

TE ATIAWA

and

THE TRUSTEES OF TE KOTAHITANGA O TE ATIAWA TRUST

and

THE CROWN

**DEED OF SETTLEMENT SCHEDULE:
DOCUMENTS**

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TE ATIWA DEED OF SETTLEMENT:
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1. OVERLAY CLASSIFICATIONS

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**1.1 OVERLAY CLASSIFICATION CREATED OVER
PUKERANGIORA PA HISTORIC RESERVE**

Clause 5.9.1(a)

TE ATIAWA DEED OF SETTLEMENT:
DOCUMENTS

1.1: OVERLAY CLASSIFICATION CREATED OVER PUKERANGIORA PA HISTORIC RESERVE

1. DESCRIPTION OF AREA

Pukerangiora Pa Historic Reserve, as shown on OTS-043-04.

2. PREAMBLE

Pursuant to sections 41 to 55 of the draft settlement bill (clause 5.9.1(a) of the deed of settlement), the Crown acknowledges the statement by the trustees of their cultural, spiritual, historic and/or traditional values relating to Pukerangiora Pa Historic reserve.

3. TE ATIAWA VALUES

Kaitiakitanga - Active Protection of the site, the environment and knowledge;

Kanohi ki te Kanohi - Engagement and Formal Consultation;

Manawhenua - Recognition of the mana of Te Atiawa and respect for the Te Atiawa the relationship with its sites;

Tikanga - Appropriate action; and

Rangatiratanga - leadership, integrity and ethical behaviour in all actions and decisions.

As Te Atiawa develops its capacity, Te Atiawa looks forward to the future and the time when they are fully engaged in upholding the principle of kaitiaki over Pukerangiora Pa Historic Reserve.

Pukerangiora Pa Historic Reserve

This site is situated on a bluff above the Waitara River and is the rohe of Pukerangiora Hapu. Pukerangiora Pa is an ancient Pa which housed a large population and incorporated several marae. Although it has a long pre-colonial history, its latter history and occupation has been defined by warfare. In 1821 a taua returning to their northern iwi visited Pukerangiora Pa, but were held as hostages for several months. This incident is known as 'Raihe Poaka' (the penned-up pigs). In 1831, the taua was returning home after a defeat at Otaka Pa at Nga Motu. Many of the Hapu, fearful of being attached by the taua fled to Pukerangiora Pa for refuge. The influx of large numbers led to overcrowding and panic and, although the Pa was barricaded, the harvesting of food from cultivation areas outside the Pa was neglected. The taua attacked and laid siege to Pukerangiora Pa. The overcrowding and the lack of provisions soon led to starvation and many inhabitants were trapped and killed. Many of the inhabitants escaped by jumping from the high bluff into the river and many others fled to neighbouring Pa. During the 1860s Land Wars, Pukerangiora Pa was attacked several times by the British Army. Pukerangiora Pa finally fell to the British because of the pounding of artillery fire from trenches/saps dug deep into the slopes of Pukerangiora Pa.

The physical footprint of Pukerangiora Pa, its cliff-top and commanding views of the Waitara River and its surrounds, remain as do the clearly defined British sap trenches. The spirituality of Pukerangiora Pa also remains through its captivating aura.

**TE ATIAWA DEED OF SETTLEMENT:
DOCUMENTS**

1.1: OVERLAY CLASSIFICATION CREATED OVER PUKERANGIORA PA HISTORIC RESERVE

4. PROTECTION PRINCIPLES

The following protection principles are agreed by the Minister for Conservation and Te Atiawa for the purposes of avoiding harm to, or the diminishing of Te Atiawa values related to Pukerangiora Pa Historic Reserve:

- (a) protection of indigenous flora and fauna, natural resources and the wider environment within Pukerangiora Pa Historic Reserve;
- (b) recognition of the mana and kaitiakitanga of Te Atiawa within Pukerangiora Pa Historic Reserve;
- (c) respect for Te Atiawa tikanga and kawa within Pukerangiora Pa Historic Reserve;
- (d) respect for the interests and relationships that Te Atiawa have with Pukerangiora Pa Historic Reserve;
- (e) encouragement of the respect for the association of Te Atiawa with Pukerangiora Pa Historic Reserve;
- (f) accurate portrayal of the association, interests and relationships of Te Atiawa with Pukerangiora Pa Historic Reserve;
- (g) recognition of the relationship of Te Atiawa with the wahi tapu and wahi whakahirahira;
- (h) recognition of Te Atiawa mahinga kai and the provision of cultural resources;
- (i) recognition of Te Atiawa relationship with and the importance to Te Atiawa of the ecosystems and life forms within Pukerangiora Pa Historic Reserve; and
- (j) recognition of and respect for nga tikanga o Te Atiawa and its relevance to the protection of Pukerangiora Pa Historic Reserve.

5. ACTIONS BY THE DIRECTOR-GENERAL OF CONSERVATION IN RELATION TO SPECIFIC PRINCIPLES

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

- (a) Department of Conservation staff, volunteers, contractors, conservation board members, concessionaires and the public will be provided with information about Te Atiawa Values and the existence of the Overlay Classification and will be encouraged to recognise and respect Te Atiawa association, interests and relationships with Pukerangiora Pa Historic Reserve and its role as Kaitiaki;
- (b) Te Atiawa association interests and relationships with Pukerangiora Pa Historic Reserve will be accurately portrayed in all new DOC Information and educational material related to Pukerangiora Pa Historic Reserve;
- (c) Te Atiawa will be consulted regarding the provision of all new Department of Conservation public information or educational material, regarding Pukerangiora

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TE ATIAWA DEED OF SETTLEMENT:
DOCUMENTS

1.1: OVERLAY CLASSIFICATION CREATED OVER PUKERANGIORA PA HISTORIC RESERVE

Pa Historic Reserve and where appropriate the content will reflect the significant relationship with Pukerangiora Pa Historic Reserve;

- (d) Te Atiawa will be consulted regarding the content of such material to accurately reflect Te Atiawa cultural and spiritual values and role as Kaitiaki;
- (e) the Department of Conservation will only use Te Atiawa cultural information with the consent of Te Atiawa;
- (f) department staff will consult Te Atiawa over any proposed introduction or removal of indigenous species to and from Pukerangiora Pa Historic Reserve;
- (g) the importance of the ecosystems and life forms of Pukerangiora Pa Historic Reserve to Te Atiawa will be recognised by the Department of Conservation through measures to monitor the health of and threats to Pukerangiora Pa Historic Reserve by advocating sound and sustainable environmental planning principles and processes;
- (h) the department will inform Te Atiawa of all monitoring plans, activities and processes that are utilised to protect the indigenous flora and fauna to Pukerangiora Pa Historic Reserve;
- (i) the Department of Conservation will ensure that their management of Pukerangiora Pa Historic Reserve is not detrimental to and, where possible contributes to, the maintenance or enhancement of, the ecological health of Pukerangiora Pa Historic Reserve to the extent compatible with its historic classification;
- (j) the Department of Conservation will work with Te Atiawa on the design and location of any new signs to discourage inappropriate behaviour, including fossicking, the modification of wahi tapu sites and disturbance of other taonga;
- (k) the public will be informed that the removal of all rubbish and wastes from Pukerangiora Pa Historic Reserve is required;
- (l) significant earthworks and disturbances of soil and/or vegetation will be avoided wherever possible;
- (m) where significant earthworks and disturbances of soil and/or vegetation cannot be avoided, Te Atiawa will be consulted and particular regard will be had to their views, including those relating to koiwi (human remains) and archaeological sites;
- (n) any koiwi (human remains) or other taonga found or uncovered by the Department of Conservation will be left untouched and Te Atiawa informed as soon as possible to enable Te Atiawa to deal with the koiwi or taonga in accordance with their tikanga, subject to any procedures required by law; and
- (o) the department will foster a collaborative approach to work with Te Atiawa in respect to the ongoing management of Pukerangiora Pa Historic Reserve in all respects.

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**1.2 OVERLAY CLASSIFICATION CREATED OVER
PUKETARATA-PARIHAMORE HISTORIC RESERVE**

Clause 5.9.1(b)

1.2: OVERLAY CLASSIFICATION CREATED OVER PUKETARATA-PARIHAMORE HISTORIC RESERVE

1. DESCRIPTION OF AREA

Puketarata-Parihamore Historic Reserve, as shown on OTS-043-05.

2. PREAMBLE

Pursuant to sections 41 to 55 of the draft settlement bill (clause 5.9.1(b) of the deed of settlement), the Crown acknowledges the statement by the trustees of their cultural, spiritual, historic and/or traditional values relating to Puketarata-Parihamore Historic Reserve.

3. TE ATIAWA VALUES

Kaitiakitanga - Active Protection of the site, the environment and knowledge;

Kanohi ki te Kanohi - Engagement and Formal Consultation;

Manawhenua - Recognition of the mana of Te Atiawa and respect for the Te Atiawa the relationship with its sites;

Tikanga - Appropriate action; and

Rangatiratanga - leadership, integrity and ethical behaviour in all actions and decisions.

As Te Atiawa develops its capacity, Te Atiawa looks forward to the future and the time when they are fully engaged in upholding the principle of kaitiaki over Puketarata-Parihamore Historic Reserve.

Puketarata-Parihamore Historic Reserve

The area includes three papakainga, Pukewharangi, Puketarata and Parihamore in close proximity. These three pa formed a defensive network along the Te Henui river and are in the rohe of Ngati Te Whiti.

Puketarata was named because of the tarata trees which cover a small hill. Puketarata was lightly defended with terracing and was probably where people stayed temporarily, rather than permanently. This is evident with the rua pits and the fact that the bush cover was never cleared and remains to this day. Another of the sought after resource was the titoki because of its berries from which oil was extracted for use on the body and hair.

Parihamore is located on a hill and was so named to reflect the sheer and bare (hamore) cliff (pare) facing the Te Henui. The renowned chiefs were Whakamoumourangi and Kahu Tairoa. The river, the nearby swamps and the bush provided most of the resources needed for sustenance, such as fish, eels, lamprey, raupo, harakeke, timber, birds, karaka and hinau berries. The river, Te Henui, was also used as a highway to other pa and the Tauranga waka at the mouth of the Te Henui. As well as a kainga, Parihamore was also a defensive pa. One of the well known histories includes a siege of Parihamore by Potaka Taniwha in pursuit of Urukinaki, the beautiful daughter of the rangatira Kahu Tairaoa. Potaka and his warriors camped in the hollow between Puketarata and Parihamore until the food supplies at Parihamore ran low. The Parihamore rangatira, Whakamoumou, then began negotiations with Potaka and Urukinaki was the price of peace. The former earthworks of Parihamore are still visible today.

1.2: OVERLAY CLASSIFICATION CREATED OVER PUKETARATA-PARIHAMORE HISTORIC RESERVE

4. PROTECTION PRINCIPLES

The following protection principles are agreed by the Minister for Conservation and Te Atiawa for the purposes of avoiding harm to, or the diminishing of Te Atiawa values related to Puketarata-Parihamore Historic Reserve:

- (a) protection of indigenous flora and fauna, natural resources and the wider environment within Puketarata-Parihamore Historic Reserve;
- (b) recognition of the mana and kaitiakitaga of Te Atiawa within Puketarata-Parihamore Historic Reserve;
- (c) respect for Te Atiawa tikanga and kawa within Puketarata-Parihamore Historic Reserve;
- (d) respect for the interests and relationships that Te Atiawa have with Puketarata-Parihamore Historic Reserve;
- (e) encouragement of the respect for the association of Te Atiawa with Puketarata-Parihamore Historic Reserve;
- (f) accurate portrayal of the association, interests and relationships of Te Atiawa with Puketarata-Parihamore Historic Reserve;
- (g) recognition of the relationship of Te Atiawa with the wahi tapu and wahi whakahirahira;
- (h) recognition of Te Atiawa mahinga kai and the provision of cultural resources;
- (i) recognition of Te Atiawa relationship with and the importance to Te Atiawa of the ecosystems and life forms within Puketarata-Parihamore Historic Reserve;
- (j) recognition of and respect for nga tikanga o Te Atiawa and its relevance to the protection of Puketarata-Parihamore Historic Reserve.

5. ACTIONS BY THE DIRECTOR-GENERAL OF CONSERVATION IN RELATION TO SPECIFIC PRINCIPLES

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

- (a) Department of Conservation staff, volunteers, contractors, conservation board members, concessionaires and the public will be provided with information about Te Atiawa Values and the existence of the Overlay Classification and will be encouraged to recognise and respect Te Atiawa association, interests and relationships with Puketarata-Parihamore Historic Reserve and its role as Kaitiaki;
- (b) Te Atiawa association interests and relationships with Puketarata-Parihamore Historic Reserve will be accurately portrayed in all new Department of Conservation information and educational material related to Puketarata-Parihamore Historic Reserve;
- (c) Te Atiawa will be consulted regarding the provision of all new Department of Conservation public information or educational material, regarding Puketarata-

**TE ATIAWA DEED OF SETTLEMENT:
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1.2: OVERLAY CLASSIFICATION CREATED OVER PUKETARATA-PARIHAMORE HISTORIC RESERVE

Parihamore Historic Reserve and where appropriate the content will reflect the significant relationship with Puketarata-Parihamore Historic Reserve;

- (d) Te Atiawa will be consulted regarding the content of such material to accurately reflect Te Atiawa cultural and spiritual values and role as Kaitiaki;
- (e) the Department of Conservation will only use Te Atiawa cultural information with the consent of Te Atiawa;
- (f) department staff will consult Te Atiawa over any proposed introduction or removal of indigenous species to and from Puketarata-Parihamore Historic Reserve;
- (g) the importance of the ecosystems and life forms of Puketarata-Parihamore Historic Reserve to Te Atiawa will be recognised by the Department of Conservation through measures to monitor the health of and threats to Puketarata-Parihamore Historic Reserve by advocating sound and sustainable environmental planning principles and processes;
- (h) the department will inform Te Atiawa of all monitoring plans, activities and processes that are utilised to protect the indigenous flora and fauna to Puketarata-Parihamore Historic Reserve;
- (i) the Department of Conservation will ensure that their management of Puketarata-Parihamore Historic Reserve is not detrimental to and, where possible contributes to, the maintenance or enhancement of, the ecological health of Puketarata-Parihamore Historic Reserve;
- (j) the Department of Conservation will work with Te Atiawa on the design and location of any new signs to discourage inappropriate behaviour, including fossicking, the modification of wahi tapu sites and disturbance of other taonga;
- (k) the public will be informed that the removal of all rubbish and wastes from Puketarata-Parihamore Historic Reserve is required;
- (l) significant earthworks and disturbances of soil and/or vegetation will be avoided wherever possible;
- (m) where significant earthworks and disturbances of soil and/or vegetation cannot be avoided, Te Atiawa will be consulted and particular regard will be had to their views, including those relating to koiwi (human remains) and archaeological sites;
- (n) any koiwi (human remains) or other taonga found or uncovered by the Department of Conservation will be left untouched and Te Atiawa informed as soon as possible to enable Te Atiawa to deal with the koiwi or taonga in accordance with their tikanga, subject to any procedures required by law; and
- (o) the department will foster a collaborative approach to work with Te Atiawa in respect to the ongoing management of Puketarata-Parihamore Historic Reserve in all respects.

1.3 OVERLAY CLASSIFICATION CREATED OVER RIMUTAUTEKA SCENIC RESERVE

Clause 5.9.1(c)

1.3: OVERLAY CLASSIFICATION CREATED OVER RIMUTAUTEKA SCENIC RESERVE

1. **DESCRIPTION OF AREA**

Rimutauteka Scenic Reserve, as shown on OTS-043-06.

2. **PREAMBLE**

Pursuant to sections 41 to 55 of the draft settlement bill (clause 5.9.1(c) of the deed of settlement), the Crown acknowledges the statement by the trustees of their cultural, spiritual, historic and/or traditional values relating to Rimutauteka Scenic Reserve.

3. **TE ATIWA VALUES**

Kaitiakitanga - Active Protection of the site, the environment and knowledge;

Kanohi ki te Kanohi - Engagement and Formal Consultation;

Manawhenua - Recognition of the mana of Te Atiawa and respect for the Te Atiawa the relationship with its sites;

Tikanga - Appropriate action; and

Rangatiratanga - leadership, integrity and ethical behaviour in all actions and decisions.

As Te Atiawa develops its capacity, Te Atiawa looks forward to the future and the time when they are fully engaged in upholding the principle of kaitiaki over Rimutauteka Scenic Historic Reserve.

Rimutauteka Scenic Reserve

This site marks the boundary between Otaraua and Pukerangiora Hapu.

The social, cultural, historical and spiritual importance of Rimutauteka Scenic Reserve is illustrated through Te Atiawa traditions and histories. The traditions and histories also represent the spiritual links and an unbroken continuity with Te Atiawa tipuna and present generations and reinforce Te Atiawa tribal identity.

4. **PROTECTION PRINCIPLES**

The following protection principles are agreed by the Minister for Conservation and Te Atiawa for the purposes of avoiding harm to, or the diminishing of Te Atiawa values related to Rimutauteka Scenic Reserve:

- (a) protection of indigenous flora and fauna, natural resources and the wider environment within Rimutauteka Scenic Reserve;
- (b) recognition of the mana and kaitiakitaga of Te Atiawa within Rimutauteka Scenic Reserve;
- (c) respect for Te Atiawa tikanga and kawa within Rimutauteka Scenic Reserve;
- (d) respect for the interests and relationships that Te Atiawa have with Rimutauteka Scenic Reserve;

TE ATIAWA DEED OF SETTLEMENT:
DOCUMENTS

1.3: OVERLAY CLASSIFICATION CREATED OVER RIMUTAUTEKA SCENIC RESERVE

- (e) encouragement of the respect for the association of Te Atiawa with Rimutauteka Scenic Reserve;
- (f) accurate portrayal of the association, interests and relationships of Te Atiawa with Rimutauteka Scenic Reserve;
- (g) recognition of the relationship of Te Atiawa with the wahi tapu and wahi whakahirahira;
- (h) recognition of Te Atiawa mahinga kai and the provision of cultural resources;
- (i) recognition of Te Atiawa relationship with and the importance to Te Atiawa of the ecosystems and life forms within Rimutauteka Scenic Reserve; and
- (j) recognition of and respect for nga tikanga o Te Atiawa and its relevance to the protection of Rimutauteka Scenic Reserve.

