the trustees acquiring the northern part of the Whanganui Forest.

Time limits

- 3.8 Time is of the essence for the time limits imposed on the Crown and the working party under clauses 3.1-3.7 and parts 1 and 2 of the schedule.

ENABLING LEGISLATION

- 3.9 The enabling legislation will:
- 3.9.1 provide that on the Whanganui Forest transfer date the northern part of the Whanganui Forest ceases to be Crown forest land and any Crown forestry assets associated with that land cease to be Crown forestry assets;
 - 3.9.2 apply the provisions required to be included in the Ngāti Apa legislation by clause 7.39 of the Ngāti Apa deed (access to wahi tapu sites) to the northern part of the Whanganui Forest;
 - 3.9.3 apply the provisions required to be included in the Ngāti Apa legislation by clause 7.40 of the Ngāti Apa deed (various provisions facilitating transfer of interest) to the northern part of the Whanganui Forest; and
 - 3.9.4 provide that clauses 3.9.1 and 3.9.2 lapse if the Crown's obligations cease under clause 3.7.

NGĀTI APA (NORTH ISLAND) DECISION

- 3.10 The Crown must notify the working party and the trustees as soon as it is practically possible, of the decision made by the Ngāti Apa governance entity to exercise its right to acquire the Ngāti Apa Whanganui Forest under the Ngāti Apa deed.
- 3.11 If clause 7.31 of the Ngāti Apa deed applies, the Crown agrees to retain the northern part of the Whanganui Forest and the Ngāti Apa Whanganui Forest in Crown

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ownership until the Crown enters into a deed settling the Whanganui iwi historical claims.

4: OTHER MATTERS

RETENTION OF OTHER FORESTS

- 4.1 The Crown confirms that it will retain the balance of Lismore Hill Forest and Lismore Sand Forest not transferred to Ngāti Apa (North Island) under the Ngāti Apa deed until the Crown enters into a deed settling the Whanganui iwi historical claims.

WHITIAU SCENIC RESERVE

- 4.2 The Whanganui iwi confirm their claim of a strong interest in the balance of the Whitiāu Scenic Reserve not transferred to Ngāti Apa (North Island) under the Ngāti Apa deed and that they intend to seek ownership of all or part of the balance in the negotiations for the settlement of the Whanganui iwi historical claims. The Crown confirms that it will retain the balance of the Whitiāu Scenic Reserve not transferred to Ngāti Apa (North Island) under the Ngāti Apa deed until the Crown enters into a deed settling the Whanganui iwi historical claims.

USE OF “WHANGANUI”

- 4.3 The Crown records that the use of “Whanganui” in this deed does not represent the Crown’s view on the outcome of the application to the New Zealand Geographic Board in relation to the name of the city.
- 4.4 The Crown will explore options to alter the official name of Wanganui Kaitoke Prison to the Whanganui Kaitoke Prison.

5: ENABLING LEGISLATION

- 5.1 The Crown must propose the enabling legislation for introduction to the House of Representatives within 3 months after the date on which the amending deed is entered into.
- 5.2 The enabling legislation proposed for introduction:
 - 5.2.1 must include the matters required under parts 2 and 3;
 - 5.2.2 may be included as part of the settlement legislation under the Ngāti Apa deed;
and
 - 5.2.3 must be in a form that is satisfactory to the working party, the trustees and the Crown.

6: CONDITIONS AND TERMINATION

THIS DEED AND THE SETTLEMENT ARE CONDITIONAL

- 6.1 This deed is conditional on:
- 6.1.1 the enabling legislation coming into force; and
 - 6.1.2 the Ngāti Apa deed becoming unconditional.

THIS DEED WITHOUT PREJUDICE UNTIL UNCONDITIONAL

- 6.2 This deed, until it becomes unconditional:
- 6.2.1 is entered into on a “without prejudice” basis; and
 - 6.2.2 in particular, may not be used as evidence in any proceedings before, or presented to, a court, tribunal (including the Waitangi Tribunal), or other judicial body.
- 6.3 Clause 6.2 does not exclude any jurisdiction of a court, tribunal, or other judicial body in respect of the interpretation or enforcement of this deed.

TERMINATION OF THIS DEED

- 6.4 The Crown or the working party may terminate this deed, by notice to the other, if the enabling legislation and the settlement legislation under the Ngāti Apa deed have not come into force within 18 months after the date of this deed.
- 6.5 If this deed is terminated:
- 6.5.1 it, will be at an end; and
 - 6.5.2 no person will have any rights or obligations under it, except that the rights and obligations under clause 6.2 continue.

7: MISCELLANEOUS

NOTICES

7.1 Unless otherwise provided in this deed the provisions of clause 7.2 apply to notices under this deed to or by:

7.1.1 the working party;

7.1.2 the trustees; or

7.1.3 the Crown.

