

NGĀTI APA (NORTH ISLAND)

and

THE TRUSTEES OF TE RUNANGA O NGĀTI APA

and

THE SOVEREIGN

in right of New Zealand

**DEED TO AMEND THE DEED OF SETTLEMENT OF THE
HISTORICAL CLAIMS OF NGĀTI APA (NORTH ISLAND)**

7 August 2009

DEED TO AMEND THE DEED OF SETTLEMENT

DEED TO AMEND THE DEED OF SETTLEMENT

THIS DEED is made on the 7th day of August 2009

BETWEEN

NGĀTI APA (NORTH ISLAND)

AND

THE TRUSTEES OF TE RUNANGA O NGĀTI APA

AND

THE SOVEREIGN in right of New Zealand acting by the Minister for Treaty of Waitangi Negotiations

DEED TO AMEND THE DEED OF SETTLEMENT

BACKGROUND

- A. The Crown and Ngāti Apa (North Island) are parties to a deed of settlement dated 8 October 2008 (the "**deed of settlement**").
- B. The trustees, under the Te Runanga o Ngāti Apa trust deed, established Te Runanga o Ngāti Apa as the governance entity under clause 9.1 of the deed of settlement.
- C. The trustees, as required by clause 9.1.2 of the deed of settlement, entered into a deed of covenant dated 22 July 2009 (the "**deed of covenant**") with the Crown.
- D. The Crown, the trustees and Ngāti Apa (North Island) wish to enter into this deed to formally record, in accordance with clause 11.5 of the deed of settlement, certain amendments to the deed of settlement.

IT IS AGREED as follows:

DEED TO AMEND THE DEED OF SETTLEMENT

1. EFFECTIVE DATE OF THIS DEED

1.1 This deed takes effect when it is signed by the parties.

2. AMENDMENTS TO THE DEED OF SETTLEMENT

2.1 The deed of settlement:

2.1.1 is amended by making the changes set out in schedule 1 to this deed; and

2.1.2 is further amended by inserting the documents described in schedule 1 and attached in schedule 2 and schedule 3 to this deed; but

2.1.3 remains unchanged except to the extent provided by this deed.

3. DEFINITIONS AND INTERPRETATION

3.1 Unless the context otherwise requires:

“**deed of covenant**” has the meaning it is given by paragraph C of the background;

“**deed of settlement**” has the meaning it is given by paragraph A of the background;

“**parties**” means each of Ngāti Apa (North Island), the trustees and the Crown;

“**Te Runanga o Ngāti Apa**” means the trust established by the Te Runanga o Ngāti Apa trust deed;

“**Te Runanga o Ngāti Apa trust deed**”:

(a) means the deed of trust establishing Te Runanga o Ngāti Apa, dated 20 July 2009; and

(b) includes:

(i) the schedules to the deed of trust; and

(ii) any amendments to the deed of trust or its schedules; and

“**trustees**” means the trustees from time to time of Te Runanga o Ngāti Apa.

3.2 Unless the context requires otherwise:

3.2.1 terms or expressions defined in the deed of settlement have the same meanings in this deed; and

3.2.2 the rules of interpretation in the deed of settlement apply (with all appropriate changes) to this deed.

DEED TO AMEND THE DEED OF SETTLEMENT

SIGNED as a deed

SIGNED for and on behalf of THE SOVEREIGN IN RIGHT OF NEW ZEALAND by the Minister for Treaty of Waitangi Negotiations in the presence of:


Honourable Christopher Finlayson

WITNESS

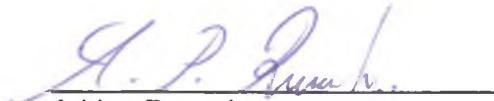


Name: John Harbord

Occupation: Advisor

Address: Wellington

SIGNED for and on behalf of NGĀTI APA (NORTH ISLAND) by Adrian Rurawhe authorised by the trustees of Te Runanga o Ngāti Apa to sign on their behalf in the presence of:


Adrian Rurawhe

WITNESS



Name: TOKORANGI THOMAS KAPERĀ

Occupation: SOLICITOR

Address: WELLINGTON

DEED TO AMEND THE DEED OF SETTLEMENT

Schedule 1

AMENDMENTS TO DEED OF SETTLEMENT

| Clause or schedule of the deed of settlement | Amendment to the deed of settlement |
|--|---|
| Clause 5.12.5(a) | The reference to "section 14(6)(a)" is deleted and replaced by a reference to "section 14". |
| Clause 5.12.5(b) | The reference to "section 20(1)" is deleted and replaced by a reference to "section 20". |
| Clause 5.12.5 | The words "(or, for the purposes of section 14(6)(a), may be)" are deleted. |
| Subclause 6.1.9(a) | This subclause is deleted and replaced by: "easement instrument B212575.3 is varied as it relates to easement areas "A", "B", "D" and "G" on DP 70916 and area "C" on DP 70917:". |
| New clause 6.1.20A | This clause is inserted as new clause 6.1.20A immediately after clause 6.1.20 as follows: "that clause 6.1.19 is subject to the governance entity providing to the Crown a registrable right to convey electricity in gross in favour of Powerco Limited over the areas shown "B" and "G" on SO 417422 on the terms and conditions set out in part 12A of the schedule (the " Ruatangata electricity easement ");". |
| Clause 6.2.3 | The words "and the Ruatangata electricity easement" are inserted after the words "site easement". |
| Clause 6.9 | The words ", the Ruatangata electricity easement" are inserted after the words "Ruatangata site easement". |
| Clause 7.1 | The figure "\$16,000,000" is deleted and replaced by "\$16,200,000". |
| Clause 7.1.3 | The figure "\$4,900,000" is deleted and replaced by "\$5,100,000". |
| Clause 7.27 | The words "and the working party in respect of the Wanganui Prison" are inserted after the words "land holding agency". The words "provided that the governance entity may only give a notice of interest in Part Wanganui Forest (excluding trees) if the terms of the forestry right have been agreed under clause 7.27B by the settlement date." are inserted at the end of this clause. |