5. **ACTIONS BY THE DIRECTOR-GENERAL OF CONSERVATION IN RELATION TO SPECIFIC PRINCIPLES**

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

- (a) Department of Conservation staff, volunteers, contractors, conservation board members, concessionaires and the public will be provided with information about Te Atiawa Values and the existence of the Overlay Classification and will be encouraged to recognise and respect Te Atiawa association, interests and relationships with Rimutauteka Scenic Reserve and its role as Kaitiaki;
- (b) Te Atiawa association interests and relationships with Rimutauteka Scenic Reserve will be accurately portrayed in all new DOC Information and educational material related to Rimutauteka Scenic Reserve;
- (c) Te Atiawa will be consulted regarding the provision of all new Department of Conservation public information or educational material, regarding Rimutauteka Scenic Reserve and where appropriate the content will reflect the significant relationship with Rimutauteka Scenic Reserve;
- (d) Te Atiawa will be consulted regarding the content of such material to accurately reflect Te Atiawa cultural and spiritual values and role as Kaitiaki;
- (e) the Department of Conservation will only use Te Atiawa cultural information with the consent of Te Atiawa;
- (f) department staff will consult Te Atiawa over any proposed introduction or removal of indigenous species to and from Rimutauteka Scenic Reserve;
- (g) the importance of the ecosystems and life forms of Rimutauteka Scenic Reserve to Te Atiawa will be recognised by the Department of Conservation through measures to monitor the health of and threats to Rimutauteka Scenic Reserve by advocating sound and sustainable environmental planning principles and processes;

**TE ATIAWA DEED OF SETTLEMENT:
DOCUMENTS**

1.3: OVERLAY CLASSIFICATION CREATED OVER RIMUTAUTEKA SCENIC RESERVE

- (h) the department will inform Te Atiawa of all monitoring plans, activities and processes that are utilised to protect the indigenous flora and fauna to Rimutauteka Scenic Reserve;
- (i) the Department of Conservation will ensure that their management of Rimutauteka Scenic Reserve is not detrimental to and, where possible contributes to, the maintenance or enhancement of, the ecological health of Rimutauteka Scenic Reserve;
- (j) the Department of Conservation will work with Te Atiawa on the design and location of any new signs to discourage inappropriate behaviour, including fossicking, the modification of wahi tapu sites and disturbance of other taonga;
- (k) the public will be informed that the removal of all rubbish and wastes from Rimutauteka Scenic Reserve is required;
- (l) significant earthworks and disturbances of soil and/or vegetation will be avoided wherever possible;
- (m) where significant earthworks and disturbances of soil and/or vegetation cannot be avoided, Te Atiawa will be consulted and particular regard will be had to their views, including those relating to koiwi (human remains) and archaeological sites;
- (n) any koiwi (human remains) or other taonga found or uncovered by the Department of Conservation will be left untouched and Te Atiawa informed as soon as possible to enable Te Atiawa to deal with the koiwi or taonga in accordance with their tikanga, subject to any procedures required by law; and
- (o) the department will foster a collaborative approach to work with Te Atiawa in respect to the ongoing management of Rimutauteka Scenic Reserve in all respects.

1.4 OVERLAY CLASSIFICATION CREATED OVER WAITARA SCENIC RESERVE

Clause 5.9.1(d)

1.4: OVERLAY CLASSIFICATION CREATED OVER WAITARA SCENIC RESERVE

1. **DESCRIPTION OF AREA**

Waitara Scenic Reserve, as shown on OTS-043-07.

2. **PREAMBLE**

Pursuant to section 41 to 55 of the draft settlement bill (clause 5.9.1(d) of the deed of settlement), the Crown acknowledges the statement by the trustees of their cultural, spiritual, historic and/or traditional values relating to Waitara Scenic Reserve.

3. **TE ATIAWA VALUES**

Kaitiakitanga - Active Protection of the site, the environment and knowledge;

Kanohi ki te Kanohi - Engagement and Formal Consultation;

Manawhenua - Recognition of the mana of Te Atiawa and respect for the Te Atiawa the relationship with its sites;

Tikanga - Appropriate action; and

Rangatiratanga - leadership, integrity and ethical behaviour in all actions and decisions.

As Te Atiawa develops its capacity, Te Atiawa looks forward to the future and the time when they are fully engaged in upholding the principle of kaitiaki over Waitara Scenic Reserve.

Waitara Scenic Reserve

The site adjoins the Waitara River and is in the rohe of Otaraua and Manukorihi Hapu.

The social, cultural, historical and spiritual importance of the Waitara Scenic Reserve is illustrated through Te Atiawa traditions and histories. The traditions and histories also represent the spiritual links and an unbroken continuity with Te Atiawa tipuna and present generations and reinforce Te Atiawa tribal identity.

4. **PROTECTION PRINCIPLES**

The following protection principles are agreed by the Minister for Conservation and Te Atiawa for the purposes of avoiding harm to, or the diminishing of Te Atiawa values related to Waitara Scenic Reserve:

- (a) protection of indigenous flora and fauna, natural resources and the wider environment within Waitara Scenic Reserve;
- (b) recognition of the mana and kaitiakitaga of Te Atiawa within Waitara Scenic Reserve;
- (c) respect for Te Atiawa tikanga and kawa within Waitara Scenic Reserve;
- (d) respect for the interests and relationships that Te Atiawa have with Waitara Scenic Reserve;

TE ATIAWA DEED OF SETTLEMENT:
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1.4: OVERLAY CLASSIFICATION CREATED OVER WAITARA SCENIC RESERVE

- (e) encouragement of the respect for the association of Te Atiawa with Waitara Scenic Reserve;
- (f) accurate portrayal of the association, interests and relationships of Te Atiawa with Waitara Scenic Reserve;
- (g) recognition of the relationship of Te Atiawa with the wahi tapu and wahi whakahirahira;
- (h) recognition of Te Atiawa mahinga kai and the provision of cultural resources;
- (i) recognition of Te Atiawa relationship with and the importance to Te Atiawa of the ecosystems and life forms within Waitara Scenic Reserve;
- (j) recognition of and respect for nga tikanga o Te Atiawa and its relevance to the protection of Waitara Scenic Reserve.

5. ACTIONS BY THE DIRECTOR-GENERAL OF CONSERVATION IN RELATION TO SPECIFIC PRINCIPLES

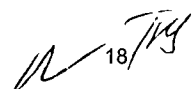
The Director-General and Te Atiawa has determined that the following actions will be taken by the Department of Conservation in relation to the specific principles:

- (a) Department of Conservation staff, volunteers, contractors, conservation board members, concessionaires and the public will be provided with information about Te Atiawa Values and the existence of the Overlay Classification and will be encouraged to recognise and respect Te Atiawa association, interests and relationships with Waitara Scenic Reserve and its role as Kaitiaki;
- (b) Te Atiawa association interests and relationships with Waitara Scenic Reserve will be accurately portrayed in all new DOC Information and educational material related to Waitara Scenic Reserve;
- (c) Te Atiawa will be consulted regarding the provision of all new Department of Conservation public information or educational material, regarding Waitara Scenic Reserve and where appropriate the content will reflect the significant relationship with Waitara Scenic Reserve;
- (d) Te Atiawa will be consulted regarding the content of such material to accurately reflect Te Atiawa cultural and spiritual values and role as Kaitiaki;
- (e) the Department of Conservation will only use Te Atiawa cultural information with the consent of Te Atiawa;
- (f) department staff will consult Te Atiawa over any proposed introduction or removal of indigenous species to and from Waitara Scenic Reserve;
- (g) the importance of the ecosystems and life forms of Waitara Scenic Reserve to Te Atiawa will be recognised by the Department of Conservation through measures to monitor the health of and threats to Waitara Scenic Reserve by advocating sound and sustainable environmental planning principles and processes;

TE ATIAWA DEED OF SETTLEMENT:
DOCUMENTS

1.4: OVERLAY CLASSIFICATION CREATED OVER WAITARA SCENIC RESERVE

- (h) the department will inform Te Atiawa of all monitoring plans, activities and processes that are utilised to protect the indigenous flora and fauna to Waitara Scenic Reserve;
- (i) the Department of Conservation will ensure that their management of Waitara Scenic Reserve is not detrimental to and, where possible contributes to, the maintenance or enhancement of, the ecological health of Waitara Scenic Reserve;
- (j) the Department of Conservation will work with Te Atiawa on the design and location of any new signs to discourage inappropriate behaviour, including fossicking, the modification of wahi tapu sites and disturbance of other taonga;
- (k) the public will be informed that the removal of all rubbish and wastes from Waitara Scenic Reserve is required;
- (l) significant earthworks and disturbances of soil and/or vegetation will be avoided wherever possible;
- (m) where significant earthworks and disturbances of soil and/or vegetation cannot be avoided, Te Atiawa will be consulted and particular regard will be had to their views, including those relating to koiwi (human remains) and archaeological sites;
- (n) any koiwi (human remains) or other taonga found or uncovered by the Department of Conservation will be left untouched and Te Atiawa informed as soon as possible to enable Te Atiawa to deal with the koiwi or taonga in accordance with their tikanga, subject to any procedures required by law; and
- (o) the department will foster a collaborative approach to work with Te Atiawa in respect to the ongoing management of Waitara Scenic Reserve in all respects.


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2. STATEMENTS OF ASSOCIATION

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2. STATEMENTS OF ASSOCIATION

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

Awa te Take Pa Historic Reserve (as shown on deed plan OTS-043-08)

This site is in the rohe of Otaraua Hapu and is located on the banks of the Waitara River. Awa Te Take is an ancient site and was a papakainga and defensive pa. As a defensive pa, the steep jagged riverside cliffs afforded perfect protection. Significant features such as earthwork defenses (ditch bank) and the remnants of prehistoric lowland forest remain visible today.

The social, cultural and historical importance of Awa Te Take Historic Reserve is illustrated through Te Atiawa traditions and histories. The traditions and histories also represent the spiritual links and an unbroken continuity with Te Atiawa tipuna and present generations and reinforce tribal identity.

Awa te Take Scenic Reserve (as shown on deed plan OTS-043-09)

Awa te Take Awa te Take Scenic Reserve is on the banks of Waitara River and is in the rohe of Otaraua Hapu.

The social, cultural, historical and spiritual importance of Awa te take Pa is illustrated through Te Atiawa traditions and histories. The traditions and histories also represent the spiritual links and an unbroken continuity with Te Atiawa tipuna and present generations and reinforce Te Atiawa tribal identity.

Bayly Road Conservation Area (as shown on deed plan OTS-043-23)

The site is located at the edge of Waitapu Urupa at Nga Motu (islands) beach, New Plymouth and is in the rohe of Ngati Te Whiti.

Waitapu is named after the stream which takes its name from an incident which arose during the siege of Otaka Pa by neighbouring northern iwi in 1832. When discussing terms for peace a chief from the neighbouring iwi, sought permission to go into Otaka to hold a tangi for his dead warriors. One inhabitant, Te Whau, ran out towards the taua, was killed and her body dismembered and thrown into the stream. The stream was then called Waitapu - wai (water) and tapu (sacred). This stream still runs through Waitapu Urupa today.

In 1923 Ngati Te Whiti members petitioned the government for the return of the urupa this occurred in 1927 when the land was vested as an urupa through the Maori Land Court. Waitapu was the first cemetery in New Plymouth and the first recorded burial was Mary Ann Barrett in 1840. In 1847 the whaler Richard Barrett died after an accident and was also buried at Waitapu. During the excavations for the New Plymouth power station in 1970s ko iwi (bones) were uncovered at Paritutu and were reinterred at Waitapu. The ko iwi were carbon dated to the 1600s.

Over the years many Maori and Pakeha have been laid to rest at Waitapu. Waitapu remains open as an urupa and is the final resting place for many Ngati Te Whiti members. The value of the site today is its proximity to Waitapu Urupa and its current use as an access way in to the Waitapu Urupa.

2: STATEMENTS OF ASSOCIATION

Everett Park Scenic Reserve (as shown on deed plan OTS-043-10)

Everett Park is located on the banks of the Maunganui River in the rohe of Pukerangiora Hapu.

The social, cultural, historical and spiritual importance of Everett Park is illustrated through Te Atiawa traditions and histories. The traditions and histories also represent the spiritual links and an unbroken continuity with Te Atiawa tipuna and present generations and reinforce Te Atiawa tribal identity.

Huatoki Stream Marginal Strip (as shown on deed plan OTS-043-33)

The sites are in the rohe of Ngati Te Whiti Hapu and take their name from the Huatoki River and their close proximity to it. The Huatoki is named after the titoki tree which grows profusely in the area.

The Huatoki River, and surrounding environment were important for their resources. Along and near its banks were solid stands of timber, flax and raupo. Aside from providing a source of water, the river was plentiful in fish, whitebait, and lamprey. The banks were used as a walkway to other papakainga and as a highway to the coast. Several papakainga were located along the river including Te Kawau, Pukaka, Mawhera, Maripu and Okoare. Nohoanga were also located in key resource gathering areas and were used by hapu members in the summer months to gather resources and escape the heat. Disputes/competition for these resources caused several battles between Te Atiawa hapu. Two such battles are remembered today in Korero tawhito. The first was a dispute over piharau fishing rights between Te Rangi Apiti Rua of Puke Ariki, and of Manu Kino of Waimanu. The other occurred when the rangatira, Koronerea, ambushed and attacked a taua who were hunting on the banks of the Huatoki. The battle was named Pakirikiri because the bodies resembled pakirikiri, the rock eyed cod.

During the Land Wars, British soldiers used a track along the Huatoki from Pukaka/Marsland Hill to the centre of town which was named Red Coat Lane. The river today is valued because of its rich bush stands, its conservation values and landscape aesthetics.

Huirangi Recreation Reserve (as shown on deed plan OTS-043-25)

The Huirangi Recreation Reserve is located on inland and is in the rohe of Pukerangiora Hapu.

The social, cultural, historical and spiritual importance of the Huirangi Recreation Reserve is illustrated through Te Atiawa traditions and histories. The traditions and histories also represent the spiritual links and an unbroken continuity with Te Atiawa tipuna and present generations and reinforce Te Atiawa tribal identity.

Katere Scenic Reserve (as shown on deed plan OTS-043-11)

Katere is located in Fitzroy, New Plymouth and is in the rohe of Ngati Tawhirikura Hapu.

The social, cultural, historical and spiritual importance of Katere is illustrated through Te Atiawa traditions and histories. The traditions and histories also represent the spiritual links and an unbroken continuity with Te Atiawa tipuna and present generations and reinforce Te Atiawa tribal identity.

2: STATEMENTS OF ASSOCIATION

Mahoetahi Historic Reserve (as shown on deed plan OTS-043-12)

Mahoetahi is located at the junction of the highway north and Mountain Road, Bell Block and is in the rohe of Puketapu hapu. Historically it was a pa site located on a small hill surrounded on three sides by a flax and raupo swamp. The approach to the pa was by a ridge from a plain on the north east side. It closely identified with another nearby pa called Nga Puke Turua.

During the land wars it was a site of a major battle involving local and neighbouring iwi against a force of about 1000 soldiers, and colonial militia. Outnumbered and on a site which was ill equipped for battle, the taua was quickly defeated and about fifty were killed and another third wounded. The chiefs were buried at St Mary's Church, New Plymouth and the others at Mahoetahi.

Mahoetahi is important to Puketapu because of its cultural and historical significance. It is a former pa, a Land Wars Site and an urupa. The significance of Mahoetahi is recognised nationally through its NZ Wars Graves rating.

Makara Scenic Reserve (as shown on deed plan OTS-043-13)

This site is located on the banks of the Waitara river and is in the rohe of Otaraua and Pukerangiora hapu.

The social, cultural, historical and spiritual importance of Makara Scenic Reserve illustrated through Te Atiawa traditions and histories. The traditions and histories also represent the spiritual links and an unbroken continuity with Te Atiawa tipuna and present generations and reinforce Te Atiawa tribal identity.

Mangahinau Esplanade Reserve (as shown on deed plan OTS-043-26)

This site is on the Waitara River and is in the rohe of Otaraua Hapu.

The social, cultural, historical and spiritual importance of Mangahinau Esplanade Reserve is illustrated through Te Atiawa traditions and histories. The traditions and histories also represent the spiritual links and an unbroken continuity with Te Atiawa tipuna and present generations and reinforce Te Atiawa tribal identity.

Ngahere Scenic Reserve (as shown on deed plan OTS-043-27)

Te Ngahere was a small pa on the outer reaches of the great Ngati Tuparikino papapkainga, Tupare. Tupare was located on the banks of the Waiwhakaiho River and was built to the landscape which rose steadily from the river. This site is named Te Ngahere because it was covered in bush.

Tupare and Te Ngahere were abandoned in the wake of the 1830s invasion by a northern iwi and the habitants fled to Otaka at Nga Motu. In the 1830s Ngati Tuparikino returned to the area to live but did so in small whanau villages, rather than big pa sites. The only remainder of the original pa sites today are their names.

Today, Te Ngahere is a reserve in a small sheltered steep gully. In the mid-twentieth century lit was replanted in exotics to replace the original bush, most of which had gone. Te Ngahere still attracts bird life, especially fantail, pigeon and tui. The value of Te Ngahere is its ancestral connection and historical association with the great Tupare papakainga.

2: STATEMENTS OF ASSOCIATION

**Ngangana Pa (being Manukorihi Recreation Reserve)
(as shown on deed plan OTS-043-14)**

The site is located on the east side of the Waitara River in the rohe of Otaraua and Manukorihi hapu.

The social, cultural, historical and spiritual importance of the Manukorihi Recreation reserve is illustrated through Te Atiawa traditions and histories. The traditions and histories also represent the spiritual links and an unbroken continuity with Te Atiawa tipuna and present generations and reinforce Te Atiawa tribal identity.

**Papamoa (being Meeting of the Waters Scenic Reserve)
(as shown on deed plan OTS-043-15)**

Papamoa is located on the banks of the Waiwakaiho River in the rohe of Ngati Te Whiti. The site is above a river bend which was later named the meeting of the waters because of the turbulent river flow at that point. The site was named Papamoa because the land around which it was located was as soft as a garden bed.