7.2 The following provisions apply to notices referred to in clause 7.1:

Notices to be signed

7.2.1 the person giving the notice must sign it but, where the person is a trustee, a minimum of two of the trustees must sign it); and

Notices to be in writing

7.2.2 the notice must be in writing addressed to the recipient at its address or facsimile number; and

Addresses and facsimile numbers of working party, trustees and the Crown

7.2.3 the address and facsimile number of the working party, the trustees, and the Crown are as provided in part 5 of the schedule; and

Change of address or facsimile number

7.2.4 the address or facsimile of the working party, the trustees or the Crown may be changed by notice of one party to the others; and

Delivery

7.2.5 delivery of a notice may be made:

(a) by hand to the recipient's address; or

(b) by posting an envelope with pre-paid postage addressed to the recipient's address; or

(c) by facsimile to the facsimile number of the recipient; and

Timing of delivery

7.2.6 a notice delivered:

- (a) by hand will be treated as having been received at the time of delivery; or
- (b) by pre-paid post will be treated as having been received on the second day after posting; or
- (c) by facsimile will be treated as having been received on the day of transmission; and

Deemed date of delivery

7.2.7 if a notice is treated as having been received on a day that is not a business day, or after 5pm on a business day, that notice is (despite clause 7.2.6) to be treated as having been received the next business day.

AMENDMENT

7.3 This deed may be amended only by a written amendment signed by the working party and the Crown.

ENTIRE AGREEMENT

7.4 This deed:

7.4.1 constitutes the entire agreement in relation to the matters in it; and

7.4.2 supersedes all earlier negotiations, representations, warranties, understandings and agreements in relation to the matters in it including the terms of negotiation referred to in the Background section of this deed.

NO WAIVER OR ASSIGNMENT

7.5 Except as provided in this deed:

7.5.1 a failure, delay, or indulgence in exercising a right or power under this deed, does not operate as a waiver of that right or power; and

7.5.2 a single, or partial, exercise of a right or power under this deed, does not preclude:

- (a) a further exercise of that right or power; or
- (b) the exercise of another right or power; and

7.5.3 a person may not transfer or assign a right or obligation under this deed.

8: DEFINITIONS AND INTERPRETATION

OTHER DEFINED TERMS

8.1 In this deed, unless the context requires otherwise:

amending deed has the meaning given to it in clause 2.1;

business day means the period of 9am to 5pm on any day other than:

- (a) Saturday, Sunday, Good Friday, Easter Monday, Anzac Day, the Sovereign's Birthday, Labour Day, and Waitangi Day;
- (b) a day in the period commencing with 25 December in any year and ending with the close of 15 January in the following year; and
- (c) the day observed as the anniversaries of the province of Wellington;

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

Crown forest assets has the meaning given to it in section 2(1) of the Crown Forest Assets Act 1989;

Crown forest land has the meaning given to it in section 2(1) of the Crown Forest Assets Act 1989;

date of this deed means the date this deed is signed by the Crown and the working party;

deed means this deed of on-account settlement between the working party on behalf of Whanganui iwi and the Crown, and that deed as amended from time to time;

enabling legislation means:

- (a) the bill proposed by the Crown for introduction to the House of Representatives referred to in clause 5.1; and
- (b) if the bill is passed, the resulting Act;

forestry right means the forestry right in respect of the northern part of the Whanganui Forest (excluding trees) to be entered into under clause 3.6;

Ngāti Apa agreement in principle means the agreement in principle between Ngāti Apa (North island) and the Crown dated 12 July 2007;

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Ngāti Apa deed means the deed of settlement of historical claims between Ngāti Apa (North Island) and the Crown dated 8 October 2008, and that deed as amended from time to time;

Ngāti Apa governance entity means the governance entity established under the Ngāti Apa deed;

Ngāti Apa legislation means the settlement legislation under the Ngāti Apa deed;

Ngāti Apa (North Island) has the meaning given to it in the Ngāti Apa deed;

Ngāti Apa settlement date means the settlement date under the Ngāti Apa deed;

Ngāti Apa Whanganui Forest means the property described as such in part 18 of the schedule to the Ngāti Apa deed;

northern part of the Whanganui Forest means either the northern part of the Whanganui Forest (including trees) or the northern part of the Whanganui Forest (excluding trees) as the case may be;

northern part of the Whanganui Forest (excluding trees) means the property described as such in part 4 of the schedule but excludes all trees growing, standing or lying on that land;

northern part of the Whanganui Forest (including trees) means the property described as such in part 4 of the schedule;

Pakaitore Trust means the whenua topu trust established by an order of the Maori Land Court dated 28 February 2007 (court reference 183AOT17-29) as amended by order of the Maori Land Court dated 21 July 2009;

schedule means the schedule to this deed;

trustees means the trustees of the Pakaitore Trust in their capacity as trustees of the Pakaitore Trust;

trustees' interest in the Whanganui Prison means an undivided half share as tenant in common in the fee simple estate in the Whanganui Prison;

value, in respect of the northern part of the Whanganui Forest, means the amount agreed or determined under the valuation process;

valuation process means the process specified in parts 1 and 2 of the schedule;