DEED TO AMEND THE DEED OF SETTLEMENT

| | |
|-----------------------------|---|
| <p>New clause 7.27A</p> | <p>This clause is inserted as new clause 7.27A immediately after clause 7.27 as follows:</p> <p>“For the avoidance of doubt:</p> <p>7.27A.1 if the governance entity gives notice under clause 7.27 that it is interested in purchasing Part Wanganui Forest (excluding trees), it may not give notice that it is interested in purchasing Part Wanganui Forest (including trees) and vice versa; and</p> <p>7.27A.2 negotiations relating to the forestry right under clause 7.27B will cease immediately if the governance entity gives notice under clause 7.27 that it is interested in purchasing Part Wanganui Forest (including trees).”.</p> |
| <p>New clause 7.27B</p> | <p>This clause is inserted as new clause 7.27B immediately after clause 7.27A as follows:</p> <p>“The governance entity may at any time before the settlement date 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 governance entity and the Ministry of Agriculture and Forestry must commence negotiations with the purpose to sign, by the settlement date, an agreement settling the terms of the forestry right (except for the rental which is to be agreed or determined under part 20 of the schedule). The parties will have regard to the terms generally contained in forestry rights of a similar nature”.</p> |
| <p>New subclause 7.28.3</p> | <p>Delete the word “and” after the semi colon at the end of subclause 7.28.1 and delete the full stop at the end of subclause 7.28.2 and replace it with “; and”.</p> <p>This subclause is inserted as new subclause 7.28.3 as follows:</p> <p>“in respect of the Wanganui Prison, the land holding agency must notify the working party and the Pakaitore trustees as soon as it is practically possible whether or not the governance entity has elected to purchase the Wanganui Prison under clause 7.28.2.”.</p> |
| <p>New clause 7.28A</p> | <p>This clause is inserted as new clause 7.28A immediately after clause 7.28 as follows:</p> <p>“The working party must notify the governance entity and the land holding agency whether or not it elects that the Pakaitore trustees acquire an undivided half share as tenant in common in the fee simple estate in the Wanganui Prison within 20 business days of receiving the land holding agency's notice under clause 7.28.3.”.</p> |
| <p>New clause 7.30A</p> | <p>This clause is inserted as new clause 7.30A immediately after clause 7.30 as follows:</p> <p>“7.30A Despite clause 7.30, if:</p> |

DEED TO AMEND THE DEED OF SETTLEMENT

| | |
|------------------|--|
| | <p>7.30A.1 the governance entity gives notice in accordance with clause 7.28.2 that it elects to purchase the Wanganui Prison; and</p> <p>7.30A.2 the working party notifies the governance entity and the land holding agency pursuant to clause 7.28A that the working party elects that the Pakaitore trustees acquire an undivided half share of the fee simple estate in the Wanganui Prison,</p> <p>then:</p> <p>7.30A.3 the Crown will transfer an undivided half share of the fee simple estate in Wanganui Prison to the governance entity as tenant in common at 50 percent of the transfer value determined or agreed in accordance with the valuation process;</p> <p>7.30A.4 the Crown will transfer an undivided half share of the fee simple estate in Wanganui Prison to the Pakaitore trustees as tenant in common as redress on account of settlement of the Whanganui iwi historical claims;</p> <p>7.30A.5 the value to Whanganui iwi of the transfer of the Pakaitore trustee's interest in the Wanganui Prison is 50 percent of the transfer value determined or agreed in accordance with the valuation process; and</p> <p>7.30A.6 the terms set out in part 22A of the schedule will apply.”.</p> |
| Clause 7.32 | The words “and the working party” are inserted after the words “governance entity”. |
| Clause 7.33 | <p>The heading immediately before 7.33 is deleted and replaced by:</p> <p>“Leaseback Properties and forestry right”.</p> <p>The words “provided that if clause 7.30A applies, then the governance entity and the Pakaitore trustees must lease to the land holding agency the Wanganui Prison, after its transfer to the governance entity and the Pakaitore trustees” are inserted at the end of this clause.</p> |
| New clause 7.33A | <p>This clause is inserted as new clause 7.33A immediately after clause 7.33 as follows:</p> <p>“If the governance entity elects to purchase Part Wanganui Forest (excluding trees), the governance entity must grant the forestry right over the land to the Ministry of Agriculture and Forestry after its transfer to the governance entity.”.</p> |
| Clause 7.34 | The words “memorandum of lease” are deleted and replaced by the words “lease instrument”. |

DEED TO AMEND THE DEED OF SETTLEMENT

| | |
|--|---|
| | <p>The words "actual selection settlement date" are deleted and replaced by the words "actual deferred selection settlement date".</p> <p>The following amendment is inserted at the end of this clause:</p> <p>"provided that if clause 7.30A applies, then the governance entity and the Pakaitore trustees and the land holding agency must, by or on the actual Wanganui Prison settlement date, sign a lease instrument substantially in the form set out in part 23 of the schedule for the Wanganui Prison at the commencement rent and providing that the commencement date for that lease is the actual Wanganui Prison settlement date, and subject to the following amendments to the lease:</p> <p>7.34.1 the reference to the Lessor on page one is deleted and replaced with "The trustees of Te Runanga o Ngāti Apa and the trustees of the Pakaitore trust";</p> <p>7.34.2 the following new definition is inserted after the definition of "Annual Rent" in clause 1.1:</p> <p>"Authorised Person means a person appointed jointly by the Lessor to act on behalf of the Lessor as notified to the Lessee from time to time";</p> <p>7.34.3 the definition of Lessor in clause 1.1 is amended by deleting the words "Ngāti Apa Ki Rangitikei" and replacing them with "the trustees of Te Runanga o Ngāti Apa and the trustees of the Pakaitore trust";</p> <p>7.34.4 a new clause 3.2A is inserted immediately after 3.2 as follows:</p> <p>"Despite any other provision in this Lease, the Lessee will pay all amounts payable to the Lessor under this Lease to each Lessor's bank account in specified shares, as notified to the Lessee by the Authorised Person from time to time.";</p> <p>7.34.5 a new clause 24 is inserted immediately after clause 23 as follows:</p> <p>"24 AUTHORISED PERSON</p> <p>24.1 The Lessee must send all notices and other communications under this Lease to the Authorised Person as if the Authorised Person was the Lessor.</p> <p>24.2 The Lessee must treat all notices and other communications received from, and all actions taken by, the Authorised Person under this Lease as if the Authorised Person were the Lessor."</p> |
|--|---|

DEED TO AMEND THE DEED OF SETTLEMENT

| | |
|--------------------------|--|
| New clause 7.34A | <p>This clause is inserted as new clause 7.34A immediately after clause 7.34 as follows:</p> <p>“The governance entity and the Ministry of Agriculture and Forestry must, by or on the actual deferred selection settlement date, sign the forestry right in the form agreed under clause 7.27B for Part Wanganui Forest (excluding trees) at the commencement rent and providing that the commencement date for the forestry right is the actual deferred selection settlement date.”.</p> |
| Clause 7.37 | The part reference “22” is deleted and replaced by the part reference “22A”. |
| Clause 7.39.7 | The words “and, the unlicensed Crown forest land” are inserted after the words “settlement licensed land”. |
| New subclause 7.40.3(aa) | <p>This subclause is inserted as new subclause 7.40.3(aa) immediately after subclause 7.40.3(a) as follows:</p> <p>“in relation to the Wanganui Prison, if clause 7.30A applies:</p> <p>(i) an authorised person must make a written application to the Registrar-General for the creation of computer freehold registers in accordance with this clause 7.40.3(aa);</p> <p>(ii) on receipt of the application required under clause 7.40.3(aa)(i), and after any necessary survey, the Registrar-General must create two computer freehold registers in the name of the Crown, each for an undivided one half share of the estate in fee simple in the Wanganui Prison, subject to, and together with, any relevant encumbrances that are registered, notified or notifiable and are described in the application in clause 7.40.3(aa)(i);</p> <p>(iii) the computer registers created under clause 7.40.3(aa)(ii) must then be transferred in accordance with clause 7.30A(3) and 7.30A(4);.</p> |
| Subclause 8.6.6(b) | The clause reference “7.31” is deleted and replaced by clause reference “7.30”. |
| Clause 9.1 | The word “six” is deleted and replaced by the figure “10”. |
| Clause 12.6 | <p>The following new definition “actual Wanganui Prison settlement date” is inserted immediately after “actual deferred selection settlement date” as follows:</p> <p>“actual Wanganui Prison settlement date means the date on which settlement of the Wanganui Prison takes place under paragraph 11 of part 22A of the schedule;”.</p> |