Papamoa was also a nohoanga, a camping site inhabited at certain times of the year to gather seasonal resources such as mahinga kai (kei kei, fish, eels, tii) and as a retreat to escape the heat of the summer. Kei kei and Tii were still being harvested from this site by Ngati Te Whiti people in the 1950s. Papamoa was also used as a defensive lookout point and the site of several inter iwi battles. Papamoa was considered a tapu site because of the battles and many drownings in the turbulent river.

For Ngati Te Whiti the site still retains its tapu nature. Today the site is a significant example of extensive ring plain forests and is important for its biodiversity, conservation and recreational values.

Puketakauere Pa Historic Reserve (as shown on deed plan OTS-043-16)

This site is in the rohe of Otaraua Hapu. Puketakauere is an ancient pa site with a history characterised by both peaceful occupation and warfare. It was the site of one of the first battles of the first Taranaki War. At this time, the site included a ring ditch pa with an escape route through the nearby swamp, and an identical paa, Onukukaitara, which had covered passages and rifle pits. Due to the victory of Te Atiawa fighters over a large British military force at Puketakauere, the site, serves as a constant reminder for Te Atiawa of the courage and strength of Otaraua and Te Atiawa tupuna. The British built a Blockhouse on Onukukaitara once it had been abandoned by Te Atiawa. The site and the Battle of Puketakauere has an important place in the history of the Taranaki Wars and the New Zealand Wars, and continues to have significant educational, historical and symbolic value for Te Atiawa.

Robe Street Conservation Area (as shown on deed plan OTS-043-17)

The Ngati Te Whiti name for this area is Maramamao. Maramamao was located on the outer reaches of Puke Ariki Pa. Puke Ariki was a huge pa which stretched from the coast inland and was probably built by Te Rangi Apiti Rua sometime in the 1700s. In building the pa, Te Rangi Apiti Rua retained the landscape, a hill sloping upwards from the sea to a large flat area. The large flat area became the cultivation area Maramamao through which the stream, Mangaotuku, ran. The food resources of Maramamao supplied the people of Puke Ariki and nearby pa such as Mawhero and Pukaka.

2: STATEMENTS OF ASSOCIATION

There were other cultivation areas but Maramamao was the largest and most distant from the centre of the pa. Puke Ariki contained many marae and several urupa. One of the urupa, was located close to Maramamao where at least three chiefs, including Te Rangi Apiti Rua, are buried.

Puke Ariki, its constituent marae, urupa and cultivation area remain significant to Ngati Te Whiti and are expressed and remembered through constant Korero tawhito/oral history and daily cultural practices.

Sentry Hill Conservation Area (as shown on deed plan OTS-043-18)

Te Morere is an ancient pa located on a hill on the banks of the Waiongona. It was named Te Morere (the swing), because of the tall swing tree which stood on the site and from which the youth used to swing out and dive into the nearby river. It is located in the rohe of Puketapu hapu.

During the first Taranaki war, Te Morere was a lookout by Puketapu warriors to observe British military movements. In 1863 the British built a redoubt on Te Morere and called the site Sentry Hill. In 1864 Taranaki warriors, including from Te Atiawa, attacked the British redoubt at Te Morere resulting in the deaths of over 50 Maori. The battle of Te Morere is remembered through a haunting poem of mourning composed by Tamati Hone. The poem ends with a comparison of the dead at Te Morere to a wrecked and shattered fleet of waka:

*"How vain your valour, how vain your charge against Morere's walls
Lost on that rocky coast of death are all my crews
Tanui, Tokomaru, Kurahaupo, Aotea
Aue, my brave canoes, Lie broken on the shores."*

Today, the site is dissected by the road. Although there is very little physical evidence of its former glory, Te Morere remains in the cultural memory of Puketapu and Te Atiawa.

Sentry Hill Redoubt Historic Reserve (as shown on deed plan OTS-043-19)

Te Morere is an ancient pa located on a hill on the banks of the Waiongona. It was named Te Morere (the swing), because of the tall swing tree which stood on the site and from which the youth used to swing out and dive into the nearby river. It is located in the rohe of Puketapu hapu.

During the first Taranaki war, Te Morere was a lookout by Puketapu warriors to observe British military movements. In 1863 the British built a redoubt on Te Morere and called the site Sentry Hill. In 1864 Taranaki warriors, including from Te Atiawa, attacked the British redoubt at Te Morere resulting in the deaths of over 50 Maori. The battle of Te Morere is remembered through a haunting poem of mourning composed by Tamati Hone. The poem ends with a comparison of the dead at Te Morere to a wrecked and shattered fleet of waka:

*"How vain your valour, how vain your charge against Morere's walls
Lost on that rocky coast of death are all my crews
Tanui, Tokomaru, Kurahaupo, Aotea
Aue, my brave canoes, Lie broken on the shores."*

Today, the site is dissected by the road. Although there is very little physical evidence of its former glory, Te Morere remains in the cultural memory of Puketapu and Te Atiawa.

2: STATEMENTS OF ASSOCIATION

Te Henui Stream Conservation Area (as shown on deed plan OTS-043-28)

The site is on the banks of the Te Henui River, close to three papakainga, Pukewarangi, Puketarata and Parihamore and in the rohe of Ngati Te Whiti Hapu.

Te Henui means "the huge mistake" and refers to an incident that is no longer remembered. The Te Henui River and nearby papakainga were very important to Ngati Te Whiti. The three papakainga were close to each other and their occupants shared resources and strategies in times of conflict with other Hapu or Iwi. All sites are situated on the Te Henui River which was used for transport to the papakainga down river and on the coast.

The papakainga on the coast at the Te Henui river mouth were Purakau, Autere and Kerau. Fish and kaimoana were collected from the river and the nearby reef, Arakaiai and these provided staple as well as gourmet food. Kaimoana and fish were gathered according to strict protocols to ensure sustainability and good health and customary practices such as manaakitanga. Although the resources were important for physical survival and customary practises were important, the land was always important for without it the Hapu had nothing. The relationship with the land and the landscape was that of kaitiaki guardianship, survival and heritage. The land and its constituent resources were perceived in physical terms as ability to survive and secondly in spiritual terms as turangawaewae/birth right. The ultimate aim was communal well being and balance. From 1841 the land at the mouth of the Te Henui was set aside as reserves for the use of Ngati Te Whiti. During the construction for the sea wall the shape of the mouth of the Te Henui was changed so that the river flows to the sea in a straight line.

Today, the only physical remains are those of the papakainga above as well as the reef, Arakaitai, from which Hapu members still gather kaimoana.

Waiongana Stream Conservation Area (as shown on deed plan OTS-043-29)

The resources of the lower reaches of the Waiongana supported many papakainga, such as Nga Puke Turua, Mahoetahi, Te Morere and Manutahi. The river itself provided an abundance of large tuna, koura, inanga and piharau. The banks of the river provided flax, manuka and raupo.

The reefs at the mouth of the Waiongana provided pipi, paua, kina, mussels, crab and seaweed. Hapu members would camp at the papakainga at the river mouth during the spring and summer specifically to gather kaimoana and larger ocean fish. The men would go out to fishing if the day and weather was right and only caught one species each day. Sometimes the fishing party met with disaster, as related in the following Korero tawhito (oral history). One morning about twenty waka and two hundred men prepared to set off to the Hapuka fishing grounds known as Waitawhetawheta. A dispute arose between two members about a particular seat on a particular waka during which fishing gear was thrown into the water. The offended party was the tohunga Mokeuhi who then refused to go out fishing. Whilst the fleet was at sea Mokeuhi conjured up an immense storm which devastated the fleet. There were only two survivors, Kawenui who beached at Urenui and Te Kohita who beached at Motupipi in the South Island.

Waipapa Road Conservation Area (as shown on deed plan OTS-043-30)

Waipapa is located on the banks of the Waitara River and is in the rohe of Otaraua and Manukorihi Hapu.

TE ATIAWA DEED OF SETTLEMENT:
DOCUMENTS

2: STATEMENTS OF ASSOCIATION

The social, cultural, historical and spiritual importance of the Waipapa Road Conservation Area is illustrated through Te Atiawa traditions and histories. The traditions and histories also represent the spiritual links and an unbroken continuity with Te Atiawa tipuna and present generations and reinforce Te Atiawa tribal identity.

Waitara River No 1 Marginal Strip (as shown on deed plan OTS-043-20)

The site is part of the Waipapa Road Conservation Area/Nganana and is in the rohe of Otaraua hapu

The social, cultural, historical and spiritual importance of the Waitara River No.1 Marginal Strip is illustrated through Te Atiawa traditions and histories. The traditions and histories also represent the spiritual links and an unbroken continuity with Te Atiawa tipuna and present generations and reinforce Te Atiawa tribal identity.

Waitara West Marginal Strip (as shown on deed plan OTS-043-31)

The site is located on the coast at the mouth of the Waitara River and is in the rohe of Puketapu and Otaraua Hapu.

The social, cultural, historical and spiritual importance of the Waitara West Marginal Strip is illustrated through Te Atiawa traditions and histories. The traditions and histories also represent the spiritual links and an unbroken continuity with Te Atiawa tipuna and present generations and reinforce Te Atiawa tribal identity.

Waiwhakaiho River Mouth (Crown Land Conservation Area) (as shown on deed plan OTS-043-21)

This site is at the mouth of the Waiwhakaiho River on the edges of the great pa, Rewa Rewa. The site is located in the rohe of Ngati Tawhirikura and Ngati Te Whiti. The river mouth, the wetlands and associated water bodies were important because of its resources such as raupo (for thatching) water, ferns (for food and blankets) berries, birds, fish, flax (for clothing) and kaimoana reefs. Fish and whitebait, were caught from particular purpose built sites called whakaparu and these remain and continue to be used today. The sand dunes were used as gardens for food crops such as kumara and plants such as pingau, which was used to colour clothing flax. The sand dunes were also used as a temporary urupa because the heat of the sand assists the breaking down of the flesh. Often the ko iwi/bones were removed and interred elsewhere. Rewa Rewa was located on a hill above the river mouth and was an ancient pa which over the generations housed a large population.

The Waiwakaiho River supported many papakainga from its river mouth to its source on Taranaki, such as Rewa Rewa, Waiwhakaiho, Raiomiti, Te Ngaere, Pukemapo, Te Renega, Pukeotepua and Papamoa. The river was used as a means of transport to nearby papakainga to trade food and taonga and to maintain whanaungatanga. The river is the boundary marker between Ngati Te Whiti and Ngati Tawhirikura and is embodied in pepeha, waiata and Korero tawhito.

RIVERS AND TRIBUTARIES

Herekawe Stream and tributaries (as shown on deed plan OTS-043-32)

The Herekawe is located to the south of New Plymouth and springs from the land and heads to the Tasman Sea. At its source it is very narrow but widens as it flows to the sea. The Herekawe is located with the rohe of the Ngati Te Whiti Hapu.

TE ATIAWA DEED OF SETTLEMENT:
DOCUMENTS

2: STATEMENTS OF ASSOCIATION

The Herekawe was, and is, socially and culturally important because of the freshwater and coastal mahinga kai resources it provided to generations of the Hapu and the many papakainga nearby such as Onuku Taipari, Te Mahoe, Moturoa, Mikotahi, Ruataka, Papawhero.

Two events of more recent times provide evidence of the continuing importance of the Herekawe as a boundary marker. In 2004, the Herekawe is used as one of the boundary indicators between Te Atiawa and Taranaki for their respective 2004 Fisheries Settlements. In 2008 the Herekawe was decided as one of the boundary markers for the Tapuae Marine Reserve after Te Atiawa refused to give up its customary rights to collect kaimoana from the nearby reefs.

Te Atiawa acknowledges the Taranaki Iwi interest in the Herekawe.

Huatoki Stream and tributaries (as shown on deed plan OTS-043-33)

The Huatoki runs through the centre of New Plymouth. The Huatoki springs from the land and heads to the Tasman Sea. At its source it is very narrow but widens as it flows to the sea. The Huatoki is within the rohe of the Ngati Te Whiti Hapu.

The name Huatoki was coined because of the abundance of the titoki tree, which grew, and still grows, along its banks. A product from the titoki tree, oil, was valued for its cosmetic qualities.

The Huatoki was also important for its running freshwater source and mahinga kai, flax, raupo and timber. The food resources along with the kaimoana from nearby reefs provided ample sustenance for and sustained the papakainga along the banks of the Huatoki, papakainga such as Puke Ariki, Te Kawau, Pukaka, Mawhera, Maripu and Okoare. Most of the papakainga existed peacefully with the others and shared nohonga (places to stay) along the banks of the Huatoki, especially in the summer months, to gather and store resources.

The abundance of resources, however, did not prevent the odd dispute. One such dispute remembered today in Korero tawhito was between Te Rangi Apiti Rua of Puke Ariki and of Manu Kino of Waimanu over the latter's piharau fishing rights. This resulted in Te Rangi Apiti Rua's attacking Waimanu in revenge and the people of Waimanu being rescued by Potaka of Nga Puke Turua.

Another battle occurred when Koronerea, ambushed and defeated a taua from a neighbouring iwi who were advancing up the Huatoki. This battle was named pakirikiri because the bodies of the slain resembled pakirikiri, the rock eyed cod.

The banks were a walkway to other papakainga whilst the river was used as a highway to the coast and inland. Several known tauranga waka sites remain today.

During the Land Wars, British soldiers used a track along the Huatoki from Pukaka/Marsland Hill to the centre of town which was named Red Coat Lane.

The Huatoki retains its historic, cultural and traditional value to Te Atiawa who continue to exercise kaitiakitanga over the river and its conservation and aesthetic values.

Kowhangamoku Stream and tributaries (as shown on deed plan OTS-043-34)

The Kowhangamoku is located north of Waitara and springs from the land and flows to the Tasman Sea. It is located in the rohe of Ngati Rahiri Hapu.

2: STATEMENTS OF ASSOCIATION

The social, cultural, historical and spiritual importance of the Kowhangamoku is illustrated through Te Atiawa traditions and histories. The traditions and histories also represent the spiritual links and an unbroken continuity with Te Atiawa tipuna and present generations and reinforce Te Atiawa tribal identity.

Manganui River and tributaries (as shown on deed plan OTS-043-35)

The Manganui springs from Taranaki Maunga and flows into the Waitara. It is in the rohe of Pukerangiora and Otaraua Hapu.

The social, cultural, historical and spiritual importance of the Manganui River is illustrated through Te Atiawa traditions and histories. The traditions and histories also represent the spiritual links and an unbroken continuity with Te Atiawa tipuna and present generations and reinforce Te Atiawa tribal identity and manawhenua.

Mangati Stream and tributaries (as shown on deed plan OTS-043-36)

The Mangati is located at Bell Block and springs from the land and flows to the Tasman Sea. It is within the rohe of Puketapu Hapu.

The social, cultural, historical and spiritual importance of Mangati stream is illustrated through Te Atiawa traditions and histories. The traditions and histories also represent the spiritual links and an unbroken continuity with Te Atiawa tipuna and present generations and reinforce Te Atiawa tribal identity and manawhenua.

Manu Stream and tributaries (as shown on deed plan OTS-043-37)

The Manu is located north of Waitara and springs from the land and flows to the Tasman Sea. It is located in the rohe of Ngati Rahiri Hapu.

The social, cultural, historical and spiritual importance of the Manu Stream illustrated through Te Atiawa traditions and histories. The traditions and histories also represent the spiritual links and an unbroken continuity with Te Atiawa tipuna and present generations and reinforce Te Atiawa tribal identity.

Motukari Stream and tributaries (as shown on deed plan OTS-043-38)

The Motukari is located north of Waitara and springs from the land and flows to the Tasman Sea. It is located in the rohe of Ngati Rahiri Hapu.

The social, cultural, historical and spiritual importance of the rivers, streams, lakes and waterways is illustrated through Te Atiawa traditions and histories. The traditions and histories also represent the spiritual links and an unbroken continuity with Te Atiawa tipuna and present generations and reinforce Te Atiawa tribal identity and manawhenua.

Onaero River and tributaries (as shown on deed plan OTS-043-22)

Part of the Onaero flows through the rohe of Ngati Rahiri Hapu.

The social, cultural, historical and spiritual importance of the Onaero River is illustrated through Te Atiawa traditions and histories. The traditions and histories also represent the spiritual links and an unbroken continuity with Te Atiawa tipuna and present generations and reinforce Te Atiawa tribal identity.

2: STATEMENTS OF ASSOCIATION

Parahaki Stream and tributaries (as shown on deed plan OTS-043-39)

The Parahaki is located north of Waitara and springs from the land and flows to the Tasman Sea. It is located in the rohe of Ngati Rahiri Hapu.

The social, cultural, historical and spiritual importance of the Parahaki Stream is illustrated through Te Atiawa traditions and histories. The traditions and histories also represent the spiritual links and an unbroken continuity with Te Atiawa tipuna and present generations and reinforce Te Atiawa tribal identity.

Tapuae Stream and tributaries (as shown on deed plan OTS-043-40)

Part of the Tapuae flows through the rohe of Ngati Te Whiti Hapu.

The social, cultural, historical and spiritual importance of the Tapuae River is illustrated through Te Atiawa traditions and histories. The traditions and histories also represent the spiritual links and an unbroken continuity with Te Atiawa tipuna and present generations and reinforce Te Atiawa tribal identity.

Te Henui Stream and tributaries (as shown on deed plan OTS-043-41)

The Te Henui is located in east New Plymouth. It springs from the land and runs to the Tasman Sea. At its source it is very narrow but widens as it flows to the sea. The Te Henui is in the rohe of Ngati Te Whiti Hapu. Te Henui means "the huge mistake" and refers to an incident which is no longer remembered.

The Te Henui was very important because of the abundant resources which sustained the physical and metaphysical needs of the papakainga and communities along its banks, such as Purakau, Autere and Kerau. Autere was also a fishing village from which Hapu would launch their waka and sail to offshore fishing grounds. Fish and kaimoana were collected from the river and the nearby reef, Arakaitai, and these provided staple as well as gourmet foods. Kaimoana and fish were gathered according to strict protocols to ensure sustainability and good health. Kaimoana and gourmet foods were important to uphold customs such as manaakitanga. Although the resources were important for physical survival and customary practises were important, the land was always important for without it the Hapu had nothing.