Whanganui Forest transfer date means the later of:

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- (a) 30 business days after the date on which the working party gives notice in accordance with clause 3.3.2 that it elects that the trustees acquire the northern part of the Whanganui Forest; or
- (b) the actual deferred selection settlement date for the Ngāti Apa Whanganui Forest under the Ngāti Apa deed;

Whanganui Prison means the property described as such in part 4 of the schedule;

Whanganui iwi means ngā uri o Te Awa Tupua o Whanganui including all descendants of the Tupuna Rohe o Whanganui;

Whanganui iwi historical claims means every claim, whether or not the claim has arisen or been considered, researched, registered, notified or made by or on the date this deed becomes unconditional under clause 6.1, that Whanganui iwi had at, or at any time before, that date, or may have at any time after that date and that:

- (a) is, or is founded on, a right arising:
 - (i) from Te Tiriti o Waitangi/the Treaty of Waitangi or its principles;
 - (ii) under legislation;
 - (iii) at common law (including in relation to aboriginal title or customary law);
 - (iv) from a fiduciary duty or otherwise; and
- (b) arises from or relates to acts or omissions before 21 September 1992:
 - (i) by or on behalf of the Crown; or
 - (ii) by or under legislation; and
- (c) but does not include claims relating to the Whanganui River; and

working party means the working party of representatives of the Southern Whanganui Cluster and Te Runanga o Tupoho formed to engage with Ngāti Apa (North Island) on the redress package set out in the Ngāti Apa agreement in principle in order to protect the interests of Whanganui iwi.

INTERPRETATION

8.2 In the interpretation of this deed, unless the context otherwise requires:

DEED OF ON-ACCOUNT OF SETTLEMENT

- 8.2.1 headings appear as a matter of convenience and do not affect the interpretation of this deed; and
- 8.2.2 defined terms have the meanings given to them by this deed; and
- 8.2.3 where a word or expression is defined in this deed, any other part of speech or grammatical form of that word or expression has a corresponding meaning; and
- 8.2.4 the singular includes the plural and vice versa; and
- 8.2.5 a word importing one gender includes the other genders; and
- 8.2.6 a reference to a clause, part, schedule, or attachment is to a clause, part, schedule, or attachment of or to this deed; and
- 8.2.7 a reference in a schedule to a paragraph means a paragraph in that schedule; and
- 8.2.8 a reference to legislation includes a reference to that legislation as amended, consolidated, or substituted; and
- 8.2.9 a reference to a party in this deed, or in any other document or agreement under this deed, includes that party's permitted successors; and
- 8.2.10 an agreement on the part of two or more persons binds each of them jointly and severally; and
- 8.2.11 a reference to a document or agreement, including this deed, includes a reference to that document or agreement as amended, novated, or replaced from time to time; and
- 8.2.12 a reference to a monetary amount is to New Zealand currency; and
- 8.2.13 a reference to written or in writing includes all modes of presenting or reproducing words, figures, and symbols in a tangible and permanently visible form; and
- 8.2.14 a reference to a person includes a corporation sole and a body of persons, whether corporate or unincorporate; and
- 8.2.15 a reference to the Crown endeavouring to do something or to achieve some result means reasonable endeavours to do that thing or achieve that result but, in particular, does not oblige the Crown or the Government of New Zealand to propose for introduction to the House of Representatives any legislation, except if this deed requires the Crown to introduce legislation; and

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- 8.2.16 if a clause includes a preamble, that preamble is intended to set out the background to, and intention of, the clause, but is not to affect its interpretation; and
- 8.2.17 in the event of a conflict between a provision in the main body of this deed (namely, any part of this deed except the schedule or an attachment) and the schedule or an attachment, then the provision in the main body of this deed prevails; and
- 8.2.18 a reference to a document as set out in, or on the terms and conditions contained in, the schedule or any attachment includes that document with such amendments as may be agreed in writing between the working party and the Crown; and
- 8.2.19 a reference to a date on or by which something must be done includes any other date that may be agreed in writing between the working party and the Crown; and
- 8.2.20 where something is required to be done by or on a day which is not a business day, that thing must be done on the next business day after that day; and
- 8.2.21 a reference to time is to New Zealand time; and
- 8.2.22 reference to a particular Minister includes any Minister who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of the relevant legislation or matter.

DEED OF ON-ACCOUNT OF SETTLEMENT

EXECUTION

Executed on

Signed for and on behalf of **Her Majesty the Queen** in right of New Zealand by the Minister for Treaty of Waitangi Negotiations

C. J. Finlayson
.....
Hon Christopher Finlayson

Signed in the presence of

Witness: *John Harbord*

.....
John Harbord
.....

Name

Adviser
.....

Occupation


Wellington
.....