DEED TO AMEND THE DEED OF SETTLEMENT

| | |
|--|--|
| | <p>The definition “deferred selection property” is amended by inserting the following words at the end of that definition:</p> <p>“and includes any undivided half share in the fee simple estate in the Wanganui Prison to be transferred to the governance entity for the purposes of part 26 and the definitions of “commercial redress property”, “land holding agency” and “leaseback property” in clause 12;”.</p> |
| | <p>The definition of “deferred selection settlement date” is amended by:</p> <p>(a) inserting the words “other than the Wanganui Prison” after the words “in respect of a deferred selection property”; and</p> <p>(b) inserting the following words at the end of that definition:</p> <p>“and, in respect of the Wanganui Prison, means the date that is 20 business days after the date on which the working party gives notice in accordance with clause 7.28A that it does not elect that the Pakaitore trustees acquire an undivided half share as tenant in common in the fee simple estate in the Wanganui Prison”.</p> |
| | <p>The words “parts 19-21” in the definition of “disclosure information” are deleted and replaced by the words “parts 20-22A”.</p> |
| | <p>The following new definition “forestry right” is inserted immediately after “fisheries protocol area” as follows:</p> <p>“forestry right means the forestry right in respect of the Part Wanganui Forest (excluding trees) to be entered into under clauses 7.33A and 7.34A;”.</p> |
| | <p>The following new definition “Pakaitore Trust” is inserted immediately after “official cash rate” as follows:</p> <p>“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;”.</p> |
| | <p>The following new definition “Pakaitore trustees” is inserted immediately after “Pakaitore Trust” as follows:</p> <p>“Pakaitore trustees means the trustees of the Pakaitore Trust in their capacity as trustees of the Pakaitore Trust;”.</p> |
| | <p>The following new definition “Pakaitore trustees’ interest in Wanganui Prison” is inserted immediately after “Pakaitore trustees” as follows:</p> <p>“Pakaitore trustees’ interest in Wanganui Prison means an undivided half share as tenant in common in the fee simple estate in the Wanganui Prison;”.</p> |

DEED TO AMEND THE DEED OF SETTLEMENT

| | |
|--|--|
| | <p>The following new definition "Part Wanganui Forest (excluding trees)" is inserted immediately after "Pakaitore trustees' interest in Wanganui Prison" as follows:</p> <p>"Part Wanganui Forest (excluding trees) means the land described as such in the table in part 18 of the schedule, being the area shown on map F4 in the agreement in principle;".</p> |
| | <p>The following new definition "Ruatangata electricity easement" is inserted immediately after "RFR properties" as follows:</p> <p>"Ruatangata electricity easement has the meaning given to it in clause 6.1.20A;".</p> |
| | <p>The words "parts 19-21" in the definition of "transfer value" are deleted and replaced by the words "parts 20-22A".</p> |
| | <p>The definition of "unlicensed Crown forest land" is deleted and replaced by:</p> <p>"unlicensed Crown forest land means the land described in the table in part 18 of the schedule as Part Wanganui Forest (including trees) or Part Wanganui Forest (excluding trees) as the case may be, being the area shown on map F4 in the agreement of principle;".</p> |
| | <p>The word "and" immediately after the definition "Waimahora Stream site covenant" is deleted and the full stop at the end of the definition of "waterway" is deleted and replaced with a semi colon.</p> |
| | <p>The following new definition "Wanganui Prison" is inserted immediately after "Waimahora Stream site covenant" as follows:</p> <p>"Wanganui Prison" means the land described as such in the table in part 18 of the schedule;".</p> |
| | <p>The following new definition "Wanganui Prison settlement date" is inserted immediately after "Wanganui Prison" as follows:</p> <p>"Wanganui Prison settlement date means the date which is 20 business days after the date on which the working party gives notice in accordance with clause 7.28A that it elects that the Pakaitore trustees acquire an undivided half share as tenant in common in the fee simple estate in the Wanganui Prison;".</p> |

DEED TO AMEND THE DEED OF SETTLEMENT

| | |
|---------------------------------|--|
| | <p>The following new definition “Whanganui iwi” is inserted immediately after “waterway” as follows:</p> <p>“Whanganui iwi means nga uri o Te Awa Tupua o Whanganui including all descendants of the Tupuna Rohe o Whanganui;”.</p> <p>The following new definition “Whanganui iwi deed” is inserted immediately after “Whanganui iwi” as follows:</p> <p>“Whanganui iwi deed means the deed of on-account settlement of historical claims of Whanganui iwi in relation to the Whanganui Kaitoke Prison and part of the Whanganui Forest dated 31 July 2009; and”.</p> <p>The following new definition “working party” is inserted immediately after “Whanganui iwi deed” as follows:</p> <p>“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 agreement in principle to protect the interests of Whanganui iwi;”.</p> |
| <p>Table 2 Part 10 Schedule</p> | <p>This table is amended by deleting the first encumbrance for Pukepuke Lagoon House and replacing it with the following:</p> <p>“Together with a right of way easement in gross over A, B, D and G on DP 70916 and C on DP 70917. Created by B 212575.3 (to be varied).”.</p> <p>This table is amended by amending the last encumbrance for the Lake William site by deleting the words “a licence” and replacing them with the words “an unregistered licence”.</p> <p>This table is amended by inserting the following encumbrance as the last encumbrance for the Ruatangata Site:</p> <p>“Subject to the easement referred to in clause 6.1.20A”.</p> |
| <p>New Part 12A Schedule</p> | <p>A new part 12A is inserted and is named “Ruatangata electricity easement” and the form of easement, attached as schedule 3 of this deed, is inserted in new part 12A of the schedule.</p> |
| <p>Part 14 Schedule</p> | <p>This part is amended by deleting the following references under the “Legal Description” column for Part Lismore Hill Forest:</p> <p>“WN231/31 (cancelled)”, “WN240/219 (cancelled)”, “WN7A/1420 (cancelled)”, “WN14D/496 (cancelled)”, “WN22A/209 (cancelled)”, and “WN22A/213 (cancelled)”,</p> <p>and inserting the following references:</p> <p>“GN 954189.1”, “GN 954189.2”, “GN 954189.3”, “GN 954189.4”, “GN 859585”, “GN 928651.4”, “T 674882” and “B 768230.2”.</p> |