Further up river were the papakainga of Pukewarangi, Puketarata and Parihamore. These papakainga were located close to each other and shared resources and strategies in times of conflict with other Hapu or Iwi. Pukewarangi and Parihamore were settlements as well as defensive strongholds whilst Puketarata was a settlement which stored food reserves.

Waiiau Stream and tributaries (as shown on deed plan OTS-043-42)

The Waiiau is located north of Waitara and springs from the land and flows to the Tasman Sea. It is in the rohe of Ngati Rahiri.

The social, cultural, historical and spiritual importance of the Waiiau Stream illustrated through Te Atiawa traditions and histories. The traditions and histories also represent the spiritual links and an unbroken continuity with Te Atiawa tipuna and present generations and reinforce Te Atiawa tribal identity.

Apart from its other important aspects the Waiiau is important as a boundary marker between Te Atiawa and Ngati Mutunga. The Te Atiawa northern coastal boundary point, Te Rau O Te Huia, is on the banks of the Waiiau.

2: STATEMENTS OF ASSOCIATION

Waihi Stream and tributaries (as shown on deed plan OTS-043-43)

The Waihi is located north of Waitara and springs from the land and flows to the Tasman Sea. It is located in the rohe of Ngati Rahiri Hapu.

The social, cultural, historical and spiritual importance of Waihi Stream is illustrated through Te Atiawa traditions and histories. The traditions and histories also represent the spiritual links and an unbroken continuity with Te Atiawa tipuna and present generations and reinforce Te Atiawa tribal identity.

Waihowaka Stream and tributaries as shown on deed plan OTS-043-44)

The Waihowaka is located in Bell Block and springs from the land and flows to the Tasman Sea. It is within the rohe of Puketapu Hapu.

The social, cultural, historical and spiritual importance of the Waihowaka Stream is illustrated through Te Atiawa traditions and histories. The traditions and histories also represent the spiritual links and an unbroken continuity with Te Atiawa tipuna and present generations and reinforce Te Atiawa tribal identity.

Waiongana Stream and tributaries (as shown on deed plan OTS-043-45)

The Waiongana flows from Taranaki Maunga to the Tasman Sea and is in the rohe Puketapu Hapu.

The social, cultural, historical and spiritual importance of the Waiongana Stream is illustrated through Te Atiawa traditions and histories. The traditions and histories also represent the spiritual links and an unbroken continuity with Te Atiawa tipuna and present generations and reinforce Te Atiawa tribal identity.

Waipapa Stream and tributaries (as shown on deed plan OTS-043-45)

The Waipapa is located north of Waitara and springs from the land and flows to the Tasman Sea. It is located in the rohe of Ngati Rahiri Hapu.

The social, cultural, historical and spiritual importance of the Waipapa Stream is illustrated through Te Atiawa traditions and histories. The traditions and histories also represent the spiritual links and an unbroken continuity with Te Atiawa tipuna and present generations and reinforce Te Atiawa tribal identity.

Waipu Stream and tributaries (as shown on deed plan OTS-043-46)

The Waipu Lagoons are located on the coast and are within the rohe of Puketapu Hapu.

The social, cultural, historical and spiritual importance of the Waipu is illustrated through Te Atiawa traditions and histories. The traditions and histories also represent the spiritual links and an unbroken continuity with Te Atiawa tipuna and present generations and reinforce Te Atiawa tribal identity.

Waitaha Stream and tributaries (as shown on deed plan OTS-043-48)

The Waitaha is located in Bell Block and springs from the land and flows to the Tasman Sea. It is in the rohe of Puketapu Hapu.

2: STATEMENTS OF ASSOCIATION

The social, cultural, historical and spiritual importance of the Waitaha Stream is illustrated through Te Atiawa traditions and histories. The traditions and histories also represent the spiritual links and an unbroken continuity with Te Atiawa tipuna and present generations and reinforce Te Atiawa tribal identity.

Waitara River and tributaries (as shown on deed plan OTS-043-49)

The Waitara River is one of the major rivers in the Te Atiawa rohe and takes its name from the legend of Te Whaitara-nui-a-Wharematangi-i-te-kimi-i-tana-matua-i-a-Ngarue. The Waitara flows through the rohe of the Hapu of Manukorihi, Otaraua, Pukerangiora and Ngati Rahiri.

The Waitara River, unlike other substantial rivers within Taranaki, does not flow directly from Maunga Taranaki but springs from the Manganui River which flows off the mountain and converges with the Waitara River.

The Waitara river mouth was one of the first areas to be settled in Aotearoa and life was sustained here by the abundant resources provided by the reefs and wetlands. There were many kainga and tauranga waka at the mouth of the Waitara and the kainga later became seasonal fishing villages as Te Atiawa spread along and inhabited the entire length of the Waitara River. One of the streams, Mangahinau, was the mooring site for the largest Te Atiawa war waka, Eanganui.

There were many papakainga along the banks of the Waitara, such as Ngangana, Kuikui, Te Whanga, Huirapa, Werohia, Aorangi, Puketapu, Mamaku, Tokitahi, Purimu, Karaka, Te Awaiotetaki, Manukorihi, Pukerangiora, Mangaemiemi / Te Ahikaroa, Wakatete, Kerepapaka, Tahunakau, and Taumaatene. The Waitara River provided an abundance of fish, inanga, tuna/eel, piharau, kahawai, yellow eyed mullet, flounder, herrings, kokopu, weka, pukeko, ducks. One of the river's tributaries, the Tangaroa, was an important spawning area for inanga and native fish. The Hapu fished from purpose built platforms and this technique continues today to describe customary fishing locations on the river. Each whakaparu was named and these names remain and continue to be used by Te Atiawa today. The mara / gardens along the river included Te Rore, Mangahinau, Panekeneke, Opakaru, Te Ramarama and Mangaemiemi. The ururpaa include Te Rohutu, Manaaiti, Pukehou, Teremutu and Ngangana. The natural defences and height provided by the cliffs provided control of the Waitara River. Aorangi along with Pukekohe and Manukorihi, formed a triangle of strongly defended paa in the valley. In its upper reaches, its cliffs provided defence for Pukerangiora Pa and in one battle many Pukerangiora people jumped from the cliffs into the Waitara River.

The river continues to be, an important resource for mahinga kai. Contemporary uses of the site include cultural harvesting (fish, whitebait) and the site is valued because of its biodiversity and conservation values.

Te Atiawa has a physical, historical and spiritual relationship with the Waitara River. All elements of the natural environment possess a life force, or mauri. This is a critical element of the spiritual relationship of Te Atiawa to the Waitara River which has a spiritual force and personality of its own.

The Waitara River has been, and continues to be an integral part of the social, spiritual and physical fabric of Te Atiawa and is celebrated in karakia, waiata and pepeha.

Waiwhakaiho River and tributaries (as shown on deed plan OTS-043-50)

The Waiwhakaiho River is located in the suburb of Fitzroy, New Plymouth and flows from Taranaki Maunga to the Tasman Sea. It is one of the largest rivers in the Te Atiawa rohe and

TE ATIAWA DEED OF SETTLEMENT:
DOCUMENTS

2: STATEMENTS OF ASSOCIATION

has several tributaries including the Mangaone and Mangorei. At its mouth today there is a man made waterway, Lake Rotomanu which was created in the 1960s to provide a habitat and refuge for wildlife and is also used for recreational purposes.

The Waiwhakaiho River is the ancient boundary marker between Ngati Te Whiti and Ngati Tawhirikura and is embodied in pepeha and korero tawhito. In former times the Waiwhakaiho River marked the boundary of the rohe of Puketapu, Ngati Tawhirikura and Ngati Te Whiti.

The Waiwhakaiho River was very important because of the abundant resources which sustained the physical and metaphysical needs of the papakainga and communities along its banks, papakainga such as Rewa Rewa, Waiwhakaiho River, Raiomiti, Te Ngaere, Pukemapo, Te Renega, Pukeotepua and Papamoa.

The Waiwhakaiho River mouth, the wetlands and associated water bodies were important because of resources such as raupo, water, ferns, berries, birds, fish, flax and kaimoana. The river fish and whitebait were caught from particular purpose built sites called whakaparu and these remain and continue to be used today.

There were several papakainga on the river from its mouth to further inland. Rewa Rewa was located on a hill above the river mouth and was an ancient paa which, over the generations, housed a large population. Other papakainga along the river were Waiwhakaiho River, Raiomiti, Te Ngaere, Pukemapo, Te Rerenga, Puke O Te Pua and Papamoa. The river was also used as a means of transport to nearby papakainga to trade food and taonga and to maintain whanaungatanga.

The Waiwhakaiho River remains an important river today. Te Atiawa has a physical, historical and spiritual relationship with the Waiwhakaiho River. All elements of the natural environment possess a life force, or mauri. This is a critical element of the spiritual relationship of Te Atiawa to the Waiwhakaiho River which has a spiritual force and personality of its own.

The Waiwhakaiho River has been, and continues to be an integral part of the social, spiritual and physical fabric of Te Atiawa and is celebrated in karakia, waiata and pepeha.

From Herekawe Stream to Onaero River (referred to in clause 5.11.1(rr) of the deed as Te Atiawa Coastal Marine Area (as shown on deed plan OTS-043-51)

This statement describes the Te Atiawa association and values in relation to its coastal marine area.

The Te Atiawa rohe commences from Te Rau O Te Huia, along the coast westward to the Herekawe, inland to Tahuna Tutawa, thence to Whakangeregere, continuing to Taramoukou, thence turning northwards to Te Rau O Te Huia.

The coastal marine area was part of the natural world which encompassed the expanses of Ranginui, the immensity of Papatuanuku, and the vastness of Tangaroa. It was an important part of the tribal rohe and included land, outlets, streams, rivers, lagoons, reefs, beaches and sand hills. Just as hapu exercised mana over the whenua, so it exercised mana over the moana.

The Te Atiawa social, cultural and spiritual relationship with the coastal marine area was very important and is one of long-standing which began with the first Te Atiawa tupuna and has continued through the centuries to the present day. Many of the first settlements in the rohe, such as Nga Motu and the Waitara River, were on the coast. The papakainga was the centre of social, cultural, economic and spiritual wellbeing. Papapakainga such as Puke Ariki,

TE ATIAWA DEED OF SETTLEMENT:
DOCUMENTS

2: STATEMENTS OF ASSOCIATION

Purakau, Rewa Rewa and Mangati were located on the coast close to the valued resources of water, mahinga kai and kaimoana. The resources sustained and nourished the Iwi and were important to ensure survival and to maintain the spiritual, cultural and economic prosperity of Te Atiawa. The spiritual relationship was embodied in the ideologies, kawa, karakia and tikanga such as rahui. Every reef and lagoon was named and these names remain and the resources are harvested and customary rights continue to be exercised. Examples of the reefs are Papamoa, Tarawhata, Kawaroa, Arakaitai and Mangati. The sites also include urupa and tauranga waka, such as Autere. Te Atiawa has and continues to exercise, its kaitiakitanga on the coastline from the Herekawe to Te Rau O Te Huia.

The cultural and spiritual importance of the coastline and marine area continues to be embodied in waiata pepeha, traditions and histories and continues to underpin the mana and mauri of the Te Atiawa hapu. These ideologies and histories reinforce the connection, tribal identity and continuity between the generations to the present. The statement above illustrates the strong and ongoing Te Atiawa connection and association with the coastal marine area from the Herekawe to Te Rau O Te Huia.

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3. DEEDS OF RECOGNITION

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3.1 DEED OF RECOGNITION BY THE MINISTER OF CONSERVATION AND
THE DIRECTOR-GENERAL OF CONSERVATION

TE ATIAWA DEED OF SETTLEMENT:
DOCUMENTS

3.1: DEED OF RECOGNITION BY THE MINISTER OF CONSERVATION AND
THE DIRECTOR-GENERAL OF CONSERVATION

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

1. INTRODUCTION

1.1 The Crown has granted this deed as part of the redress under a deed of settlement with:

1.1.1 Te Atiawa (the **settling group**); and

1.1.2 the trustees of Te Kotahitanga o Te Atiawa Trust (the **governance entity**).

1.2 In the deed of settlement, the settling group made statements of the settling group's particular cultural, spiritual, historical and traditional association with the following areas (the statutory areas):

1.2.1 Awa te Take Pa Historic Reserve (as shown on deed plan OTS-043-08);

1.2.2 Awa te Take Scenic Reserve (as shown on deed plan OTS-043-09);

1.2.3 Everett Park Scenic Reserve (as shown on deed plan OTS-043-10);

1.2.4 Katere Scenic Reserve (as shown on deed plan OTS-043-11);

1.2.5 Mahoetahi Historic Reserve (as shown on deed plan OTS-043-12);

1.2.6 Makara Scenic Reserve (as shown on deed plan OTS-043-13);

1.2.7 Ngangana Pa (being Manukorihi Recreation Reserve) (as shown on deed plan OTS-043-14);

1.2.8 Papamoā (being Meeting of the Waters Scenic Reserve) (as shown on deed plan OTS-043-15);

1.2.9 Puketakauere Pa Historic Reserve (as shown on deed plan OTS-043-16);

1.2.10 Robe Street Conservation Area (as shown on deed plan OTS-043-17);

1.2.11 Sentry Hill Conservation Area (as shown on deed plan OTS-043-18);

1.2.12 Sentry Hill Redoubt Historic Reserve (as shown on deed plan OTS-043-19);

1.2.13 Waitara River No 1 Marginal Strip (as shown on deed plan OTS-043-20);

1.2.14 Waiwhakaiho River Mouth (Crown Land Conservation Area) (as shown on deed plan OTS-043-21); and

1.2.15 Onaero River and tributaries (as shown on deed plan OTS-043-22).

1.3 Those statements of association are:

1.3.1 in the documents schedule to the deed of settlement; and

TE ATIWA DEED OF SETTLEMENT:
DOCUMENTS

3.1: DEED OF RECOGNITION BY THE MINISTER OF CONSERVATION AND
THE DIRECTOR-GENERAL OF CONSERVATION

- 1.3.2 copied, for ease of reference, in the schedule to this deed.
- 1.4 The Crown has acknowledged the statements of association in the *[name]* Act *[year]*, being the settlement legislation that gives effect to the deed of settlement.
- 2. CONSULTATION**
- 2.1 The Minister of Conservation and the Director-General of Conservation must, if undertaking an activity specified in clause 2.2 in relation to a statutory area, consult and have regard to the views of the governance entity concerning the settling group's association with that statutory area as described in a statement of association.
- 2.2 Clause 2.1 applies to each of the following activities (the **identified activities**):
- 2.2.1 preparing a conservation management strategy or a conservation management plan under the Conservation Act 1987 or the Reserves Act 1977;
- 2.2.2 preparing a national park management plan under the National Parks Act 1980;
- 2.2.3 preparing a non-statutory plan, strategy, programme or survey in relation to a statutory area that is not a river for any of the following purposes:
- (a) to identify and protect wildlife or indigenous plants;
 - (b) to eradicate pests, weeds or introduced species;
 - (c) to assess current and future visitor activities;
 - (d) to identify the appropriate number and type of concessions;
- 2.2.4 preparing a non-statutory plan, strategy, or programme to protect and manage a statutory area that is a river; and
- 2.2.5 locating or constructing structures, signs or tracks.
- 2.3 The Minister and the Director-General of Conservation must, when consulting the governance entity under clause 2.1, provide the governance entity with sufficient information to make informed decisions.
- 3. LIMITS**
- 3.1 This deed:
- 3.1.1 relates only to the part or parts of a statutory area owned and managed by the Crown; and
- 3.1.2 does not require the Crown to undertake, increase or resume any identified activity; and
- 3.1.3 does not prevent the Crown from not undertaking or ceasing to undertake, any identified activity; and
- 3.1.4 is subject to the settlement legislation.

TE ATIAWA DEED OF SETTLEMENT:
DOCUMENTS

3.1: DEED OF RECOGNITION BY THE MINISTER OF CONSERVATION AND
THE DIRECTOR-GENERAL OF CONSERVATION

4. TERMINATION

4.1 This deed terminates in respect of a statutory area, or part of it, if:

4.1.1 the governance entity, the Minister of Conservation, and the Director-General of Conservation agree in writing; or

4.1.2 the relevant area is disposed of by the Crown; or

4.1.3 responsibility for the identified activities in relation to the relevant area is transferred from the Minister or the Director-General of Conservation to another Minister and/or Crown official.

4.2 If this deed terminates under clause 4.1.3 in relation to an area, the Crown will take reasonable steps to ensure the governance entity continues to have input into any identified activities in relation to the area with the new Minister and/or Crown official responsible for that activity.

5. NOTICES

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

Conservation Partnerships Manager,
Department of Conservation,
[insert address].