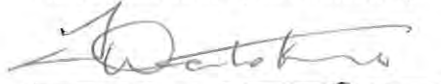
Address

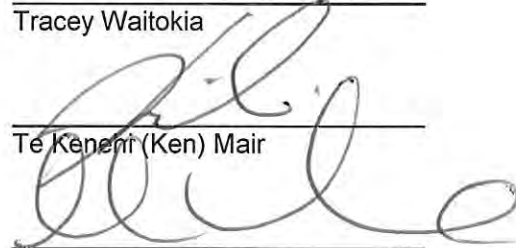
DEED OF ON-ACCOUNT OF SETTLEMENT

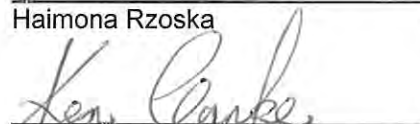
SIGNED for and on behalf of **WHANGANUI IWI** by the members of the working party of representatives of the Southern Whanganui Cluster and Te Runanga o Tupoho

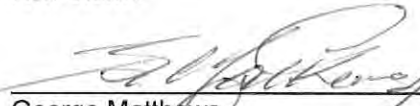

Mal Rerekura (Co-Convener)



Hone Tamehana (Co-Convener)

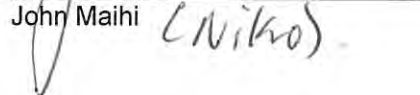

Tracey Waitokia


Te Kenehi (Ken) Mair


Haimona Rzoska


Ken Clarke


George Matthews



John Maihi (Nikro)

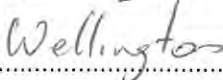
Signed in the presence of

Witness: 

.....

.....
Name


.....
Occupation


.....
Address

DEED OF ON-ACCOUNT OF SETTLEMENT

Other witnesses / people of Whanganui iwi signed below to indicate their support for the settlement.

Jeanne Nekoma - Maxwell
Milly Hioe

Bernadine PATEA

Sharon Tappin

Lesley Peowie

Robert Wayne Lobb (Pakaitore Trust trustee)

D. Mete Kingi Mero - Trustee - Pakaitore Trust

John Geoffrey Marin - Pakaitore Trust

Maiwano Waitai - PAKAITORE TRUST

Merania Korawia - Pakaitore Trust

SCHEDULE

PART 1
INTERPRETATION PROVISIONS FOR VALUATION PROCESS
AND TERMS OF TRANSFER

DEFINITIONS

- 1.1 In clauses 3.1-3.7 and in parts 1-3 of this schedule, unless the context otherwise requires:
- arbitration commencement date** means the date the Crown makes the referral to arbitration referred to in paragraph 8.1 of part 2;
- arbitrator** means a person appointed under paragraphs 4.3 or 4.4 of part 2;
- commencement rent** means the initial rent payable under the forestry right;
- Crown's valuation report** means the valuation report prepared by the Crown's valuer in accordance with part 2;
- Crown's valuer** means a registered valuer appointed by the Crown to take part in the valuation process;
- disclosure information** means the information disclosed under paragraph 2.1 of part 2;
- encumbrances** means all leases, tenancies, licences to occupy, easements, covenants and other rights affecting the northern part of the Whanganui Forest;
- land holding agency** means the Ministry of Agriculture and Forestry;
- market rental** is the amount, exclusive of GST and expressed as annual payment, at which the northern part of the Whanganui Forest (excluding trees) would lease subject to the terms of the forestry right, between a willing lessor and a willing lessee, in an arms length transaction, after proper marketing, if the parties to the transaction had each acted knowledgeably, prudently, and without compulsion. In applying this definition to the northern part of the Whanganui Forest (excluding trees), the following matters (in addition to all other relevant factors) must be taken into account:
- (a) the terms of transfer; and

(b) the encumbrances affecting or benefiting that property;

market value is the amount, exclusive of GST, for which the northern part of the Whanganui Forest might be expected to exchange on the valuation date, between a willing buyer and a willing seller, in an arm's length transaction, after proper marketing, if the parties to the transaction had each acted knowledgeably, prudently and without compulsion. In applying this definition to the northern part of the Whanganui Forest, the following matters (in addition to all other relevant factors) must be taken into account:

- (a) the terms of transfer, but assuming market value is to be paid in exchange for the transfer; and
- (b) the encumbrances affecting or benefiting the northern part of the Whanganui Forest;

notification date means the date the working party gives the Crown notice under clause 3.1 that it is interested in the trustees acquiring the northern part of the Whanganui Forest;

registered valuer means a valuer registered with the Valuers' Registration Board of New Zealand and with experience in the valuation of properties similar to the northern part of the Whanganui Forest;

terms of transfer means the terms of transfer set out in part 3;

valuation date has the meaning given to it in paragraph 3 of part 2;

valuation exchange date has the meaning set out in paragraph 5.3 of part 2;

value has the meaning given to it in clause 8.1;

working party's valuation report means the valuation report prepared by the working party in accordance with part 2;

working party's valuer means a registered valuer appointed by the working party to take part in the valuation process;

and references to parts are to parts of this schedule.

NOTICE

- 1.2 Until any other address or facsimile number of the land holding agency is given by notice to the trustees, the address of the land holding agency is as set out in parts 2 and 3 of this schedule.