DEED TO AMEND THE DEED OF SETTLEMENT

| | | | | | | | |
|--|--|---|--------------------------------------|---|--------------------------------------|----|--------------|
| Part 18 Schedule | <p>The table in this part is amended as follows:</p> <p>The word "Independent" in the third row of the last column in respect of the Wanganui Prison is deleted and replaced by the word "Joint".</p> <p>The words "(including trees)" are inserted after the words "Part Wanganui Forest" in the fourth row of the first column.</p> <p>A new row five is inserted as follows:</p> <table border="1" data-bbox="435 573 1452 934"> <tr> <td data-bbox="435 573 571 934">"Part Wanganui Forest (excluding trees)"</td> <td data-bbox="579 573 707 934">Pauri Road, Kaitoke, Wanganui</td> <td data-bbox="715 573 1042 934">400 hectares, approximately, being Part Section 546 Left Bank Wanganui River. Part Computer Freehold Register WN 50C/50. Excluding all trees growing, standing or lying on that land. Subject to the forestry right entered into under clauses 7.33A and 7.34A. Subject to survey.</td> <td data-bbox="1050 573 1201 934">Ministry of Agriculture and Forestry</td> <td data-bbox="1209 573 1289 934">No</td> <td data-bbox="1297 573 1452 934">Independent"</td> </tr> </table> | "Part Wanganui Forest (excluding trees)" | Pauri Road, Kaitoke, Wanganui | 400 hectares, approximately, being Part Section 546 Left Bank Wanganui River. Part Computer Freehold Register WN 50C/50. Excluding all trees growing, standing or lying on that land. Subject to the forestry right entered into under clauses 7.33A and 7.34A. Subject to survey. | Ministry of Agriculture and Forestry | No | Independent" |
| "Part Wanganui Forest (excluding trees)" | Pauri Road, Kaitoke, Wanganui | 400 hectares, approximately, being Part Section 546 Left Bank Wanganui River. Part Computer Freehold Register WN 50C/50. Excluding all trees growing, standing or lying on that land. Subject to the forestry right entered into under clauses 7.33A and 7.34A. Subject to survey. | Ministry of Agriculture and Forestry | No | Independent" | | |
| Part 19 Schedule | <p>Paragraph 1.1 of part is amended as follows:</p> <p>The words "parts 17-19" in the first line are deleted and replaced by the words "parts 20-22A".</p> <p>The following new definition "forestry right" is inserted immediately after "disclosure information" as follows:</p> <p>"forestry right has the meaning given to it in clause 12.6;".</p> <p>The definition of "market rental" is amended by:</p> <p>(a) inserting the words "or Part Wanganui Forest (excluding trees) after the words "leaseback property";</p> <p>(b) the words "specific lease terms" are deleted and replaced by the words "specific terms"; and</p> <p>(c) inserting the words "of the lease or the forestry right as applicable" after the words "terms and conditions".</p> <p>The following new definition "Part Wanganui Forest (excluding trees)" is inserted immediately after "notification date" as follows:</p> <p>"Part Wanganui Forest (excluding trees) has the meaning given to it in clause 12.6;".</p> | | | | | | |

DEED TO AMEND THE DEED OF SETTLEMENT

| | |
|-----------------------------|---|
| | <p>The following new definition "Part Wanganui Forest (including trees)" is inserted immediately after "Part Wanganui Forest (excluding trees)" as follows:</p> <p>"Part Wanganui Forest (including trees) means the land described as such in the table in part 18 of the schedule, being the area shown on map F4 in the agreement in principle;"</p> |
| | <p>The words "parts 17-19" in the definition of "valuation process" are deleted and replaced by the words "parts 20-22A".</p> |
| | <p>The words "or if clause 7.30A applies, the terms of transfer set out in part 22A" are inserted at the end of the definition of "terms of transfer".</p> |
| <p>Part 20 Schedule</p> | <p>This part is amended as follows:</p> <p>Subparagraph 4.1.2 is amended by inserting the words "or Part Wanganui Forest (excluding trees)" after the words "leaseback property".</p> <p>Paragraph 5.2 is amended by inserting the words "or Part Wanganui Forest (excluding trees)" after the words "leaseback property".</p> <p>The words "the unlicensed Crown forest land" in subparagraph 5.4.4 are deleted and replaced with the words "Part Wanganui Forest (including trees)".</p> <p>Paragraph 7.1 is amended by inserting the words "or Part Wanganui Forest (excluding trees)" after the words "leaseback property".</p> <p>The square brackets around the figure "50" in clause 8.5 are deleted.</p> |
| <p>Part 21 Schedule</p> | <p>This part is amended as follows:</p> <p>The words "purchasing a governance entity" are deleted and replaced by the words "purchasing a jointly valued asset" in paragraph 2.1.</p> <p>The words "and, in respect of the Wanganui Prison, the working party" are inserted in paragraph 2.1 before the words "all material information".</p> <p>The words "and, in respect of the Wanganui Prison, the working party" are inserted in paragraph 4.1 after the words "governance entity" in the first line.</p> <p>The words "and, in respect of the Wanganui Prison, the working party" are inserted in paragraph 4.4 after the words "land holding agency".</p> <p>The words "governance entity" in paragraph 5.1 are deleted and replaced by the words "jointly valued asset".</p> <p>The words "and, in respect of the Wanganui Prison, the working party" are inserted in paragraph 6.2 after the words "governance entity".</p> |

DEED TO AMEND THE DEED OF SETTLEMENT

| | |
|-------------------------|---|
| | <p>The words “and, in respect of the Wanganui Prison, the working party” are inserted in paragraph 7.1 after the words “governance entity”.</p> |
| <p>Part 22 Schedule</p> | <p>This part is amended as follows:</p> <p>A new subparagraph 4.1.2(b) is inserted immediately after subparagraph 4.1.2(a) as follows:</p> <p>“Part Wanganui Forest (excluding trees); or”.</p> <p>Subparagraph 4.1.2(b) is renumbered 4.1.2(c) accordingly.</p> <p>Paragraph 4.3 is amended by inserting the words “unless the Crown agrees otherwise,” after the words “The governance entity must,” in the first line.</p> <p>Delete the word “and” after the semi colon at the end of subparagraph 4.3.3 and delete the full stop at the end of subparagraph 4.3.4 and replace it with “; and”.</p> <p>A new subparagraph 4.3.5 is inserted as follows:</p> <p>“the forestry right, in the case of Part Wanganui Forest (excluding trees).”.</p> <p>Paragraph 4.9 is deleted and replaced by:</p> <p>“In respect of a leaseback property:</p> <p>4.9.1 paragraphs 4.4, 4.5 and 4.8 apply only to the extent they are consistent with the lease; and</p> <p>4.9.2 paragraphs 4.6 and 4.7 do not apply.”.</p> <p>A new paragraph 4.10 is inserted as follows:</p> <p>“In respect of Part Wanganui Forest (excluding trees), paragraphs 4.6-4.8 apply only to the extent they are consistent with the forestry right.”.</p> <p>The heading “UNLICENSED CROWN FOREST LAND” in paragraph 12 is deleted and replaced with “PART WANGANUI FOREST (INCLUDING TREES)”.</p> <p>The words “unlicensed Crown forest land” in paragraph 12.1 are deleted and replaced by the words “Part Wanganui Forest (including trees)”.</p> <p>The words “unlicensed Crown forest land” in paragraph 12.2 are deleted and replaced by the words “Part Wanganui Forest (including trees)”.</p> |