6. AMENDMENT

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

7. NO ASSIGNMENT

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

8. DEFINITIONS

8.1 In this deed:

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

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

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

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

governance entity has the meaning given to it by the deed of settlement; and

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

TE ATIWA DEED OF SETTLEMENT:
DOCUMENTS

3.1: DEED OF RECOGNITION BY THE MINISTER OF CONSERVATION AND
THE DIRECTOR-GENERAL OF CONSERVATION

Minister means the Minister of Conservation; and

settling group and **Te Atiawa** have the meaning given to them by the deed of settlement; and

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

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

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

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

9. INTERPRETATION

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

9.2 Headings do not affect the interpretation.

9.3 A term defined by:

9.3.1 this deed has that meaning; and

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

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

9.5 The singular includes the plural and vice versa.

9.6 One gender includes the other genders.

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

9.8 A reference to:

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

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

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

TE ATIWA DEED OF SETTLEMENT:
DOCUMENTS

3.1: DEED OF RECOGNITION BY THE MINISTER OF CONSERVATION AND
THE DIRECTOR-GENERAL OF CONSERVATION

SIGNED as a deed on [*date*]

SIGNED for and on behalf of
THE CROWN by
The **Minister of Conservation**
in the presence of:

)
)
)
)

Signature of Witness

Witness Name

Occupation

Address

The **Director-General of Conservation**
in the presence of:

)
)
)
)

Signature of Witness

Witness Name

Occupation

Address

TE ATIWA DEED OF SETTLEMENT:
DOCUMENTS

3.1: DEED OF RECOGNITION BY THE MINISTER OF CONSERVATION AND
THE DIRECTOR-GENERAL OF CONSERVATION

Schedule

Copies of Statements of Association

[to insert prior to execution of deed of recognition]

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3.2 DEED OF RECOGNITION BY THE COMMISSIONER OF CROWN LANDS

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3.2: DEED OF RECOGNITION BY THE COMMISSIONER OF CROWN LANDS

THIS DEED is made by **THE CROWN** acting by the Commissioner of Crown Lands

1. INTRODUCTION

1.1 The Crown has granted this deed as part of the redress under a deed of settlement with

1.1.1 Te Atiawa (the **settling group**); and

1.1.2 Te Kotahitanga o Te Atiawa Trust (the **governance entity**).

2. STATEMENT OF ASSOCIATION

2.1 In the deed of settlement, Te Atiawa made statements of its particular cultural, spiritual, historical and traditional association with Onaero River and tributaries within the Te Atiawa area of interest (as shown on OTS-043-22) (the **statutory area**).

2.2 The statement of association is:

2.2.1 in the documents schedule to the deed of settlement, and

2.2.2 copied, for ease of reference, in the schedule to this deed.

2.3 The Crown has acknowledged the statement of association in the **[name]** Act **[year]**, being the settlement legislation that gives effect to the deed of settlement.

3. CONSULTATION

3.1 The Commissioner of Crown Lands must, if undertaking an activity referred to in clause 3.2 in relation to a statutory area, consult and have regard to the views of the governance entity concerning the association of Te Atiawa with that statutory area as described in a statement of association.

3.2 Clause 3.1 applies to the following activities (the identified activities):

3.2.1 considering an application to the Crown for a right of use or occupation (including renewing such a right);

3.2.2 preparing a plan, strategy or programme for protection and management;

3.2.3 conducting a survey to identify the number and type of uses that may be appropriate; or

3.2.4 preparing a programme to eradicate noxious flora and fauna.

3.3 The Commissioner of Crown Lands must, when consulting the governance entity under clause 2.1:

3.3.1 provide the governance entity with relevant information; and

3.3.2 inform the governance entity of an application for a right of a use or occupation (including a renewal) in relation to a statutory area referred to in clause 2.3 (but the Commissioner of Crown Lands may withhold commercially sensitive information and material included within, or that relates to, that application).

TE ATIWA DEED OF SETTLEMENT:
DOCUMENTS

3.2: DEED OF RECOGNITION BY THE COMMISSIONER OF CROWN LANDS

4. LIMITS

- 4.1 This deed relates only to those parts of the statutory area owned and managed by the Crown.
- 4.2 This deed does not, in relation to a statutory area:
- 4.2.1 require the Crown to undertake, increase or resume any activity of the kind referred to in clause 3.2; or
 - 4.2.2 preclude the Crown from not undertaking, or ceasing to undertake, any or all of the activities referred to in clause 3.2.
- 4.3 If this deed relates to a statutory area that is a river:
- 4.3.1 it relates only to:
 - (a) the bed of that river; and
 - (b) that part of the bed of the river (if any) that is:
 - (i) owned by the Crown; and
 - (ii) managed by the Crown;
 - 4.3.2 it does not relate to:
 - (a) the bed of an artificial watercourse;
 - (b) land that the waters of the river do not cover at its fullest flow without overlapping its banks; or
 - (c) the bed of a tributary flowing into that river; and
 - 4.3.3 in determining whether the Crown manages a river for the purposes of this clause, management exercised by a local authority under the Resource Management Act 1991 is not relevant.
- 4.4 Except as provided in clause 3.1, this deed:
- 4.4.1 does not affect, and may not be taken into account by, any person exercising a power or performing a function or duty under legislation or a bylaw;
 - 4.4.2 affect the lawful rights or interests of any person; or
 - 4.4.3 grant, create or provide evidence of an estate or interest in, or rights relating to, a statutory area.
- 4.5 This deed does not prevent the Crown from entering into a deed of recognition with a person or persons other than Te Atiawa in relation to a statutory area.

TE ATIWA DEED OF SETTLEMENT:
DOCUMENTS

3.2: DEED OF RECOGNITION BY THE COMMISSIONER OF CROWN LANDS

5. TERMINATION

5.1 This deed terminates in respect of a statutory area (or part of it) if:

5.1.1 the governance entity and the Commissioner of Crown Lands agree in writing that this deed is no longer appropriate for the area concerned;

5.1.2 the area concerned is disposed of by the Crown; or

5.1.3 the Commissioner of Crown Lands ceases to be responsible for the activities referred to in clause 3.2 in relation to or within the area concerned and they are transferred to another person or official within the Crown.

5.2 If this deed terminates in relation to an area under clause 5.1.3, the Crown will take reasonable steps to ensure the governance entity continues to have input into the activities referred to in clause 3.2 in relation to or within the area concerned through negotiation with the new person or official within the Crown that is responsible for those activities.

6. AMENDMENT

6.1 This deed may be amended only by written agreement signed by the governance entity and the Commissioner of Crown Lands.

7. NO ASSIGNMENT

7.1 The governance entity may not assign its rights or obligations under this Deed.

8. INTERPRETATION

8.1 In this Deed, unless the context requires otherwise, the following terms have the meaning for that term given by the clause or Part of this Deed set opposite that term:

Commissioner of Crown Lands and **Commissioner** means the Commissioner of Crown Lands appointed under section 24AA of the Land Act 1948; and

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

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

governance entity means Te Kotahitanga o Te Atiawa Trust; and

identified activities means the activities specified in clause 3.2; and

person includes an individual, a corporation sole, a body corporate, and an unincorporated body; and

settling group and **Te Atiawa** have the meaning given to them by clause 8.6 of the deed of settlement; and

settlement legislation means the Act referred to in clause 2.3; and

statement of association means the statements in part 2 of the documents schedule to the deed of settlement and copied, for ease of reference, in the schedule to this deed; and

TE ATIAWA DEED OF SETTLEMENT:
DOCUMENTS

3.2: DEED OF RECOGNITION BY THE COMMISSIONER OF CROWN LANDS

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

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

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

8.2 In this deed, references to SO plans are included for the purpose of indicating the general location of a statutory area and do not establish the precise boundaries of a statutory area.

8.3 Unless the context requires otherwise:

8.3.1 terms or expressions defined in the Deed of Settlement have the same meanings in this deed; and

8.3.2 rules of interpretation in the Deed of Settlement also apply in this deed.

8.4 If there are any inconsistencies between this deed and the Deed of Settlement, the provisions of the Deed of Settlement will prevail.

SIGNED as a deed on _____ 20__

SIGNED for and on behalf of)
HER MAJESTY THE QUEEN by the)
Commissioner of Crown Lands)
in the presence of:) _____

Signature of Witness

Witness Name

Occupation

Address

3.2: DEED OF RECOGNITION BY THE COMMISSIONER OF CROWN LANDS

Schedule

Copy of Statement of Association

[to insert prior to execution of deed of recognition]

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4. PROTOCOLS

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4.1 CONSERVATION PROTOCOL

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4.1: CONSERVATION PROTOCOL

**A PROTOCOL ISSUED BY THE CROWN THROUGH THE MINISTER OF CONSERVATION
REGARDING TE ATIWA AND THE DEPARTMENT OF CONSERVATION**

1. INTRODUCTION

- 1.1 Under the Deed of Settlement dated [] between Te Kotahitanga o Te Atiawa Trust (the "Governance Entity") and the Crown (the "**Deed of Settlement**"), the Crown agreed that the Minister of Conservation (the "**Minister**") would issue a Protocol (the "**Protocol**") setting out the basis upon which the Department of Conservation (the "Department") will interact with the Governance Entity across the Te Atiawa Protocol Area.
- 1.2 Te Atiawa has cultural, spiritual, traditional and historic associations with the land, waters and indigenous flora and fauna within the Protocol Area, and accept a responsibility as kaitiaki in accordance with their tikanga Maori to preserve, protect, and manage those natural and historic resources. This responsibility derives from the status of Te Atiawa as tangata whenua and is inextricably linked to whakapapa and has important cultural and spiritual dimensions.
- 1.3 The Department's functions include managing "for conservation purposes, all land, and all other natural and historic resources" under the Conservation Legislation. This must be interpreted and administered so as to give effect to the principles of the Treaty of Waitangi, to the extent that those principles are consistent with the Conservation Legislation.
- 1.4 The Department and the Governance Entity are committed to the development and establishment of a positive, collaborative and enduring relationship that gives effect to the principles of the Treaty of Waitangi as provided for in section 4 of the Conservation Act 1987. Those principles provide the basis for an ongoing relationship between the parties to the Protocol to achieve over time the conservation policies, actions and outcomes sought by both the Governance Entity and the Department, as set out in this Protocol.

2. PROTOCOL AREA

- 2.1 This Protocol applies to the Protocol Area, which means the area identified in the map included in Attachment A of this Protocol, together with the adjacent coastal area.

3. PURPOSE OF THE PROTOCOL

- 3.1 The purpose of this Protocol is to assist the Department and the Governance Entity to exercise their respective responsibilities with the utmost cooperation to achieve over time the conservation policies, actions and outcomes sought by both.
- 3.2 This Protocol sets out a framework that enables the Department and Te Atiawa to establish a constructive working relationship that gives effect to section 4 of the Conservation Act. It provides for Te Atiawa to have meaningful input into relevant policy, planning and decision-making processes in the Department's management of conservation lands and fulfilment of statutory responsibilities within the Te Atiawa Protocol Area.

TE ATIAWA DEED OF SETTLEMENT:
DOCUMENTS

4.1: CONSERVATION PROTOCOL

4. IMPLEMENTATION AND COMMUNICATION

- 4.1 The Department will establish and maintain effective and efficient communication with the Governance Entity on an ongoing basis by:
- 4.1.1 maintaining a record of the Governance Entity's office holders, and their addresses and contact details;
 - 4.1.2 providing reasonable opportunities for Te Atiawa to meet with Department managers and staff;
 - 4.1.3 meeting with the Governance Entity at least once a year to discuss issues of shared interest. The venue may be at a Departmental Office, the Governance Entity's office or at a marae. The agenda for these meetings may include a review of progress on the Department's work programmes, and an invitation for feedback from the Governance Entity. The parties may also:
 - 4.1.1.1 annually review implementation of the Protocol; and
 - 4.1.1.2 led by the Governance Entity, arrange for an annual report back to the affiliate iwi and hapu of the Governance Entity in relation to any matter associated with the implementation of this Protocol;
 - 4.1.4 providing a primary departmental contact for Te Atiawa who will act as a liaison person between Te Atiawa and other Departmental staff;
 - 4.1.5 as far as reasonably practicable, training relevant staff on the content of this Protocol and providing Te Atiawa, through the Governance Entity, with the opportunity to train relevant staff on Te Atiawa values and tikanga; and
 - 4.1.6 seeking to brief the Taranaki/Wanganui Conservation Board members on the content of this Protocol.
- 4.2 At the first meeting under clause 4.1.3 (which will occur within 12 months of the Settlement date) the Department and the Governance Entity will discuss implementation of this Protocol.
- 4.3 The Department will consider the Governance Entity as a possible science provider or collaborator for research projects funded or promoted by the Department in the same manner as other potential providers or collaborators.
- 4.4 The Department shall invite the Governance Entity to participate in specific departmental projects, including education, volunteer and conservation events that may be of interest to Te Atiawa.
- 4.5 The Department and the Governance Entity shall advise each other of any upcoming relevant training opportunities within the Protocol Area related to conservation management that may be of interest to either party.
- 4.6 The Department and the Governance Entity will inform relevant conservation stakeholders about this Protocol and the Te Atiawa settlement, and provide on-going information as required.

**TE ATIAWA DEED OF SETTLEMENT:
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4.1: CONSERVATION PROTOCOL

4.7 The Department will advise the Governance Entity of any Departmental policy directions, including any matters that may relate to the legislative scheme for the conservation-related redress under the settlement, and the receipt of any research reports relating to matters of interest to Te Atiawa within the Protocol Area, and provide copies of those policy directions and reports.

5. BUSINESS MANAGEMENT PLANNING

5.1 The Department's annual business planning process determines the Department's conservation work priorities.

5.2 The Department shall provide opportunities for the Governance Entity to be involved in any relevant Conservation Management Strategy reviews or Management Plans, within the Protocol Area.

5.3 The process for the involvement of the Governance Entity in the Department's business planning process will be as follows:

5.3.1 the Department and the Governance Entity will on an annual basis identify projects that require specific resourcing;

5.3.2 the identified priorities for the upcoming business year will be taken forward by the Department into its business planning process at the regional level and considered along with other priorities;

5.3.3 the decision on whether any specific projects will be funded in any business year will be made by the relevant Conservation Services Manager, after following the co-operative processes set out above;

5.3.4 if the Department decides to proceed with a specific project requested by the Governance Entity, the parties may meet again, if required, to finalise a work plan and a timetable for implementation of the specific project in that business year, in accordance with the resources which have been allocated in the business plan; and

5.3.5 if the Department decides not to proceed with a specific project it will communicate to the Governance Entity the factors that were taken into account in reaching that decision.

5.4 The Department shall advise the Governance Entity of contestable funds that the Department services and administers relating to the protection of biodiversity, for example the Maturanga Kura Taiao Fund.

6. VISITOR AND PUBLIC INFORMATION

6.1 The Department has a role to share its knowledge about natural and historic heritage with visitors and the general public. This is to increase their enjoyment and understanding of this heritage, and to develop their awareness of the need for its conservation.

6.2 In providing public information, interpretation services and facilities for visitors on the land it manages, the Department acknowledges the importance to Te Atiawa of their cultural, traditional and historic values, and the association of Te Atiawa, with the land the Department administers within the Protocol Area.

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4.1: CONSERVATION PROTOCOL

- 6.3 The Department shall work with the Governance Entity at a local Departmental Office level to encourage respect for Te Atiawa cultural heritage values by seeking to raise public awareness of any positive conservation partnerships between the Governance Entity, the Department and other stakeholders, for example, by way of publications, presentations and seminars.
- 6.4 The Governance Entity will be consulted on the use of information about Te Atiawa values included in information for visitors published by the Department.
- 6.5 The Department will ensure that accurate information is provided about Te Atiawa in the Department's publications by obtaining, so far as possible, the consent of the Governance Entity prior to the publication of any information substantially concerning Te Atiawa that has not been obtained from the Governance Entity.
- 6.6 The Department will encourage the participation of Te Atiawa in the Department's volunteer and conservation events and programmes by informing the Governance Entity of these programmes and events.

7. CULTURAL MATERIALS

- 7.1 For the purpose of this Protocol, cultural materials means plants, plant materials, and materials derived from animals or birds, for which the Department is responsible within the Protocol Area and which are important to Te Atiawa in maintaining and expressing its cultural values and practices.
- 7.2 Current legislation means that generally some form of authorisation is required for any gathering and possession of cultural materials.
- 7.3 In relation to cultural materials, the Department will:
- 7.3.1 provide the Governance Entity with access to and use of cultural materials within the Protocol Area when required for cultural purposes, in accordance with the relevant legislation;
 - 7.3.2 consult the Governance Entity in circumstances where there are competing requests from non-Governance Entity persons or entities for the use of cultural materials, for example, for scientific research purposes, to see if the cultural and scientific or other needs can be reconciled before the Department makes a decision in respect of those requests;
 - 7.3.3 agree, where reasonably practicable, for the Governance Entity to have access to cultural materials which become available as a result of departmental operations such as track maintenance or clearance, or culling of species, or where materials become available as a result of accidental death or otherwise through natural causes;
 - 7.3.4 assist, as far as reasonably practicable, the Governance Entity to obtain plant stock for propagation to reduce the need for plant stock to be gathered from land administered by the Department and to provide advice to the Governance Entity in the establishment of its own cultivation areas; and
 - 7.3.5 provide, as far as reasonably practicable, ongoing advice to the Governance Entity for the management and propagation of the plant stock.

4.1: CONSERVATION PROTOCOL

- 7.4 The Department and the Governance Entity shall discuss the development of procedures for monitoring levels of use of cultural materials in accordance with the relevant legislation and appropriate tikanga.
- 7.5 The Department and the Governance Entity may agree to develop a cultural materials plan to provide for the efficient implementation of the matters set out in clauses 7.1 to 7.4 above and which will enable the Governance Entity to implement a process to enable members of Te Atiawa to access and use cultural materials within the Protocol Area when required for cultural purposes, in accordance with the relevant legislation. Where it is consistent with conservation objectives and relevant legislation, multi-site and/or multi-take authorisations may be granted.

8. MARINE MAMMALS

- 8.1 Te Atiawa have a kaitiaki responsibility for preserving, protecting and disposing of marine mammals within the Protocol Area and ensuring cultural protocols are observed in interactions with these mammals.
- 8.2 The Department has responsibilities for the protection, conservation and management of all marine mammals, including their disposal and the health and safety of its staff and any volunteers under its control, and the public, when interacting with marine mammals.
- 8.3 The Governance Entity and the Department will:
- 8.3.1 promptly notify each other, through the nominated contact persons, of all stranding events that come to their attention within the Protocol Area; and
 - 8.3.2 identify in advance, where practical, sites which may not be used for disposing of a dead marine mammal due to health and safety requirements or the possible violation of Te Atiawa tikanga.
- 8.4 The parties will notify each other of contact persons who will be available at short notice on a marine mammal stranding. The Governance Entity will authorise their contact person to make decisions on the desire of Te Atiawa to be involved.
- 8.5 There may be circumstances during a stranding in which euthanasia is required, including where the marine mammal is obviously distressed or it is clear that a refloating operation will be unsuccessful. The decision to euthanise, which will be made in the best interests of marine mammals and public safety, is the responsibility of an officer or person authorised by the Minister of Conservation. The Department will make reasonable efforts to inform the Governance Entity before any decision to euthanise.
- 8.6 Both the Department and the Governance Entity acknowledge the scientific importance of information gathered at strandings. The Department will consult the Governance Entity on:
- 8.6.1 the nature of the scientific samples required;
 - 8.6.2 disposal of the marine mammal, including the possibility of the Governance Entity taking responsibility for burial of the marine mammal; and

**TE ATIAWA DEED OF SETTLEMENT:
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4.1: CONSERVATION PROTOCOL

8.6.3 the availability of teeth, bone and/or baleen to the Governance Entity for cultural purposes.