Ministry of Agriculture and Forestry

Chief Executive and Director General
Ministry of Agriculture and Forestry
PO Box 2526
WELLINGTON

Facsimile: 04 894 0720

PART 2 VALUATION PROCESS

1 APPLICATION OF THIS PART

- 1.1 This part 2 applies if the value of the northern part of the Whanganui Forest is to be determined or agreed under this part pursuant to clause 3.3.1.

2 DISCLOSURE

- 2.1 The land holding agency will, within 10 business days of the Crown being given notice by the working party under clause 3.2 that the working party is interested in the trustees acquiring the northern part of the Whanganui Forest, give the working party and the trustees all material information that relates to the northern part of the Whanganui Forest that the land holding agency is aware of. The date the working party gives the land holding agency notice under clause 3.2 is the "**notification date**".
- 2.2 The information that the land holding agency gives under paragraph 2.1 will include all encumbrances of which the land holding agency is aware that affect or benefit the northern part of the Whanganui Forest.

3 VALUATION DATE

- 3.1 The **valuation date** will be as at the notification date.

4 APPOINTMENT OF VALUERS AND ARBITRATOR

- 4.1 No later than 5 business days after the notification date, the working party and the land holding agency must each:
- 4.1.1 appoint a registered valuer;
 - 4.1.2 instruct the registered valuer to assess the market value of the northern part of the Whanganui Forest and its market rental in respect of the northern part of the Whanganui Forest (excluding trees) in accordance with this part 2; and
 - 4.1.3 notify each other of the identity of the registered valuer.
- 4.2 The Crown and the working party must ensure that the terms of appointment of their registered valuers require them to participate in the valuation process.

- 4.3 The Crown and the working party must endeavour to agree on and appoint a person who is suitably qualified and experienced in determining disputes about the value and rental of assets similar to the northern part of the Whanganui Forest no later than 10 business days after the notification date.
- 4.4 If no appointment has been made under paragraph 4.3 by that date, the Crown must request that the President of the NZ Institute of Valuers make the appointment.
- 4.5 An appointment of an arbitrator is made once the appointee has confirmed that he or she will conduct an arbitration, if requested by the Crown, in accordance with this part.

5 VALUATION REPORTS

- 5.1 Either the Crown or the working party may carry out an inspection of the northern part of the Whanganui Forest. The registered valuer of the Crown or the working party intending to carry out an inspection must give at least 5 business days' notice of the date and time of the inspection to the other registered valuer appointed under this part and give that valuer an opportunity to attend the inspection.
- 5.2 Both the Crown's valuer and the working party's valuer must prepare a valuation report that includes their respective assessments of the market value of the northern part of the Whanganui Forest and market rental in respect of the northern part of the Whanganui Forest (excluding trees), on the valuation date.
- 5.3 The land holding agency and the working party must each deliver a copy of its valuation report to the other by no later than 50 business days after the notification date (the "**valuation exchange date**").
- 5.4 Both valuation reports must:
- 5.4.1 meet the requirements of the New Zealand Institute of Valuers' Standards and other relevant standards insofar as those requirements are consistent with this part 2;
 - 5.4.2 include an executive summary containing:
 - (a) a summary of the valuation along with key valuation parameters;
 - (b) a summary of any key issues affecting the value;
 - 5.4.3 attach appendices setting out:

- (a) a statement of valuation policies; and
- (b) relevant market and sales and leasing information; and

5.4.4 in the case of the northern part of the Whanganui Forest (including trees) and without limiting paragraphs 5.4.1-5.4.3, identify the trees that will remain on the land on transfer to the trustees and set out the amount that the valuer considers to be the value of those trees.

6 SINGLE VALUATION REPORT MAY DETERMINE TRANSFER VALUE

- 6.1 If only one of the parties delivers a valuation report by the valuation exchange date, then the assessment of market value in that report will be the value; and
- 6.2 market rental in that report will be the commencement rent.

7 NEGOTIATIONS TO AGREE MARKET VALUE

- 7.1 If each party has provided a valuation report, the Crown and the working party must endeavour to agree on, and record in writing, the market value of the northern part of the Whanganui Forest and the market rental in respect of the northern part of the Whanganui Forest (excluding trees). The amount agreed as the market value is the value, and the amount agreed as the market rental is the commencement rent.
- 7.2 Where the value or commencement rent is not determined or agreed within 20 business days after the valuation exchange date, the determination of the value and the market rental must be referred to an arbitrator in accordance with paragraph 8.