DEED TO AMEND THE DEED OF SETTLEMENT

| | |
|---|---|
| <p>New Part 22A Schedule</p> | <p>A new part 22A is inserted and is named “Deferred Selection Properties – Terms of Transfer – Wanganui Prison” and these terms of transfer, attached as schedule 2 of this deed, are inserted in new part 22A of the schedule.</p> |
| <p>Part 23 Schedule Wanganui Prison Lease</p> | <p>Paragraph 3 of the schedule of land in the annexure schedule is amended by deleting the words “Gas Pipeline Rights created by Transfer B 380488.1” and replacing them with “a right to convey gas in gross created by Easement Instrument 7896241.1”.</p> |
| <p>Schedule 3 Part 24 Schedule</p> | <p>Schedule 3 to this part is amended by deleting the “Legal Description” for RNZAF Base Ohakea and replacing it with the following:</p> <p><u>“RNZAF Base Ohakea</u></p> <p>Sections 45, 57, 58, 62, 64, 73, 74, 75, Part Sections 53, 56, 77 and Parts Sections 49 and 55 Block XV Rangitoto Survey District, Lot 1 DP 14231, Lot 1 and Part Lot 2 DP 4423, Lot 2 DP 12916, Part Lots 1, 2 and 3 DP 7831, Lot 1 DP 21753, Part Sections 14 and 61 and Part Rural Sections 12, 1 of 19 and 2 of 19 Town of Sandon, Closed Road (SO 20977) and Closed Road (SO 32702). Gazettes 1937 p. 1462, 1939 p. 119, 1939 p. 2429, 1940 p. 3483, 1945 p. 1537, 1945 p. 1551, 1945 p. 1554, 1956 p. 879, 1959 p. 1781, 1961 p. 1906, 1978 p. 2710, 1982 p. 1229, 1988 p. 48, 1989 p. 28, 1990 p. 4514, 1996 p. 984, 2003 p. 1770.</p> <p><u>RNZAF Base Ohakea Transmitter Site</u> Parts Lot 1 DP 11049. Gazettes 1939 p. 3532 and 1963 p. 1240.</p> <p><u>RNZAF Base Ohakea Band Room</u> Part Section 61 Town of Sandon. Gazette 1942 p. 491.”</p> |

DEED TO AMEND THE DEED OF SETTLEMENT

Schedule 2

TERMS OF TRANSFER

PART 22A

**DEFERRED SELECTION PROPERTIES -
TERMS OF TRANSFER – WANGANUI PRISON**

TERMS OF TRANSFER

(Clause 7.30A)

1 APPLICATION OF THIS PART

This part 22A applies if clauses 7.30A.3-7.30A.6 apply.

2 TRANSFER OF THE WANGANUI PRISON

2.1 The Crown must contemporaneously transfer:

2.1.1 an undivided half share as tenant in common in the fee simple estate in the Wanganui Prison to the governance entity; and

2.1.2 an undivided half share as tenant in common in the fee simple estate in the Wanganui Prison to the Pakaitore trustees,

on the terms set out in clauses 7.27-7.37 and this part 22A, subject to and, where applicable, with the benefit of the disclosed encumbrances affecting or benefiting the Wanganui Prison (as those disclosed encumbrances may be varied under paragraph 2.2).

2.2 The Crown, the governance entity and the Pakaitore trustees may agree in writing to vary or add to the disclosed encumbrances affecting the Wanganui Prison.

2.3 The governance entity and the Pakaitore trustees must not unreasonably withhold or delay their consent to varying a disclosed encumbrance or granting a new encumbrance affecting the Wanganui Prison.

2.4 The Crown will pay any survey and registration costs required to transfer the fee simple estate in the Wanganui Prison to the governance entity and the Pakaitore trustees.

3 OBLIGATIONS PRIOR TO WANGANUI PRISON SETTLEMENT DATE

3.1 The Crown must maintain the Wanganui Prison, or ensure its maintenance, until the actual Wanganui Prison settlement date in substantially the same condition as it was in at the notification date, fair wear and tear excepted.

3.2 Between the notification date and the actual Wanganui Prison settlement date the Crown must consult with, and obtain the prior written consent of, the governance entity and the Pakaitore trustees (which will not be unreasonably withheld or delayed) before:

3.2.1 agreeing to any material variation in the terms of a disclosed encumbrance affecting or benefiting Wanganui Prison ; or

3.2.2 procuring any consent, or providing any waiver, under the Resource Management Act 1991, or other legislation, that materially affects the Wanganui Prison.

DEED TO AMEND THE DEED OF SETTLEMENT

- 3.3 The Crown must, if it carries out works, or gives specific authority in writing for works to be carried out, on the Wanganui Prison, between the notification date and the actual Wanganui Prison settlement date, for which the Crown must by law obtain a building consent or permit, comply with any obligations imposed on the Crown under the Building Act 2004 in respect of such works.
- 3.4 The Crown must pay all charges for electric power, gas, water, and other utilities that the Crown owes as owner of the Wanganui Prison until the actual Wanganui Prison settlement date except where those charges are payable by any tenant or occupant directly to the relevant supplier.
- 3.5 Subject to the terms of any disclosed encumbrance affecting the Wanganui Prison, the Crown must use reasonable endeavours to obtain permission for the governance entity and the Pakaitore trustees (or a person authorised by those parties), upon reasonable notice, to enter the Wanganui Prison on one occasion before the Wanganui Prison settlement date to examine it.
- 3.6 Any person entering and inspecting the Wanganui Prison under paragraph 3.5 must comply with all reasonable conditions imposed by the Crown in relation to that entry and inspection.

4 POSSESSION AND SETTLEMENT

- 4.1 On the Wanganui Prison settlement date possession (but not vacant possession) must be given and taken of the Wanganui Prison subject to the disclosed encumbrances (as they may be varied under paragraph 2.2).
- 4.2 Subject to paragraph 10, on the Wanganui Prison settlement date the Crown must hand to the governance entity and the Pakaitore trustees (or a person authorised by those parties):
- 4.2.1 a registrable memorandum of transfer of an undivided half share as tenant in common in the fee simple estate in the Wanganui Prison to the governance entity;
 - 4.2.2 a registrable memorandum of transfer of an undivided half share as tenant in common in the fee simple estate in the Wanganui Prison to the Pakaitore trustees;
 - 4.2.3 all other instruments in registrable form which may be required by this part 22A, including those referred to in paragraph 4.3; and
 - 4.2.4 all contracts and other documents which create unregistered rights, interests and obligations affecting the registered proprietors' interest (but not proclamations, *Gazette* notices and similar public notices) and which will continue following the actual Wanganui Prison settlement date.
- 4.3 The governance entity and the Pakaitore trustees (or a person authorised by those parties) must, unless the Crown agrees otherwise, within 5 business days of the actual Wanganui Prison settlement date or if paragraph 10 applies, within the timeframe set out in paragraph 10, lodge the following documents for registration in the following order in relation to the Wanganui Prison:
- 4.3.1 a written application for two computer freehold registers in the name of the Crown;
 - 4.3.2 the transfer to the governance entity;