8.7 Subject to the prior agreement of the Department, where disposal of a dead marine mammal is carried out by the Governance Entity, the Department will meet the reasonable costs incurred by the Governance Entity, up to the estimated cost that would otherwise have been incurred by the Department to carry out the disposal.

8.8 If Te Atiawa does not wish to recover the teeth bone and/or baleen or otherwise participate in the stranding, the Governance Entity will notify the Department, whereupon the Department will take responsibility for disposing of the remains.

9. FRESHWATER QUALITY

9.1 For the purposes of the Conservation Act 1987, freshwater includes waters of estuaries, coastal lagoons, wetlands, and the mouths of rivers and streams.

9.2 The Department and Te Atiawa have a mutual concern to ensure effective riparian management that will contribute to protecting and restoring water quality and prevent the contamination of freshwater. For Te Atiawa, the health and wellbeing of freshwater bodies, including their banks and margins, and their associated flora and fauna, is of primary importance. The Department and the Governance Entity will work together to identify activities that will promote effective riparian management.

9.3 The Department will take reasonable steps to manage the banks and margins of waterways on public conservation land to prevent destruction of the riparian habitat and the contamination of waterways and the wider environment as a result of its activities.

9.4 The Department will consult with the Governance Entity prior to entering into any formal or informal arrangements with any third party that relates to the management of marginal strips within the Protocol Area.

10. FRESHWATER FISHERIES

10.1 The Department's functions include the preservation, as far as practicable, of all indigenous freshwater fisheries, and the protection of recreational freshwater fisheries and their habitats. Active management is limited to whitebait fishing and those fisheries and habitats that are located on public conservation land. In all other areas, advocacy for the conservation of freshwater fisheries is undertaken primarily through Resource Management Act processes.

10.2 The whitebait fishery is administered by the Department under the Whitebait Fishing Regulations 1994, promulgated under the Conservation Act 1987. The Department acknowledges that Te Atiawa have a customary interest in whitebait fisheries in the Protocol Area, and that section 26ZH of the Conservation Act 1987 permits Te Atiawa to fish for whitebait outside the season set by the Whitebait Fishing Regulations 1994.

10.3 The Governance Entity has identified freshwater habitats, and all indigenous freshwater species present or formerly present in the Protocol Area as having a high cultural value for Te Atiawa.

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4.1: CONSERVATION PROTOCOL

- 10.4 The Department will adopt a co-operative approach with the Governance Entity in the conservation, management and research of freshwater fisheries and their habitats by:
- 10.4.1 seeking to identify projects relating to fish passage, minimum flows, protection of riparian vegetation and habitats, water quality improvement and in the restoration, rehabilitation or enhancement of freshwater fisheries and their habitats;
 - 10.4.2 seeking to identify areas for co-operation in advocacy in relation to those matters;
 - 10.4.3 consulting with the Governance Entity in developing or contributing to research and monitoring programmes;
 - 10.4.4 consulting with the Governance Entity on whether to grant applications for the transfer and release of freshwater fish species, including eels, in accordance with section 26ZM of the Conservation Act 1987; and
 - 10.4.5 consulting with Te Atiawa regarding any conservation or management activities relating to freshwater fisheries.

11. NATURAL HERITAGE/ SPECIES MANAGEMENT

- 11.1 The Department aims at conserving the full range of New Zealand's ecosystems, maintaining or restoring the ecological integrity of managed sites, and ensuring the survival of threatened species, in particular those most at risk of extinction. An important part of this work is to prioritise recovery actions in relation to the species uniqueness and likelihood of success.
- 11.2 The list of species of importance to Te Atiawa will be discussed in the initial post-settlement implementation meeting.
- 11.3 In recognition of the cultural, historic and traditional association of Te Atiawa with indigenous flora and fauna found within the Protocol Area for which the Department has responsibility, the Department will, in relation to any species that the Governance Entity may identify as important to them:
- 11.3.1 inform the Governance Entity of the national sites and species programmes on which the Department will be actively working, and provide opportunities for the Governance Entity to participate in these programmes;
 - 11.3.2 advise the Governance Entity in advance of any Conservation Management Strategy amendments or reviews, or the preparation of any statutory or non-statutory plans, policies or documents, including National Park Management Plan reviews, that relate to the management of those species within the Protocol Area;
 - 11.3.3 advise the Governance Entity of the receipt of any completed research reports relating to any species within the Protocol Area and provide the Governance Entity with copies of those reports if requested; and
 - 11.3.4 encourage and provide advice to the Governance Entity concerning the protection or management of those species on land owned by Te Atiawa.


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4.1: CONSERVATION PROTOCOL

12. SITES OF SIGNIFICANCE

- 12.1 The Governance Entity consider that their wahi tapu and other places of cultural heritage significance are taonga (priceless treasures) and the Department will respect the great significance of these taonga by fulfilling the obligations contained in this clause of the Protocol.
- 12.2 The Department has a statutory role to conserve historic places and structures in areas managed under conservation legislation. It will endeavour to do this for sites of significance to Te Atiawa in co-operation with the Governance Entity and according to Te Atiawa tikanga and international professional standards for the protection of historic sites.
- 12.3 The Department and the Governance Entity shall work together to establish processes for dealing with information on wahi tapu sites in a way that recognises both the management challenges that confidentiality can present and provides for the requirements of the Governance Entity.
- 12.4 Where Te Atiawa Iwi request, information relating to Te Atiawa sites of significance will be treated in confidence by the Department in order to preserve the wahi tapu nature of places.
- 12.5 The Department shall work with the Governance Entity at the local Departmental Office level to respect Te Atiawa values attached to identified wahi tapu and other places of significance on lands administered by the Department by:
- 12.5.1 discussing with the Governance Entity, by the end of the second year of this Protocol being issued and on a continuing basis, practical ways in which Te Atiawa can exercise kaitiakitanga over ancestral lands, natural and historic resources and other taonga managed by the Department within the Protocol Area;
 - 12.5.2 when issuing concessions, request that the concessionaire consult with the Governance Entity before using cultural information of Te Atiawa;
 - 12.5.3 managing sites of historic significance to the Governance Entity according to standards of conservation practice which care for places of cultural heritage value, their structures, materials and cultural meaning, as outlined in the International Council on Monuments and Sites (ICOMOS) New Zealand Charter 1993, and in co-operation with the Governance Entity;
 - 12.5.4 informing the Governance Entity if taonga or koiwi are found within the Protocol Area; and
 - 12.5.5 assisting in recording and protecting wahi tapu and other places of cultural significance to Te Atiawa where appropriate, to seek to ensure that they are not desecrated or damaged. For example, this may involve ensuring a new track does not traverse an area of particular sensitivity.

13. NATIONAL PROGRAMMES

- 13.1 The Department aims to conserve the full range of New Zealand's ecosystems, maintain or restore the ecological integrity of managed sites and ensure the survival of


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4.1: CONSERVATION PROTOCOL

threatened species, in particular, those most at risk of extinction. To do this, it conducts a number of national programmes.

- 13.2 If there are any national sites and species programmes operating in the Protocol Area, the Governance Entity will be advised of them. If the Department proposes any new national sites and species programmes for the Protocol Area, the Department will consult the Governance Entity on the proposal.
- 13.3 The Department will advise the Governance Entity of the receipt of any completed research reports relating to indigenous species within the Protocol Area, and provide copies or the opportunity for the Governance Entity to study those reports.
- 13.4 The Department will encourage and provide advice to the Governance Entity concerning the protection or management of those species on land owned or managed by Te Atiawa Iwi.

14. PEST CONTROL

- 14.1 Preventing, managing and controlling threats to natural, historic and cultural values from animal and weed pests is an integral part of the Department's work. This is done in a way that maximises the value from limited resources available to do this work.
- 14.2 The Department shall:
- 14.2.1 seek and facilitate early consultation with the Governance Entity on pest control activities within the Protocol Area, particularly in relation to the use of poisons;
 - 14.2.2 provide the Governance Entity with opportunities to review and assess programmes and outcomes; and
 - 14.2.3 where appropriate, consider co-ordinating its pest control programmes with those of the Governance Entity when the Governance Entity is an adjoining landowner.

15. RESOURCE MANAGEMENT ACT 1991

- 15.1 From time to time, Te Atiawa and the Department will each have concerns with the effects of activities controlled and managed under the Resource Management Act 1991.
- 15.2 The Governance Entity and the Department will seek to identify issues of mutual interest and/or concern ahead of each party making submissions in Resource Management Act processes.
- 15.3 In carrying out advocacy under the Resource Management Act 1991, the Department shall:
- 15.3.1 discuss with the Governance Entity the general approach that may be taken by Te Atiawa and the Department in respect of advocacy under the Resource Management Act, and seek to identify their respective priorities and issues of mutual concern;

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4.1: CONSERVATION PROTOCOL

15.3.2 have regard to the priorities and issues of mutual concern identified when the Department makes decisions in respect of advocacy under the Resource Management Act; and

15.3.3 make resource information available to the Governance Entity to assist in improving their effectiveness in resource management advocacy work.

16. STATUTORY AUTHORISATIONS AND STATUTORY LAND MANAGEMENT

16.1 The Governance Entity will be consulted, prior to any public notification process, with regard to categories of statutory authorisations and statutory land management proposals within the Protocol Area that may impact on the cultural or historic values of Te Atiawa as identified from time to time by the Governance Entity and the Department. As the Department works within time limits to process statutory authorisations and statutory land management proposals, it will notify the Governance Entity as soon as practicable after receiving an application, and of the time frames for making submissions.

16.2 The Department will advise and encourage prospective applicants for a statutory authorisation to consult with the Governance Entity before filing their application.

16.3 The Department and the Governance Entity will discuss potential opportunities for Te Atiawa to obtain statutory authorisations on public conservation land within the Protocol Area.

17. CONSULTATION

17.1 Where consultation is required under this Protocol, the Department will:

17.1.1 ensure that the Governance Entity is consulted as soon as reasonably practicable following the identification of the proposal or issues to be the subject of the consultation;

17.1.2 provide the Governance Entity with sufficient information and time to make informed comments and/or submissions in relation to any of the matters that are subject of the consultation;

17.1.3 approach the consultation with an open mind and genuinely consider any views and/or concerns that the Governance Entity may have in relation to any of the matters that are subject to the consultation; and

17.1.4 report back to the Governance Entity on any decision that is made and where the decision is contrary to the Governance Entity's submissions, set out the factors that were taken into account in reaching that decision.

18. CHANGES TO STRUCTURE, AFFECTING THE PROTOCOL

18.1 The Department will consult with the Governance Entity, on any proposed restructuring or re-organisation of the Department, including any proposed restructuring of the local or regional department offices relating to the Protocol Area.

4.1: CONSERVATION PROTOCOL

19. DISPUTE RESOLUTION

- 19.1 If a dispute arises in connection with this Protocol, every effort will be made in good faith to resolve matters at a local level within a reasonable time frame. If this process is not successful, the matter may be escalated to a meeting of the relevant Conservation Services Manager and a nominated representative of the Governance Entity who will meet within a reasonable timeframe.
- 19.2 If following the process in clause 19.1, the parties cannot reach a negotiated outcome, they may agree to refer the dispute to an independent, and mutually agreed mediator. The costs of mediation are to be split equally between the parties.
- 19.3 If the dispute is not resolved following mediation, and the parties agree that the matter is of such significance that it requires the attention of the Minister of Conservation, then that matter will be escalated to a meeting between a representative of the Governance Entity and the Minister, or their nominees, if the parties agree.

20. REVIEW AND AMENDMENT

- 20.1 The parties agree that this Protocol is a living document that may need to be amended to take into account future developments, including any legislative or policy amendment affecting this Protocol.
- 20.2 In addition, the parties acknowledge that under section [] of the settlement legislation, this Protocol will be reviewed, and potentially replaced, following the conclusion of negotiations regarding Taranaki Maunga.

21. OTHER MATTERS FOR DISCUSSION

- nomination on boards
- place names
- repatriation of taonga
- art work
- pouwhenua
- special arrangements, eg cross-organisational opportunities, contracting for services, training, department positions

22. DEFINITIONS

- 22.1 In this Protocol:

Conservation Management Strategy has the same meaning as in the Conservation Act 1987;

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

Crown means Her Majesty the Queen in right of New Zealand and includes, where appropriate, the Ministers and Departments of the Crown that are involved in, or bound

TE ATIWA DEED OF SETTLEMENT:
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4.1: CONSERVATION PROTOCOL

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

Cultural materials means plants, plant materials, and materials derived from dead wildlife or marine mammals for which the Department is responsible within the Protocol Area and which are important to Te Atiawa Iwi in maintaining and expressing its cultural values and practices;

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

Governance Entity means the trustees of Te Kotahitanga o Te Atiawa Trust;

Te Atiawa has the meaning set out in clause 8.6 of the Deed of Settlement;

Kaitiaki means environmental guardians;

Protocol means a statement in writing, issued by the Crown through the Minister of Conservation to the Te Atiawa Iwi Governance Entity under the Settlement Legislation and the Deed of Settlement and includes this Protocol;

Tikanga Maori refers to Maori traditional customs.

ISSUED on [_____]

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

Signature of Witness

Witness Name

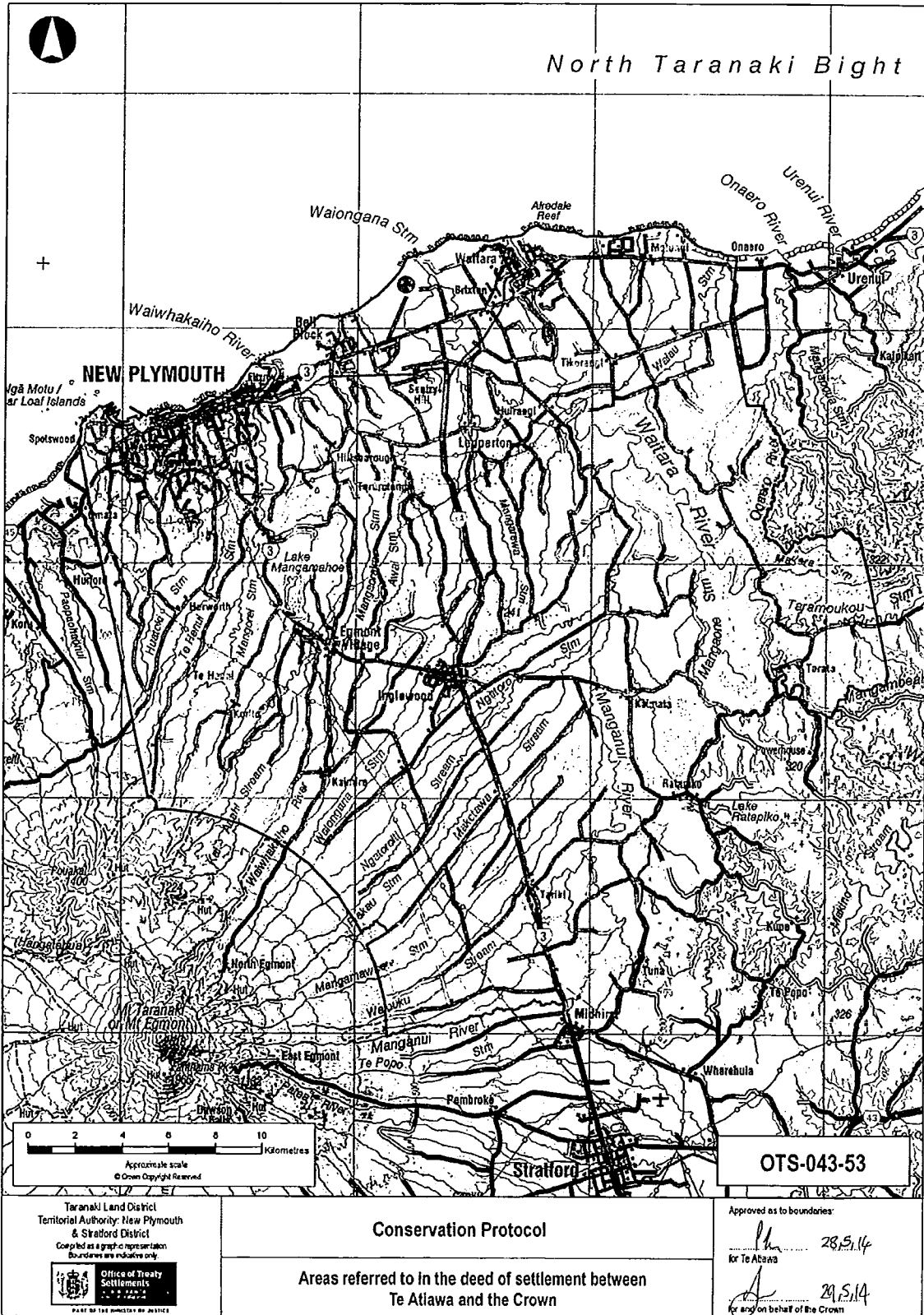
Occupation

Address

TE ATIWA DEED OF SETTLEMENT:
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4.1: CONSERVATION PROTOCOL

ATTACHMENT A
TE ATIWA PROTOCOL AREA



Taranaki Land District
Territorial Authority: New Plymouth
& Stratford District
Copied as a graphic representation
Boundaries are indicative only



Conservation Protocol

Areas referred to in the deed of settlement between
Te Atiawa and the Crown

Approved as to boundaries:
for Te Atiawa 28.5.14
for and on behalf of the Crown 29.5.14

[Handwritten signature]

SCHEDULE 1

SUMMARY OF TERMS OF ISSUE

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

1. Amendment and Cancellation

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

2. Noting

- 2.1 A summary of the terms of this Protocol must be noted in the Conservation Documents affecting the Protocol Area but the noting

2.1.1 is for the purpose of public notice; and

2.1.2 does not amend the Conservation Documents for the purposes of the Conservation Act 1987 or the National Parks Act 1980 (section xx).