8 DETERMINATION OF MARKET VALUE

- 8.1 Within 5 business days of paragraph 7.2 applying, the Crown must refer the dispute to the arbitrator (the "**arbitration commencement date**").
- 8.2 The arbitrator must promptly give notice of a meeting to be attended by the Crown and the working party and their registered valuers, at a venue and time to be decided by the arbitrator after consultation with the parties but not later than 30 business days after the arbitration commencement date.
- 8.3 The Crown and the working party must by no later than 5.00pm on the day which is 5 business days prior to the date of the meeting give to the arbitrator and to each other, their valuation reports and sales and rental evidence and any submission or expert evidence based on that information that the Crown or the trustees intend to present at the meeting.
- 8.4 At the meeting, the arbitrator must:

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- 8.4.1 establish a procedure and give each party the right to examine, cross examine and re-examine the registered valuers and other experts appointed by the other parties in relation to the information provided to the arbitrator; and
- 8.4.2 have regard to the requirements of natural justice in the conduct of the meeting.
- 8.5 The arbitrator shall hold the meeting and give his or her determination of the market value and market rental no later than 50 business days after the arbitration commencement date.
- 8.6 The value will be the arbitrator's determination of the market value and the commencement rent will be the arbitrator's determination of the market rental. That determination must be no higher than the higher, and no lower than the lower, of the assessment of market value and market rental contained in the Crown's valuation report and in the working party's valuation report. The arbitrator's determination shall include the details referred to in paragraph 5.4.4.
- 8.7 The determination of the Arbitrator is final and binding on the Crown and the trustees.

9 GENERAL PROVISIONS

- 9.1 The Crown and the working party must each bear their own costs in connection with the valuation process.
- 9.2 The costs of the arbitrator and the costs of the hire of a venue for the meeting referred to in paragraph 8.2 must be borne by the Crown and the working party equally.
- 9.3 Despite paragraphs 9.1 and 9.2, the arbitrator may award costs against the Crown or the working party where the arbitrator considers that it would be just to do so on account of unreasonable conduct.

**PART 3
TERMS OF TRANSFER**

SETTLEMENT AND POSSESSION

1. On the Whanganui Forest transfer date:
 - 1.1. the Crown must:
 - (a) transfer the fee simple estate in the northern part of the Whanganui Forest to the trustees subject to, and where applicable with the benefit of, the encumbrances (as they may be varied under paragraph 11.1) and any additional encumbrances under paragraph 11.2; and
 - (b) subject to paragraph 27, provide the trustees with the following original documents (with duplicates to be provided to the working party) in relation to the northern part of the Whanganui Forest:
 - (i) a registrable transfer instrument; and
 - (ii) any other instrument in registrable form required to give effect to this deed; and
 - (iii) all contracts and other documents that:
 - (aa) create unregistered rights, interests, and obligations affecting the registered proprietor's interest (but not proclamations, *Gazette* notices and similar public notices); and
 - (bb) continue after the Whanganui Forest transfer date;
 - 1.2. vacant possession must be given and taken of the northern part of the Whanganui Forest subject to:
 - (a) the encumbrances in relation to the property (as they may be varied under paragraph 11.1); and
 - (b) any additional encumbrance under paragraph 11.2; and
 - (c) in respect of the northern part of the Whanganui Forest (excluding trees), the forestry right.

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2. The northern part of the Whanganui Forest will be transferred:
 - 2.1. as redress on account of settlement of the Whanganui iwi historical claims; and
 - 2.2. without charge to, or consideration to be provided or paid by, the trustees or any other person.

OUTGOINGS AND INCOMINGS TO BE APPORTIONED

3. The Crown must, before the Whanganui Forest transfer date, provide the working party and the trustees with a statement calculating the amount payable by the trustees or the Crown, as the case may be, under paragraph 4.
4. On the Whanganui Forest transfer date:
 - 4.1. the trustees must pay the Crown the amount by which the outgoings (except for insurance premiums) for the property pre-paid by the Crown in respect of a period after the Whanganui Forest transfer date exceed the incomings received by the Crown for that period; or
 - 4.2. the Crown must pay to the trustees the amount by which the incomings received by the Crown in respect of a period after the Whanganui Forest transfer date exceed the outgoings (except for insurance premiums) for the northern part of the Whanganui Forest pre-paid by the Crown for that period.
5. The trustees are not required to take over from the Crown a contract of insurance in relation to the northern part of the Whanganui Forest.

SURVEY AND REGISTRATION COSTS

6. The Crown must pay any survey and registration costs required to transfer the fee simple estate in the northern part of the Whanganui Forest to the trustees.

FIXTURES, FITTINGS AND CHATTELS

7. The northern part of the Whanganui Forest is to be transferred with all fixtures and fittings that, on the date of this deed, are owned by the Crown.
8. Fixtures and fittings transferred under paragraph 7 are to be free of any mortgage or charge.
9. Chattels situated on the northern part of the Whanganui Forest are not included in the transfer.

DEED OF ON-ACCOUNT OF SETTLEMENT

10. Any issue as to the ownership of, and liability for, chattels situated on the northern part of the Whanganui Forest, or fixtures or fittings owned or installed by a person other than the Crown (including a tenant or occupant of the property) must be resolved between the trustees and the person (without reference to the Crown).