DEED TO AMEND THE DEED OF SETTLEMENT

- 4.3.3 the transfer to the Pakaitore trustees; and
- 4.3.4 the lease.
- 4.4 All outgoing and incoming (including rates, excluding insurance premiums) must be apportioned at the actual Wanganui Prison settlement date.
- 4.5 The Crown must supply a statement of apportionments to the governance entity and the Pakaitore trustees before the actual Wanganui Prison settlement date. On the actual Wanganui Prison settlement date:
 - 4.5.1 the governance entity and the Pakaitore trustees must pay to the Crown in equal shares the amount by which the outgoing (except for insurance premiums) for the Wanganui Prison pre-paid by the Crown in respect of a period after the actual Wanganui Prison settlement date exceed the incoming received by the Crown for that period; or
 - 4.5.2 the Crown must pay to the governance entity and the Pakaitore trustees in equal shares the amount by which the incoming received by the Crown in respect of a period after the actual Wanganui Prison settlement date exceed the outgoing (except for insurance premiums) for the Wanganui Prison pre-paid by the Crown for that period.
- 4.6 No fixtures, fittings or chattels situated on the Wanganui Prison will be included in its transfer.
- 4.7 Paragraphs 4.4-4.5 apply only to the extent they are consistent with the lease.

5 RISK AND INSURANCE

- 5.1 The Wanganui Prison will remain at the sole risk of the Crown until the actual Wanganui Prison settlement date and, from the actual Wanganui Prison settlement date, it will remain at the sole risk of the governance entity and the Pakaitore trustees.
- 5.2 In the event that, prior to the actual Wanganui Prison settlement date, the Wanganui Prison is destroyed or damaged and such destruction or damage has not been made good by the actual Wanganui Prison settlement date, then the following provisions apply:
 - 5.2.1 the governance entity must complete the transfer of the Wanganui Prison at 50 percent of the transfer value on the condition that the Crown pay to the governance entity an amount equal to 50 percent of the amount (if any) by which the transfer value for the Wanganui Prison is more than the value of the Wanganui Prison as at the actual Wanganui Prison settlement date as a result of the destruction or damage; and
 - 5.2.2 the Pakaitore trustees must complete the transfer of the Wanganui Prison on the condition that the Crown provides an acknowledgement in writing to the Pakaitore trustees that the value of the Pakaitore trustees' interest in the Wanganui Prison is 50 percent of the value of the Wanganui Prison as at the actual Wanganui Prison settlement date as a result of the destruction or damage if this amount is less than 50 percent of the transfer value;
 - 5.2.3 any party may give the other parties notice in writing requiring that any dispute as to the application of this paragraph 5.2 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.

DEED TO AMEND THE DEED OF SETTLEMENT

- 5.3 If a dispute relating to a claim by the governance entity or the Pakaitore trustees for a diminution in value of the Wanganui Prison under paragraph 5.2.3 is not determined by the actual Wanganui Prison settlement date, then:
- 5.3.1 settlement shall take place on the actual Wanganui Prison settlement date in accordance with this part 22A as if there had been no destruction or damage; and
- 5.3.2 upon the determination of the dispute the Crown shall within 7 business days from such determination:
- (a) pay to the governance entity a sum equal to 50 percent of the diminution in value of the Wanganui Prison and interest from settlement date to the date of that payment at the rate set out in clause 8.2;
- (b) provide an acknowledgement in writing to the Pakaitore trustees that the value of the Pakaitore trustees' interest in the Whanganui Prison is 50 percent of the value of the Wanganui Prison as a result of the destruction or damage.
- 5.4 The governance entity and the Pakaitore trustees will not be required to take over from the Crown any insurance policies in relation to the Wanganui Prison.

6 TRANSFER VALUE

- 6.1 To avoid doubt, the parties acknowledge that the transfer value of the Wanganui Prison will not be affected by:
- 6.1.1 any addition or variation to the disclosed encumbrances agreed in writing by the Crown, the governance entity and the Pakaitore trustees under paragraph 2.2; or
- 6.1.2 any variation to a disclosed encumbrance agreed by the Crown, the governance entity and the Pakaitore trustees under paragraph 3.2.1.

7 BOUNDARIES, TITLE, ETC

- 7.1 The Crown will not be bound to point out the boundaries of the Wanganui Prison.
- 7.2 If the Wanganui Prison is subject only to disclosed encumbrances (as they may be varied under paragraph 2.2), the governance entity and the Pakaitore trustees:
- 7.2.1 will be treated as having accepted the Crown's title to the Wanganui Prison as at the actual Wanganui Prison settlement date; and
- 7.2.2 may not make any objections to, or requisitions on, it.
- 7.3 Except as otherwise expressly set out in this part 22A no error, omission or misdescription of the Wanganui Prison or its title shall annul the transfer of Wanganui Prison.
- 7.4 The Crown will not be liable to pay for, or contribute towards, the expense of erection or maintenance of any fence between the Wanganui Prison and any contiguous land of the Crown (unless it is the Crown that requires the fence in which case the Crown shall meet all the costs of erecting the fence); and
- 7.4.1 this clause will not continue for the benefit of any subsequent purchaser of the contiguous land; and

DEED TO AMEND THE DEED OF SETTLEMENT

7.4.2 the Crown may require the inclusion of a fencing covenant to this effect in any transfer of the Wanganui Prison.

8 OBLIGATIONS AFTER SETTLEMENT

8.1 If the Crown receives any notice or demand in relation to the Wanganui Prison from the Crown, any territorial authority or any tenant after the actual Wanganui Prison settlement date, the Crown will, if not paying or complying with such notice or demand, promptly deliver it to the governance entity and the Pakaitore trustees or their solicitors and, if the Crown fails to do so, the Crown will be liable for any penalty incurred.

8.2 Immediately after the actual Wanganui Prison settlement date, the Crown will give notice of the transfer of the Wanganui Prison to the territorial authority having jurisdiction in respect of that property.

9 DISCLOSURE INFORMATION

9.1 The Crown warrants to the governance entity and the Pakaitore trustees that, as at the notification date, the disclosure information in relation to the Wanganui Prison is all the material information that relates to the Wanganui Prison, of which the land holding agency is aware, the land holding agency having inspected its records but not having undertaken a physical inspection of the Wanganui Prison or made enquiries beyond its records.

9.2 Except as provided in paragraph 9.1, the Crown gives no representation or warranty (whether express or implied) nor accepts any responsibility with respect to:

9.2.1 the Wanganui Prison 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

9.2.2 the completeness or accuracy of the disclosure information in relation to the Wanganui Prison.

9.3 The governance entity and the Pakaitore trustees each acknowledge that (although the Crown is not giving any representation or warranty in relation to the Wanganui Prison except as provided in paragraph 9.1) the governance entity and the Pakaitore trustees each had the opportunity prior to the Wanganui Prison settlement date (in addition to being able to examine the disclosure information) to:

9.3.1 inspect the Wanganui Prison; and

9.3.2 determine its state and condition.