3. Limits

- 3.1 This Protocol does not:

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

(a) introducing legislation; or

(b) changing government policy; or

(c) issuing a protocol to or interacting or consulting with anyone the Crown considers appropriate including any iwi, hapu, marae, whanau or representatives of tangata whenua (section xx);

3.1.2 restrict the responsibilities of the Minister or the Department or the legal rights of Te Atiawa (section xx);

3.1.3 grant, create or provide evidence of an estate or interest in or rights relating to:

(a) land held, managed or administered under Conservation Legislation; or

(b) flora or fauna managed or administered under Conservation Legislation; or

(c) rights relating to the common marine and coastal areas defined in section 9(1) of the marine and Coastal Areas (Takutai Moana) Act 2011 (section xx).

TE ATIWA DEED OF SETTLEMENT:
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4.1: CONSERVATION PROTOCOL

4. **Breach**

- 4.1 Subject to the Crown Proceedings Act 1950, the Governance Entity may enforce the Protocol if the Crown breaches it without good cause, but damages or monetary compensation will not be awarded (this does not exclude a Court from awarding costs incurred in enforcing the Protocol (section xx).
- 4.2 A breach of this Protocol is not a breach of the Deed of Settlement (section xx).

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4.2 FISHERIES PROTOCOL

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4.2: FISHERIES PROTOCOL

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

1. INTRODUCTION

- 1.1 The Crown, through the Minister for Primary Industries (the "**Minister**") and Director General of the Ministry for Primary Industries (the "**Director General**"), recognises that Te Atiawa as tangata whenua are entitled to have input and participation in fisheries planning processes that affect fish stocks in the Te Atiawa Fisheries Protocol Area (the "**Fisheries Protocol Area**") and that are managed by the Ministry for Primary Industries (the "**Ministry**") under the Fisheries Act 1996. Te Atiawa have a special relationship with all species of fish, aquatic life and seaweed found within the Fisheries Protocol Area, and an interest in the sustainable utilisation of all species of fish, aquatic life and seaweed.
- 1.2 Under the Deed of Settlement dated [insert date] between Te Atiawa and the Crown (the "**Deed of Settlement**"), the Crown agreed that the Minister would issue a Fisheries Protocol (the "**Protocol**") setting out how the Ministry will interact with [] (the "**Governance Entity**") in relation to matters specified in the Protocol. These matters are:
- 1.2.1 recognition of the interests of Te Atiawa in all species of fish, aquatic life or seaweed that exist within the Fisheries Protocol Area that are subject to the Fisheries Act 1996;
 - 1.2.2 input into and participation in the Ministry's national fisheries plans;
 - 1.2.3 iwi fisheries plan;
 - 1.2.4 participation in iwi fisheries forums;
 - 1.2.5 customary non-commercial fisheries management;
 - 1.2.6 contracting for services;
 - 1.2.7 employment of Ministry staff with customary non-commercial fisheries responsibilities;
 - 1.2.8 information exchange;
 - 1.2.9 rahui; and
 - 1.2.10 changes to policy and legislation affecting this Protocol.
- 1.3 For the purposes of this Fisheries Protocol, the **Governance Entity** is the body representative of Te Atiawa who have an interest in the sustainable utilisation of fish, aquatic life and seaweed that exist within the Fisheries Protocol Area. Te Atiawa have a responsibility in relation to the preservation, protection and management of its customary non-commercial fisheries in the Fisheries Protocol Area. This is inextricably linked to whakapapa and has important cultural and spiritual dimensions.

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4.2: FISHERIES PROTOCOL

- 1.4 The obligations of the Ministry in respect of fisheries are to ensure sustainability, to meet Te Tiriti o Waitangi / Treaty of Waitangi and international obligations, to enable efficient resource use and to ensure the integrity of fisheries management systems.
- 1.5 The Ministry and Te Atiawa are seeking a relationship consistent with Te Tiriti o Waitangi / Treaty of Waitangi and its principles. The principles of Te Tiriti o Waitangi / Treaty of Waitangi provide the basis for the relationship between the parties to this Fisheries Protocol. The relationship created by this Fisheries Protocol is intended to assist the parties to exercise their respective responsibilities with the utmost cooperation to achieve over time the outcomes sought by both.
- 1.6 The Minister and the Director General have certain functions, powers and duties in terms of the Fisheries Legislation. With the intention of creating a relationship that achieves, over time, the fisheries policies and outcomes sought by both Te Atiawa and the Ministry consistent with the Ministry's obligations as set out in clause [], this Protocol sets out how the Minister, Director General and the Ministry will exercise their functions, powers and duties in relation to matters set out in this Protocol. In accordance with this Protocol, the Governance Entity will have the opportunity for input into the policy and planning processes relating to the matters set out in this Protocol.
- 1.7 The Ministry will advise the Governance Entity whenever it proposes to consult with a hapu of Te Atiawa or with another iwi or hapu with interests inside the Fisheries Protocol Area on matters that could affect the interests of Te Atiawa.

2. FISHERIES PROTOCOL AREA

- 2.1 This Fisheries Protocol applies across the Te Atiawa Fisheries Protocol Area which means the area identified in the map included as Attachment A of this Protocol.

3. TERMS OF ISSUE

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

4. RELATIONSHIP PRINCIPLES

- 4.1 Te Atiawa, the Minister, and the Director General agree to abide by the following relationship principles when implementing this Protocol and exercising their various roles and functions under this Protocol:
- 4.1.1 working together to preserve, promote and protect the sustainable utilisation and enhancement of fisheries;
 - 4.1.2 working in a spirit of co-operation;
 - 4.1.3 ensuring early engagement on the matters specified in this protocol;
 - 4.1.4 operating a 'no-surprises' approach;
 - 4.1.5 acknowledging that the relationship is evolving, not prescribed;



4.2: FISHERIES PROTOCOL

- 4.1.6 respecting the independence of Te Atiawa and the Crown, and their individual mandates, roles and responsibilities within the Protocol Area;
- 4.1.7 acknowledging that the parties benefit from working together by sharing their vision, knowledge and expertise; and
- 4.1.8 in the context of any documents or other information provided to the Ministry by Te Atiawa, recognising and acknowledging the need to safeguard Te Atiawa traditional knowledge and cultural expressions relating to their customary fisheries.

5. **IMPLEMENTATION AND COMMUNICATION**

- 5.1 The Ministry will meet with the Governance Entity to provide a strategy to implement this Fisheries Protocol as soon as practicable after this Protocol is issued. The Strategy may include:
 - 5.1.1 any matters raised in this Protocol;
 - 5.1.2 reporting processes to be put in place;
 - 5.1.3 the development of an implementation plan that sets out the Ministry's obligations to the Governance Entity arising from this Protocol. The implementation plan would identify the relevant Ministry business group responsible for delivering each obligation, and any agreed actions and timeframes; and
 - 5.1.4 review processes for this Protocol.
- 5.2 Both parties will engage, when practicable, to discuss the performance of the delivery of the protocol.
- 5.3 The implementation strategy described in clause 5.1 of this Protocol will have effect from the date specified in the strategy.
- 5.4 The Ministry will assist the Governance Entity with administrative arrangements regarding protocol implementation meetings. The Ministry will establish and maintain effective consultation processes and communication networks with the Governance Entity by:
 - 5.4.1 maintaining, at national and regional levels, information provided by the Governance Entity on the office holders of the Governance Entity, addresses and contact details;
 - 5.4.2 providing reasonable opportunities for the Governance Entity to meet with Ministry managers and staff (as might be agreed in the implementation plan); and
 - 5.4.3 providing reasonable opportunities for the Governance Entity to participate, if they choose to, in regional forums that are established to interact with the Ministry on fisheries issues that affect the Fisheries Protocol Area.

4.2: FISHERIES PROTOCOL

- 5.5 The Ministry will:
- 5.5.1 consult and involve the Governance Entity in the training of relevant staff on this Protocol and provide on-going training as required; and
 - 5.5.2 as far as reasonably practicable, inform fisheries stakeholders about this Protocol and the Deed of Settlement, and provide on-going information as required.

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

- 6.1 Te Atiawa are entitled to input into and participation in the Ministry's national fisheries plans, where these are being developed, that relate to the Fisheries Protocol Area. The Ministry's national fisheries plans will reflect the high level goals and outcomes for a fishery. The plans will guide annual identification of the measures (which may include sustainability measures, catch limits research and compliance services) required to meet these goals and outcomes.
- 6.2 Te Atiawa input and participation will be recognised and provided for through the iwi fisheries plan referred to in clause 7.1, which the Minister must have particular regard to when making sustainability decisions that relate to the Fisheries Protocol Area.
- 6.3 Where it is intended that any sustainability measures will be set or varied that relate to the Fisheries Protocol Area and are not addressed in any Ministry national fisheries plan, the Ministry will ensure that the input and participation of Te Atiawa is provided for. This will include consulting the Governance Entity on those proposed sustainability measures.

7. IWI FISHERIES PLAN

- 7.1 The Governance Entity will develop an iwi or forum fisheries plan that relates to the Fisheries Protocol Area.
- 7.2 The Ministry acknowledges the importance of iwi or forum fisheries plan in the development of the Ministry's national fisheries plan and will assist the Governance Entity, within the resources available to the Ministry, to develop an iwi fisheries plan that relates to the Fisheries Protocol Area.
- 7.3 The Ministry and the Governance Entity agree that the iwi or forum fisheries plan will address:
- 7.3.1 the objectives of the iwi for the management of their customary, commercial, recreational and environmental interests in fisheries resources within the Fisheries Protocol Area;
 - 7.3.2 how Te Atiawa will exercise kaitiakitanga in the Fisheries Protocol Area;
 - 7.3.3 how the Governance Entity will participate in fisheries planning in the Fisheries Protocol Area; and
 - 7.3.4 how the customary, commercial and recreational fishing interests of the Governance Entity will be managed in an integrated way.

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4.2: FISHERIES PROTOCOL

7.4 The Ministry and the Governance Entity agree to meet as soon as reasonably practicable after the Minister issues this Protocol being issued, to discuss:

7.4.1 the content of the iwi or forum fisheries plan, including how the plan will legally express, protect and recognise the mana of Te Atiawa; and

7.4.2 ways in which the Ministry will work with the Governance Entity to develop and review the iwi or forum fisheries plan.

8. **PARTICIPATION IN IWI FISHERIES FORUMS**

8.1 The Ministry will provide opportunities for Te Atiawa to have input into and participate in any Iwi Fisheries Forums relating to the Fisheries Protocol Area, where the Ministry will engage with iwi on fisheries management activities. The Te Atiawa iwi fisheries plan will guide Te Atiawa input into those forums.

8.2 The Ministry will provide assistance, within the available resources, to those iwi participating in the forums to develop forum fisheries plans.

9. **TAONGA SPECIES OF FISH, AQUATIC LIFE AND SEAWEED**

9.1 The Ministry recognises that Te Atiawa have a customary and non-commercial interest in all fish, aquatic life and seaweed, and a specific interest in the taonga species tuna/eel, piharau, inanga, and koura, within the Fisheries Protocol Area.

9.2 The iwi fisheries plan developed by the Governance Entity will identify the objectives of the Governance Entity for the management of tuna/eel, piharau, inanga, and koura, will and identify how Te Atiawa exercise kaitiakitanga in respect of these fisheries.

9.3 The Ministry will recognise and provide for the input and participation of Te Atiawa into the development of the Ministry's relevant national fisheries plans through consideration of the objectives set out in the Te Atiawa iwi fisheries plan in accordance with clause 6.2. The Ministry will provide opportunities for the Governance Entity to participate in annual fisheries planning processes through Iwi Fisheries Forums where any relevant national fisheries plans include matters relating to tuna/eel, piharau, inanga, and koura management that affects the Fisheries Protocol Area.

9.4 The Minister will have particular regard to how Te Atiawa exercise kaitiakitanga when making certain sustainability decisions that relate to the management of the tuna/eel, piharau, inanga, and koura fisheries. In considering any proposal affecting the tuna/eel, piharau, inanga, and koura fisheries in the Fisheries Protocol Area, the Minister will ensure that the customary non-commercial fishing interests of Te Atiawa in tuna/eel, piharau, inanga, and koura are recognised and provided for in accordance with section 10 of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992. The Ministry will consult the Governance Entity on any proposal concerning the tuna/eel, piharau, inanga, and koura fisheries in accordance with clause 6.2.

10. **MANAGEMENT OF CUSTOMARY NON-COMMERCIAL FISHERIES**

10.1 The Ministry undertakes to provide the Governance Entity with such information and assistance, within the resources available to the Ministry, as may be necessary for the proper administration of the Fisheries (Kaimoana Customary Fishing) Regulations 1998. This information and assistance may include, but is not limited to:

TE ATIAWA DEED OF SETTLEMENT:
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- 10.1.1 discussions with the Ministry on the implementation of the Fisheries (Kaimoana Customary Fishing) Regulations 1998 within the Fisheries Protocol Area, including the appointment of Tangata Kaitiaki; and
- 10.1.2 making available existing information, if any, relating to the sustainability, biology, fishing activity and fisheries management within the Fisheries Protocol Area.

11. CONTRACTING FOR SERVICES

- 11.1 The Ministry will consult with the Governance Entity in respect of any contract for the provision of services that may impact on the management of customary fisheries within the Fisheries Protocol Area, if the Ministry is proposing to enter into such a contract.
- 11.2 The level of consultation shall be relative to the degree to which the contract impacts upon the interests of other iwi as well as those of Te Atiawa, and may be achieved by one or more of the following:
 - 11.2.1 the Ministry may notify the Governance Entity of a contract for fisheries services;
 - 11.2.2 the Ministry may notify the Governance Entity of an invitation to tender for fisheries services; and
 - 11.2.3 the Ministry may direct a successful contractor to engage with the Governance Entity as appropriate, in undertaking the relevant fisheries services.
- 11.3 If the Governance Entity is contracted for fisheries services then clause 11.1 will not apply in relation to those fisheries services.

12. EMPLOYMENT OF STAFF WITH CUSTOMARY FISHERIES RESPONSIBILITIES

- 12.1 The Ministry will consult with the Governance Entity on certain aspects of the employment of Ministry staff if a vacancy directly affects the fisheries interests of Te Atiawa in relation to the Fisheries Protocol Area.
- 12.2 The level of consultation shall be relative to the degree to which the vacancy impacts upon the interests of other iwi as well as those of Te Atiawa, and may be achieved by one or more of the following:
 - 12.2.1 consultation on the job description and work programme;
 - 12.2.2 direct notification of the vacancy;
 - 12.2.3 consultation on the location of the position; and
 - 12.2.4 input into the selection of the interview panel.

4.2: FISHERIES PROTOCOL

13. **CONSULTATION**

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

14. **RAHUI**

- 14.1 The Ministry recognises that rahui is a traditional use and management practice of Te Atiawa and supports their rights to place traditional rahui over their customary fisheries.
- 14.2 The Ministry notes that a traditional rahui placed by the Governance Entity over their customary fisheries has no force in law and cannot be enforced by the Ministry, and that adherence to any rahui is a matter of voluntary choice. The Governance Entity undertakes to inform the Ministry of the placing and the lifting of a rahui by Te Atiawa over their customary fisheries, and also the reasons for the rahui.
- 14.3 The Ministry undertakes to inform a representative of any fishery stakeholder groups that fish in the area to which the rahui has been applied, to the extent that such groups exist, of the placing and the lifting of a rahui by Te Atiawa over their customary fisheries, in a manner consistent with the understandings outlined in clause 14.1 above.
- 14.4 As far as reasonably practicable, the Ministry undertakes to consider the application of section 186A of the Fisheries Act 1996 to support a rahui proposed by Te Atiawa over their customary fisheries for purposes consistent with the legislative requirements for the application of section 186A of the Fisheries Act 1996, noting these requirements preclude the use of section 186A to support rahui placed in the event of a drowning.

4.2: FISHERIES PROTOCOL

15. **INFORMATION EXCHANGE**

- 15.1 The Governance Entity and the Ministry recognise the benefit of mutual information exchange. To this end, the Ministry and the Governance Entity will as far as possible exchange any information that is relevant to the management of the Fisheries Protocol Area.
- 15.2 The Ministry will make available to the Governance Entity all existing information held by, or reasonably accessible to, the Ministry where that information is requested by the Governance Entity for the purposes of assisting them to exercise their rights under this Fisheries Protocol.

16. **DISPUTE RESOLUTION**

- 16.1 If either the Ministry or the Governance Entity considers there has been a problem with the implementation of this Protocol, then that party may give written notice to the other party that they are in dispute. The following process will be undertaken once notice is received by the other party to this Protocol:
- 16.1.1 within 15 working days of being given written notice, the relevant contact persons from the Ministry and the Governance Entity will meet to work in good faith to resolve the issue;
- 16.1.2 if the dispute has not been resolved within 30 working days of receipt of the notice referred to in clause 16.1, the Director General of the Ministry and representative of the Governance Entity will meet to work in good faith to resolve the issue;
- 16.1.3 if the dispute has not been resolved within 45 working days despite the process outlined in clauses 16.1.1 and 16.1.2 having been followed, the Ministry and Governance Entity may seek to resolve the dispute by asking an agreed trusted third party to mediate the dispute with a view to reaching a mutually satisfactory outcome for both parties.
- 16.2 In the context of any dispute that has been initiated under clause [], the Ministry and the Governance Entity will place utmost importance on the fact that the Ministry and Te Atiawa are, in accordance with clause [] of this Protocol, seeking a relationship consistent with Te Tiriti o Waitangi / Treaty of Waitangi and its principles, and such a relationship is intended to assist both parties to exercise their respective responsibilities with the utmost cooperation to achieve the outcomes sought by both over time.

17. **CHANGES TO POLICY AND LEGISLATION AFFECTING THIS PROTOCOL**

- 17.1 The Ministry will consult with Governance Entity on policy development or any proposed legislative amendment to the Fisheries Act 1996 which impacts upon this Protocol, the Ministry shall:
- 17.1.1 notify the Governance Entity of the proposed policy development or proposed legislative amendment upon which iwi will be consulted; and
- 17.1.2 make available to the Governance Entity the information provided to iwi as part of the consultation process referred to in this clause; and

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

18. **REVIEW AND AMENDMENT**

18.1 The Minister and the Governance Entity agree that this protocol is a living document which may be updated and adapted to take account of any future developments.