RIGHTS AND OBLIGATIONS PRIOR TO TRANSFER

11. Before the Whanganui Forest transfer date, the Crown may, with the working party's and the trustees' prior consent (which must not be unreasonably withheld or delayed):
 - 11.1. vary an encumbrance; or
 - 11.2. enter into an encumbrance affecting or benefiting the northern part of the Whanganui Forest.
12. Until the Whanganui Forest transfer date, the Crown must:
 - 12.1. manage the northern part of the Whanganui Forest, or ensure its management, in accordance with good commercial forestry practice; and
 - 12.2. obtain the prior consent of the working party and the trustees (which must not be unreasonably withheld or delayed) before procuring a consent or providing a waiver under the Resource Management Act 1991, or other legislation, that materially affects the northern part of the Whanganui Forest; and
 - 12.3. if the Crown carries out works, or gives specific authority in writing for works to be carried out, on the northern part of the Whanganui Forest, comply with the obligations imposed on the Crown under the Building Act 2004 in respect of such works.
13. The Crown must pay the charges for electricity, gas, water, and other utilities that the Crown owes as owner of the northern part of the Whanganui Forest until the Whanganui Forest transfer date, except where the charges are payable by a tenant or occupant to the supplier.
14. Subject to the terms of any encumbrance, the Crown must use reasonable endeavours to obtain permission for the working party and the trustees (or a person authorised by it) to enter and inspect the northern part of the Whanganui Forest on one occasion before the Whanganui Forest transfer date.

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15. Any person entering and inspecting the northern part of the Whanganui Forest under paragraph 14 must comply with all reasonable conditions imposed by the Crown in relation to that entry and inspection.

POST TRANSFER OBLIGATIONS

16. If, after the Whanganui Forest transfer date, the Crown receives a notice or demand in relation to the northern part of the Whanganui Forest from the Crown, a territorial authority, or a tenant, the Crown will:
- 16.1. if it does not pay or comply with the notice, promptly deliver it to the trustees or the trustees' solicitor; and
- 16.2. if the Crown fails to do so, be liable for any penalty incurred.
17. Immediately after the Whanganui Forest transfer date, the Crown will give notice of the transfer of the northern part of the Whanganui Forest to the territorial authority having jurisdiction in respect of the property.

RISK AND INSURANCE

18. The northern part of the Whanganui Forest is at the sole risk of:
- 18.1. the Crown, until the Whanganui Forest transfer date; and
- 18.2. the trustees, from the Whanganui Forest transfer date.

BOUNDARIES AND TITLE

19. The Crown is not required to point out the boundaries of the northern part of the Whanganui forest.
20. If the northern part of the Whanganui Forest is subject only to the encumbrances (as they may be varied under paragraph 11.1) or any additional encumbrance under paragraph 11.2, the trustees:
- 20.1. will be treated as having accepted the Crown's title to the northern part of the Whanganui Forest as at the Whanganui Forest transfer date; and
- 20.2. may not make any objections to, or requisitions on, it.
21. Any error, omission, or misdescription of the northern part of the Whanganui Forest or its title shall not annul the transfer of the northern part of the Whanganui Forest.

FENCING

22. The Crown:
- 22.1. is not liable to pay for, or contribute towards, the expense of erecting or maintaining a fence between the northern part of the Whanganui Forest and any contiguous land of the Crown (unless the Crown requires the fence); and
- 22.2. may require a fencing covenant to this effect in a transfer of the northern part of the Whanganui Forest.
23. Paragraph 22 will not continue for the benefit of any purchaser from the Crown of the contiguous land.

DISCLOSURE INFORMATION

24. The Crown warrants to the working party and the trustees that the disclosure information is, as at the date of this deed, all the material information that relates to the northern part of the Whanganui Forest of which the Ministry of Agriculture and Forestry is aware, having:
- 24.1. inspected its records but not made enquiries beyond its records but; and in particular
- 24.2. not undertaken a physical inspection of the northern part of the Whanganui Forest.
25. Except as provided in paragraph 24, the Crown gives no representation or warranty, whether express or implied, and does not accept any responsibility, with respect to:
- 25.1. the northern part of the Whanganui Forest including as to its ownership, management, occupation, physical condition, use or, compliance with:
- (a) any legislation including by-laws; or
- (b) any enforcement or other notice, requisition, or proceedings issued by any authority; or
- 25.2. the completeness or accuracy of the disclosure information.
26. The working party and the trustees acknowledge that, although the Crown is not giving any representation or warranty in relation to the northern part of the Whanganui Forest, except as provided in paragraph 24, the working party and the trustees had the opportunity prior to the Whanganui Forest

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transfer date, in addition to being able to examine the disclosure information, to:

- 26.1. inspect the property; and
- 26.2. determine its state and condition.