10 DELAYED TRANSFER OF LEGAL TITLE

10.1 The Crown covenants for the benefit of the governance entity and the Pakaitore trustees that it will:

10.1.1 arrange for the creation of two computer freehold registers for all the Wanganui Prison, in accordance with clause 7.40(aa)(ii); and

10.1.2 transfer title to the Wanganui Prison to the governance entity and the Pakaitore trustees as tenants in common in undivided half shares, as soon as is reasonably

DEED TO AMEND THE DEED OF SETTLEMENT

practicable, but no later than five years after the actual Wanganui Prison settlement date.

- 10.2 The covenant given by the Crown under paragraph 10.1 shall have effect and be enforceable, despite being positive in effect and there being no dominant tenement.
- 10.3 If paragraph 10.1 applies then, for the period from the actual Wanganui Prison settlement date until the date that the Crown transfers the title to the Wanganui Prison to the governance entity and the Pakaitore trustees:
- 10.3.1 the governance entity and the Pakaitore trustees will be the beneficial owners of that property as tenants in common in undivided half shares; and
- 10.3.2 all obligations and rights will be performed and arise as if full legal title had passed to the governance entity and the Pakaitore trustees on the actual Wanganui Prison settlement date.

11 SETTLEMENT PROVISIONS

- 11.1 On the Wanganui Prison settlement date:
- 11.1.1 the governance entity shall pay to the Crown by way of bank cheque drawn on a New Zealand registered bank and made payable to the land holding agency an amount equal to 50 percent of the transfer value (plus GST if any); and
- 11.1.2 subject to paragraph 10, the Crown shall concurrently deliver to the governance entity and the Pakaitore trustees (or a person authorised by those parties) all documents and instruments necessary to effect transfer of the Wanganui Prison to the governance entity and the Pakaitore trustees.
- 11.2 If from any cause whatever (save the default of the Crown):
- 11.2.1 all or any part of the transfer value payable by the governance entity;
- 11.2.2 or any other moneys payable by the governance entity or the Pakaitore trustees,
- to the Crown is not paid on the Wanganui Prison settlement date, the Crown shall not be obliged to give possession to the governance entity or to the Pakaitore trustees, and the governance entity shall pay to the Crown default interest at the rate of 12 percent per annum on all or that part of the transfer value (plus GST if any) so unpaid for the period from the Wanganui Prison settlement date to the actual Wanganui Prison settlement date, but without prejudice to any other rights or remedies available to the Crown at law or in equity.
- 11.3 If, without the written agreement of the parties, settlement is not effected on the Wanganui Prison settlement date then without prejudice to the rights of the party or parties not in default the following provisions shall apply:
- 11.3.1 either the Crown, the Pakaitore trustees or the governance entity may at any time after the Wanganui Prison settlement date serve on the other parties notice in writing ("**settlement notice**") to effect settlement but the notice shall be effective only if the party serving it is at the time of service either in all material respects ready able and willing to proceed to effect settlement in accordance with the settlement notice or is not so ready able and willing to effect settlement only by reason of the default or omission of the other party. For the sake of clarity the governance entity and the Pakaitore trustees acknowledge that they may not

DEED TO AMEND THE DEED OF SETTLEMENT

serve a settlement notice where there is a delay or transfer of legal title as contemplated by paragraph 10;

11.3.2 upon service of a settlement notice, the parties on which the settlement notice is served shall effect settlement within 10 business days after the date of service of the settlement notice (excluding the date of service) and in respect of that period time shall be of the essence but without prejudice to any intermediate right of cancellation (if any) by the other parties; and

11.3.3 if the party or parties in default do not comply with the terms of a settlement notice then without prejudice to any other rights or remedies available to the party serving the settlement notice at law or in equity that party may cancel the agreement constituted by clause 7.30A by written notice.

11.4 The trustees' interest in Wanganui Prison will be transferred to the Pakaitore trustees:

11.4.1 as redress on account of settlement of the Whanganui iwi historical claims; and

11.4.2 without charge to, or consideration to be provided or paid by the Pakaitore trustees.

12 MISCELLANEOUS

Further assurances

12.1 The Crown, the governance entity and the Pakaitore trustees must, at the request of another party, 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 clause 7.30A and this part 22A.

Non merger

12.2 On transfer of the Wanganui Prison to the governance entity and the Pakaitore trustees, the provisions of this part 22A will not merge and, to the extent any provision has not been fulfilled, will remain in force.

DEED TO AMEND THE DEED OF SETTLEMENT

Schedule 3

RUATANGATA ELECTRICITY EASEMENT

DEED TO AMEND THE DEED OF SETTLEMENT

Approved by Registrar-General of Land under No. 2002/6055
 Easement instrument to grant easement or *profit à prendre*, or create land covenant
 Sections 90A and 90F, Land Transfer Act 1952

Land registration district
 WELLINGTON
 WELLINGTON



BARCODE

Grantor
 Grantor
 Surname(s) must be underlined or in CAPITALS.

Grantee
 POWERCO LIMITED
 Grantee
 POWERCO LIMITED
 Surname(s) must be underlined or in CAPITALS.

Grant* of easement or *profit à prendre* or creation or covenant

The Grantor, being the registered proprietor of the servient tenement(s) set out in Schedule A, and in consideration of the sum of \$1.00 plus GST (if any), grants to the Grantee (and, if so stated, in gross) the easement(s) or *profit à prendre* set out in Schedule A, or creates the covenant(s) set out in Schedule A, with the rights and powers of provisions set out in the Annexure Schedule(s).

Dated this _____ day of _____

Attestation

| | |
|---------|---|
| | Signed in my presence by the Grantor |
| | Signature of witness Witness to complete in BLOCK letters (unless legibly printed) |
| | Witness name |
| | Occupation |
| Address | |

Signature (common seal) of Grantor
 POWERCO LIMITED by its authorised attorney NIGEL DICKSON BARBOUR
 POWERCO LIMITED by its authorised attorney NIGEL DICKSON BARBOUR

| | |
|---------|---|
| | Signed in my presence by the Grantee |
| | Signature of witness Witness to complete in BLOCK letters (unless legibly printed) |
| | Witness name |
| | Occupation |
| Address | |

N D Barbour
 N D Barbour
 Signature (common seal) of Grantee
 Certified correct for the purposes of the Land Transfer Act 1952.

[Solicitor for] the Grantee

*If the consent of any person is required for the grant, the specified consent form must be used.
 REF: 7003 - AUCKLAND DISTRICT LAW SOCIETY
 *If the consent of any person is required for the grant, the specified consent form must be used.
 REF: 7003 - AUCKLAND DISTRICT LAW SOCIETY

DEED TO AMEND THE DEED OF SETTLEMENT

Approved by Registrar-General of Land under No. 2002/6055
Annexure Schedule 1



Easement Instrument _____ Dated _____ Page **1** of **4** pages

Schedule A

(Continue in additional Annexure Schedule if required.)

| Purpose (nature and extent) of easement, profit, or covenant | Shown (plan reference) | Servient tenement (Identifier/CT) | Dominant tenement (Identifier/CT or in gross) |
|--|------------------------|-----------------------------------|---|
| Right to convey electricity | B and G on SO 417422 | Sec 5 SO 417422 | Powerco Limited (in gross) |

Easements or profit 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 specific classes of easement are those prescribed by the Land Transfer Regulations 2002.