DELAYED TRANSFER OF LEGAL TITLE

27. If, on the Whanganui Forest transfer date, all the land comprising the northern part of the Whanganui Forest is not all of the land contained in a computer freehold register or registers, the Crown covenants for the benefit of the trustees that they will:
 - 27.1. arrange for the creation of a computer freehold register or registers for all that land; and
 - 27.2. transfer title to the northern part of the Whanganui Forest, as soon as is reasonably practicable but no later than five years after the Whanganui Forest transfer date.
28. If paragraph 27 applies then, for the period from the Whanganui Forest transfer date until the date that the Crown transfers the title to the northern part of the Whanganui Forest to the trustees:
 - 28.1. the trustees will be the beneficial owner of the northern part of the Whanganui Forest; and
 - 28.2. all obligations and rights will be performed and arise as if full legal title had passed to the trustees on the Whanganui Forest transfer date.

NORTHERN PART OF THE WHANGANUI FOREST (INCLUDING TREES)

29. The value for the northern part of the Whanganui Forest (including trees) will be adjusted to give effect to any difference between the value of trees standing on the land on the Whanganui Forest transfer date and the amounts assumed in establishing the value of the northern part of the Whanganui Forest (including trees) under part 2.
30. In the event that, prior to the Whanganui Forest transfer date, there is a dispute about the adjustment to be made to the value of the northern part of the Whanganui Forest (including trees) under paragraph 29, then the following provisions apply:
 - 30.1. the trustees must complete the transfer of the northern part of the Whanganui Forest (including trees) at its value agreed or determined under part 2 on the condition that if the value of the northern part of

DEED OF ON-ACCOUNT OF SETTLEMENT

the Whanganui Forest (including trees) following adjustment under paragraph 29 differs from the value as agreed or determined under part 2, the value of the northern part of the Whanganui Forest (including trees) will be adjusted accordingly, whether that adjustment increases or decreases the value agreed or determined under part 2;

- 30.2. either the Crown or the trustees may give the other party notice in writing requiring that any dispute as to the application of this paragraph 30 be determined by an arbitrator to be appointed by the president or vice-president of the New Zealand Law Society, and the party serving the notice may at any time after that refer the dispute to the arbitrator for determination under the Arbitration Act 1996.
31. If a dispute relating to paragraph 30.2 is not determined by the Whanganui Forest transfer date, then:
 - 31.1. settlement shall take place on the Whanganui Forest transfer date in accordance with this part 3 as if no adjustment to the value of the northern part of the Whanganui Forest (including trees) were necessary; and
 - 31.2. upon the determination of the dispute, the value of the northern part of the Whanganui Forest (including trees) will be adjusted in accordance with that determination, whether this adjustment increases or decreases the value agreed or determined under part 2.

MISCELLANEOUS

Further assurances

32. The Crown and the trustees must, at the request of the other, sign and deliver any further documents or assurances, and do all acts and things that the other may reasonably require to give full force and effect to this part.

Non-merger

33. On transfer of the northern part of the Whanganui Forest to the trustees:
 - 33.1. the provisions of this part of the schedule will not merge; and
 - 33.2. to the extent any provision of this part of the schedule has not been fulfilled, it will remain in force.

Forestry right

34. The obligations on the parties under this part apply to the extent they are consistent with the forestry right.

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**PART 4
DESCRIPTION OF PROPERTIES**

Name of Site	Location	Legal Description Wellington Land District	Land Holding Agency
Whanganui Prison	Pauri Domain Road, Kaitoke, Wanganui	45.2439 hectares, more or less, being Sections 478, 479 and 480 Left Bank Wanganui River, Lot 2 DP 46128, Section 1 SO 36413 and Sections 2 and 3 SO 340748 All Computer Freehold Registers 390177, WN48C/764 and WN48C/766	Department of Corrections
northern part of the Whanganui Forest (including trees)	Pauri Domain Road, Kaitoke, Wanganui	400 hectares, approximately, being Part Section 546 Left Bank Wanganui River and Part Section 1 Block X and Part Section 2 Block IX Ikitara Survey District shown on plan attached to this deed as part 6 Part Computer Freehold Register WN50C/50 Subject to survey.	Ministry of Agriculture and Forestry
northern part of the Whanganui Forest (excluding trees)	Pauri Domain Road, Kaitoke, Wanganui	400 hectares, approximately, being Part Section 546 Left Bank Wanganui River and Part Section 1 Block X and Part Section 2 Block IX Ikitara Survey District shown on plan attached to this deed as part 6 Part Computer Freehold Register WN50C/50 Excluding all trees growing, standing or lying on that land. Subject to the forestry right entered into under clause 3.6. Subject to survey.	Ministry of Agriculture and Forestry

**PART 5
NOTICES**

Party	Contact Details
Working Party	C/- McCaw Lewis Chapman 1 London Street PO Box 9348 Hamilton 3240 Phone: 07 838 2079 Fax: 07 839 4652
Trustees	C/- Kahui Legal Level 7, Axon House 1 Willeston Street PO Box 1654 Wellington Fax: 04 495 9990
Crown	Solicitor-General Crown Law Office Level 10, Unisys House 56 The Terrace Wellington Fax: 04 473 3482

PART 6
PLAN OF NORTHERN PART OF THE WHANGANUI FOREST