The [implied rights and powers are [varied] [negated] [added to] or [substituted] by:

Memorandum number _____, registered under section 155A of the Land Transfer Act 1952,

[the provisions set out in Annexure Schedule 2].

Covenant provisions

*Delete phrases in [] and insert memorandum number as required.
 Continue in additional Annexure Schedule if required.*

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

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

[Annexure Schedule 2].

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

DEED TO AMEND THE DEED OF SETTLEMENT

Approved by Registrar-General of Land under No. 2002/5032
Annexure Schedule 2



Insert type of instrument "Mortgage",
"Transfer", "Lease" etc

Easement instrument Dated [] Page 2 of 4 pages

(Continue in additional Annexure Schedule, if required.)

Continuation of "Estate or Interest or Easement to be Created":

- 1 This easement is in addition to and not in substitution for any statutory rights and authorities which the Grantee may have at any time in respect of the servient tenement. The rights and powers in this instrument are in addition to those rights and powers contained in Schedule 4 to the Land Transfer Regulations 2002 ("the Fourth Schedule") and where the terms of this instrument are in conflict with the Fourth Schedule the terms of this instrument shall prevail.
- 2 In addition to the above rights and powers the Grantor grants to the Grantee as an easement in gross the following rights and powers at all times and in any quantity:
 - 2.1 to lay, construct, maintain, replace and retain lines and works on, in, over and under the soil of the easement land;
 - 2.2 to enter and remain upon the servient tenement for the purposes of laying, constructing, maintaining, inspecting, repairing, renewing, enlarging, replacing, altering or removing the lines or works as the case may be and opening up the soil of the servient tenement and make any accessway, cuttings, fillings, grades, batters or trenches and to re-open the same and generally to do and perform such acts or things upon the servient land as may be necessary to enable the Grantee to receive the full free use and enjoyment of the rights and privileges granted under this easement;
 - 2.3 to use the lines and works for the purpose of conveying electricity, data and/or communications without interruption or impediment;

provided however that nothing shall compel the Grantee to exercise the above rights at any time.
- 3 **COVENANTS**
The Grantor and the Grantee covenant as follows:
 - 3.1 The Grantee shall be responsible for:
 - a the installation of the lines and works; and
 - b using its best endeavours to prevent the lines and works becoming a danger or a nuisance.
 - 3.2 The Grantee will from time to time repair and make good all damage to fences, gates or other improvements upon the servient tenement directly caused by the Grantee carrying out any work pursuant to clause 2, and the rights and powers in the Fourth Schedule.
 - 3.3 The Grantor will not without the written permission of the Grantee:

If this Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or solicitors must sign or initial in this box.

DEED TO AMEND THE DEED OF SETTLEMENT

Approved by Registrar-General of Land under No. 2002/5032
Annexure Schedule 2



Insert type of instrument "Mortgage",
"Transfer", "Lease" etc

Easement Instrument Dated [] Page 3 of 4 pages

(Continue in additional Annexure Schedule, if required.)

- a grow or permit to be grown any natural or cultivated vegetation including trees and shrubs on the easement land or in the near vicinity of the easement land; or
 - b erect or permit to be erected any improvement (including but not limited to buildings, sheds, fences, roads, walls or driveways) on the easement land; or
 - c disturb or permit to be disturbed the soil below a depth of 300 millimetres from the surface of the easement land; or
 - d do anything on the servient tenement that may damage or endanger the line(s) or works including anything that would in any way reduce the clearance of the lines or works to less than the minimum clearance required from time to time by any applicable statutory regulation, code of practice or other authority; or
 - e do any act which will interfere with the rights granted by this easement and will not at any time do permit or suffer any act whereby the full and free use and enjoyment by the Grantee of the rights and privileges granted by this easement are interfered with. The Grantee may at all times at the Grantor's cost remove any natural or cultivated vegetation or improvement on the servient tenement which will interfere with the rights granted by this easement.
- 3.4 Notwithstanding the provisions of the Fourth Schedule that deal with maintenance and payment of maintenance costs, if any maintenance, repair or replacement of the lines or the works or part of the lines or the works, is necessary because of any act or omission, neglect or fault of the Grantor (including any tenant, licensee, employee, invitee or agent of the Grantor) then the Grantor shall be responsible for the whole cost of any such maintenance, repair or replacement.
- 3.5 The Grantor covenants with the Grantee that the Grantor waives and will not at any time claim any compensation from the Grantee under Sections 57 and/or 58 of the Electricity Act 1992 or under any other provisions of any statute or regulation whatsoever, in relation to the exercise by the Grantee of its rights under this easement.
- 3.6 The lines and works are and shall remain the sole property of the Grantee and the Grantee shall not be required to remove the lines and/or works at any time. No person shall have any interest in such line(s) and works by reason only of having an interest or estate in the servient tenement.
- 3.7 No power is implied for the Grantor to determine this easement for any breach of covenant or for any other cause whatsoever. The parties intend this easement to subsist forever or until it is duly surrendered.
- 3.8 All disputes which may arise between the parties in respect of this easement are to be determined in accordance with the provisions set out in the Fourth Schedule subject to the modifications detailed in clauses 3.9 and 3.10.

If this Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or solicitors must sign or initial in this box.

DEED TO AMEND THE DEED OF SETTLEMENT

Approved by Registrar-General of Land under No. 2002/5032
Annexure Schedule 2



Insert type of instrument "Mortgage",
"Transfer", "Lease" etc

Easement Instrument Dated [] Page 4 of 4 pages

(Continue in additional Annexure Schedule, if required.)

- 3.9. If the matter should proceed to arbitration the arbitral Tribunal shall determine the issue of payment of costs as calculated on a solicitor to client basis.
- 3.10. Either the Grantor or the Grantee may appeal to the High Court on any question of law arising out of any award made by the arbitral Tribunal.
- 4. DEFINITIONS**
- 4.1. In this easement:
 - "conveying electricity data and/or communications" means the conveyance of electricity, data and/or communications and includes the generation, conversion and transformation of electricity.
 - "easement land" means that part of the servient tenement identified in Schedule A in this instrument together with any additional area reasonably required by the Grantee for the lines and works provided that such additional area will not exceed two metres in width on either side of the area marked with the letters and deposited plan number detailed in Schedule A.
 - "lines" means one or more wire, cable or conductor of any other kind and equipment used or intended to be used for conveying electricity, data and/or communications and includes poles, towers, insulators, casings, fixtures (major or minor), fittings, tunnels or other thing used or intended to be used for generating, converting or transforming electricity and for supporting, enclosing, surrounding, or protecting any such wire, cable, conductor or equipment and also includes any part of a line;
 - "Grantee" means Powerco Limited and includes all its subsidiaries (within the meaning of Sections 5 and 6 of the Companies Act 1993) and its successors, assigns and licensees.
 - "works" means every work or thing used, or designed or intended for use in or in connection with conveying electricity, data and/or communications.
- 4.2. A reference to any Statute or section of any Statute includes any enactment in amendment or substitution for such Statute or section.
- 4.3. Terms which are defined in the Land Transfer Regulations 2002 have the meaning set out in these definitions.

If this Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or solicitors must sign or initial in this box.