19. **DEFINITIONS**

19.1 In this Protocol:

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

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

Governance Entity means Te Kotahitanga o Te Atiawa Trust;

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

Settlement Date means [].

ISSUED on []

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

Signature of Witness

Witness Name

Occupation

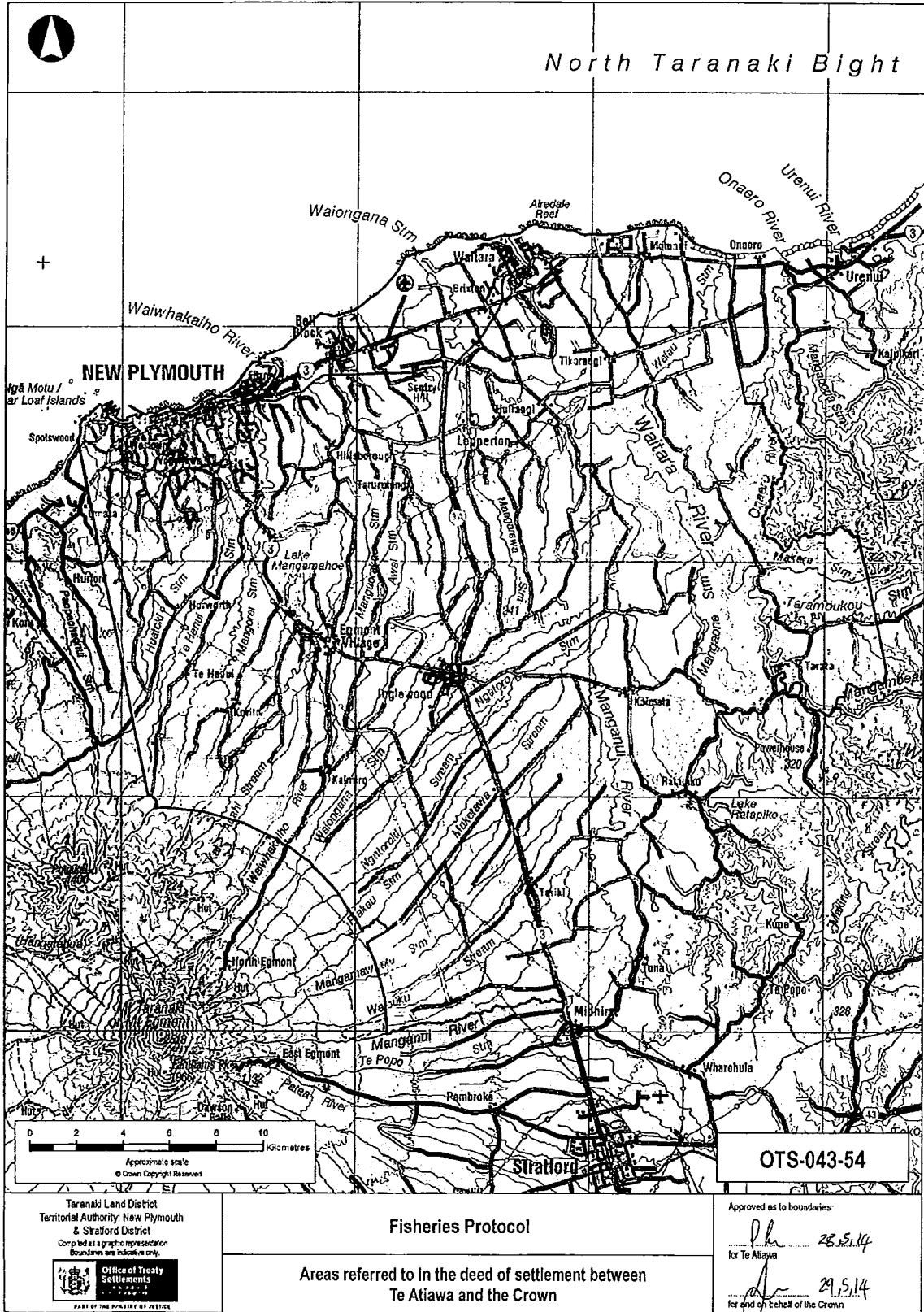
Address



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4.2: FISHERIES PROTOCOL

ATTACHMENT A
FISHERIES PROTOCOL AREA



4.2: FISHERIES PROTOCOL

ATTACHMENT B

TERMS OF ISSUE

1. Provisions of the Deed of Settlement relating to this Protocol

1.1 The Deed of Settlement provides that [].

2. Authority to issue, amend or cancel Protocols

2.1 Section [] of the Settlement Legislation provides that:

[Quote the section of the Settlement Legislation included in accordance with clauses [] of the Deed of Settlement]

3. Protocols subject to rights and obligations

3.1 Section [] of the Settlement Legislation provides that:

[Quote the section of the Settlement Legislation included in accordance with clauses [] of the Deed of Settlement]

3.2 The Deed of Settlement provides that the Protocol does not restrict the ability of the Crown to interact or consult with any person or persons the Crown considers appropriate including, without limitation, any other iwi, hapu, marae, whanau or other representatives of tangata whenua.

4. Noting of Protocols

4.1 Section [] of the Settlement Legislation provides that:

[Quote the section of the Settlement Legislation included in accordance with clauses [] of the Deed of Settlement]

5. Enforceability of Protocols

5.1 Section [] of the Settlement Legislation provides that:

[Quote the section of the Settlement Legislation included in accordance with clauses [] of the Deed of Settlement]

5.2 The provisions included in the Settlement Legislation under clauses [] and [] of the Deed of Settlement will not apply to any guidelines developed in relation to a Protocol.

6. Limitation of rights

6.1 Section [] of the Settlement Legislation provides that: *[Quote the section of the Settlement Legislation included in accordance with clauses [] of the Deed of Settlement]*

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4.3 TAONGA TUTURU PROTOCOL

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**A PROTOCOL ISSUED BY THE CROWN THROUGH THE MINISTER FOR ARTS,
CULTURE AND HERITAGE REGARDING INTERACTION WITH TE ATIWA ON
SPECIFIED ISSUES**

1. INTRODUCTION

- 1.1 Under the Deed of Settlement dated xx between Te Atiawa and the Crown (the "**Deed of Settlement**"), the Crown agreed that the Minister for Arts, Culture and Heritage (the "**Minister**") would issue a protocol (the "**Protocol**") setting out how the Minister and the Chief Executive for Manatu Taonga also known as the Ministry for Culture and Heritage (the "**Chief Executive**") will interact with the governance entity on matters specified in the Protocol. These matters are:
- 1.1.1 Relationship Principles - Part 2;
 - 1.1.2 Protocol Area - Part 3;
 - 1.1.3 Terms of issue - Part 4;
 - 1.1.4 The role of the Chief Executive under the Protected Objects Act 1975 - Part 5;
 - 1.1.5 The role of the Minister under the Protected Objects Act 1975 - Part 6;
 - 1.1.6 Implementation and Communication - Part 7;
 - 1.1.7 Registration as a collector of Nga Taonga Tuturu - Part 8;
 - 1.1.8 Access to taonga - Part 9;
 - 1.1.9 Provision of Advice - Part 10;
 - 1.1.10 Board Appointments - Part 11;
 - 1.1.11 National Monuments, War Graves and Historical Graves - Part 12;
 - 1.1.12 History publications relating to Te Atiawa - Part 13;
 - 1.1.13 Information exchange - Part 14;
 - 1.1.14 Cultural and/or Spiritual Practices and Professional Services - Part 15;
 - 1.1.15 Consultation - Part 16;
 - 1.1.16 Review and amendment - Part 17;
 - 1.1.17 Dispute resolution - Part 18;
 - 1.1.18 Changes to policy and legislation affecting this Protocol - Part 19;
 - 1.1.19 Definitions - Part 20.

TE ATIAWA DEED OF SETTLEMENT:
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4.3: TAONGA TUTURU PROTOCOL

- 1.2 For the purposes of this Protocol the governance entity is the body representative of the whanau, hapu, and iwi of Te Atiawa who have an interest in the matters covered under this Protocol.
- 1.3 The Chief Executive recognises that Te Atiawa have a significant interest in relation to the preservation, protection and management of Taonga Tuturu through their tino rangatiratanga and kaitiakitanga. This derives from the status of Te Atiawa as tangata whenua in the Protocol Area and is inextricably linked to whakapapa and has important cultural and spiritual dimensions.
- 1.4 The Chief Executive and the governance entity are seeking a relationship consistent with Te Tiriti o Waitangi / the Treaty of Waitangi and its principles. The principles of Te Tiriti o Waitangi / the Treaty of Waitangi provides the basis for the relationship between the parties to this Protocol, as set out in this Protocol.
- 1.5 The purpose of the Protected Objects Act 1975 ("the Act") is to provide for the better protection of certain objects by, among other things, regulating the export of Taonga Tuturu, and by establishing and recording the ownership of Nga Taonga Tuturu found after the commencement of the Act, namely 1 April 1976.
- 1.6 The Minister and Chief Executive have certain roles in terms of the matters mentioned in clause 1.1. In exercising such roles, the Minister and Chief Executive will provide the governance entity with the opportunity for input, into matters set out in clause 1.1, as set out in clauses 5 to 12 of this Protocol.

2 RELATIONSHIP PRINCIPLES

- 2.1 Te Atiawa, the Minister and the Chief Executive agree to abide by the following relationship principles when implementing this Protocol and exercising their various roles and functions under this Protocol:
- working together to preserve, promote, protect and enhance Taonga Tuturu;
 - acknowledging the need to safeguard traditional knowledge and cultural expressions associated with Te Atiawa;
 - working in a spirit of co-operation;
 - ensuring early engagement on matters relating to this Protocol;
 - operating a 'no-surprises' approach;
 - acknowledging that the relationship is evolving, not prescribed;
 - respecting the independence of the parties and their individual mandates, roles and responsibilities within the Protocol Area; and
 - acknowledging that the parties benefit from working together by sharing their vision, knowledge and expertise.

3 PROTOCOL AREA

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

4.3: TAONGA TUTURU PROTOCOL

4 TERMS OF ISSUE

- 4.1 This Protocol is issued pursuant to section xx of the Te Atiawa (the "**Settlement Legislation**") that implements the Te Atiawa Deed of Settlement, and is subject to the Settlement Legislation and the Deed of Settlement.
- 4.2 This Protocol must be read subject to the terms of issue set out in Attachment B.

5 THE ROLE OF THE CHIEF EXECUTIVE UNDER THE PROTECTED OBJECTS ACT 1975

General

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

Applications for Ownership

- 5.2 If the governance entity lodges a claim of ownership with the Chief Executive and there are no competing claims for any Taonga Tuturu found within the Protocol Area or identified as being of Te Atiawa origin found anywhere else in New Zealand, the Chief Executive will, if satisfied that the claim is valid, apply to the Registrar of the Maori Land Court for an order confirming ownership of the Taonga Tuturu.
- 5.3 If there is a competing claim or claims lodged in conjunction with the governance entity's claim of ownership, the Chief Executive will consult with the governance entity for the purpose of resolving the competing claims and, if satisfied that a resolution has been agreed to, and is valid, apply to the Registrar of the Maori Land Court for an order confirming ownership of the Taonga Tuturu.

4.3: TAONGA TUTURU PROTOCOL

- 5.4 If the competing claims for ownership of any Taonga Tuturu found within the Protocol Area or identified as being of Te Atiawa origin found anywhere else in New Zealand, cannot be resolved, the Chief Executive at the request of the governance entity may facilitate an application to the Maori Land Court for determination of ownership of the Taonga Tuturu.

Applications for Custody

- 5.5 If the governance entity does not lodge a claim of ownership of any Taonga Tuturu found within the Protocol Area or identified as being of Te Atiawa origin found elsewhere in New Zealand with the Chief Executive, and where there is an application for custody from any other person, the Chief Executive will:

5.5.1 consult the governance entity before a decision is made on who may have custody of the Taonga Tuturu; and

5.5.2 notify the governance entity in writing of the decision made by the Chief Executive on the custody of the Taonga Tuturu.

Export Applications

- 5.6 For the purpose of seeking an expert opinion from the governance entity on any export applications to remove any Taonga Tuturu of Te Atiawa origin from New Zealand, the Chief Executive will register the governance entity on the Ministry for Culture and Heritage's Register of Expert Examiners.

- 5.7 Where the Chief Executive receives an export application to remove any Taonga Tuturu of Te Atiawa origin from New Zealand, the Chief Executive will consult the governance entity as an Expert Examiner on that application, and notify the governance entity in writing of the Chief Executive's decision.

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

- 6.1 The Minister has functions, powers and duties under the Act and may consult, notify and provide information to the governance entity within the limits of the Act. In circumstances where the Chief Executive originally consulted the governance entity as an Expert Examiner, the Minister may consult with the governance entity where a person appeals the decision of the Chief Executive to:

6.1.1 refuse permission to export any Taonga Tuturu, or Nga Taonga Tuturu, from New Zealand; or

6.1.2 impose conditions on the approval to export any Taonga Tuturu, or Nga Taonga Tuturu, from New Zealand.

- 6.2 The Chief Executive will notify the governance entity in writing of the Minister's decision on an appeal in relation to an application to export any Taonga Tuturu where the governance entity was consulted as an Expert Examiner.

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4.3: TAONGA TUTURU PROTOCOL

7 IMPLEMENTATION AND COMMUNICATION

7.1 The Chief Executive will meet with the governance entity to develop and agree a strategy to implement this Protocol as soon as practicable after this Protocol is issued. This strategy will be an operational document:

7.1.1 outlining specific actions and milestones the Chief Executive and governance entity may carry out pursuant to the Protocol;

7.1.2 reporting processes in relation to the specific actions and milestones.

7.2 The implementation strategy described in clause 7.1 of this Protocol will have effect from the date agreed by both parties and specified in the strategy.

7.3 The Chief Executive will also:

7.3.1 discuss with the governance entity any policy and legislative development which specifically affects Te Atiawa interests in the Protocol Area;

7.3.2 discuss with the governance entity any of the Ministry's operational activities, which specifically affect Te Atiawa interests in the Protocol Area;

7.3.3 meet with the governance entity to review the implementation of this Protocol as per clause 17.2 if requested by either party;

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

7.3.5 maintain information provided by the governance entity on the office holders of the governance entity, their addresses, and contact details;

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

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

7.3.8 as soon as reasonably practical notify the governance entity of any Te Atiawa Taonga Tuturu held overseas, either in private or public collections, should the Chief Executive become aware of such collections; and

7.3.9 include a copy of the Protocol on the Ministry's website.

8 REGISTRATION AS A COLLECTOR OF NGA TAONGA TUTURU

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

9 ACCESS TO TAONGA

9.1 The Chief Executive will write to organisations relevant to this protocol (the list to be mutually agreed by both parties no later than 12 months following deed of settlement)

4.3: TAONGA TUTURU PROTOCOL

inviting them to establish a relationship with Te Atiawa for the purposes of achieving their taonga objectives.

10 PROVISION OF ADVICE

- 10.1 The governance entity may, from time-to-time, seek practical advice from the Chief Executive on Te Atiawa historical or commemorative initiatives where the Ministry may have some expertise. The Chief Executive will provide such general practical advice, not involving any financial commitment, where possible.

11 BOARD APPOINTMENTS

- 11.1 The Chief Executive shall:

11.1.1 notify the governance entity of any upcoming ministerial appointments on Boards which the Minister for Arts, Culture and Heritage appoints to;

11.1.2 add the governance entity's nominees onto the Ministry for Culture and Heritage's Nomination Register for Boards, which the Minister for Arts, Culture and Heritage appoints to; and

11.1.3 notify the governance entity of any ministerial appointments to Boards which the Minister for Arts, Culture and Heritage appoints to, where these are publicly notified.

12 NATIONAL MONUMENTS, WAR GRAVES AND HISTORIC GRAVES

- 12.1 The Chief Executive shall seek and consider the views of the governance entity on any proposed major works or changes to any national monument, war grave, or historic grave, managed or administered by the Ministry, which specifically relates to Te Atiawa's interests in the Protocol Area. For the avoidance of doubt this does not include normal maintenance or cleaning.

- 12.2 Subject to government funding and government policy, the Chief Executive will provide for the marking and maintenance of any historic war grave identified by the governance entity, which the Chief Executive considers complies with the Ministry's War Graves Policy criteria; that is, a casualty, whether a combatant or non-combatant, whose death was a result of the armed conflicts within New Zealand in the period 1840 to 1872 (the New Zealand Wars).

13 HISTORY PUBLICATIONS RELATING TO TE ATIAWA

- 13.1 The Chief Executive shall:

13.1.1 upon commencement of this protocol provide the governance entity with a list and copies of all history publications commissioned or undertaken by the Ministry that relate substantially to Te Atiawa; and

13.1.2 make reasonable efforts to consult with the governance entity on any work the Ministry undertakes that relates substantially to Te Atiawa:

(a) from an early stage;

(b) throughout the process of undertaking the work; and

4.3: TAONGA TUTURU PROTOCOL

(c) before making the final decision on the material of a publication.

13.1.3 The governance entity accepts that the author, after genuinely considering the submissions and/or views of, and confirming and correcting any factual mistakes identified by, the governance entity, is entitled to make the final decision on the material of the historical publication.

14 INFORMATION EXCHANGE

14.1 Te Atiawa and the Ministry recognise the benefit of mutual information exchange. To this end, the Ministry and Te Atiawa will as far as possible exchange any information that is relevant to Te Atiawa Taonga Tuturu when either party requests such information.

14.2 The obligations in clause 14.1 and do not apply to information that the Minister is legally prevented from providing (for example, information that is the subject of an obligation of confidentiality or non-disclosure) or to information that the Minister or Chief Executive may withhold under the Official Information Act 1982.

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

15.1 Where the Chief Executive requests cultural and/or spiritual practices to be undertaken by Te Atiawa within the Protocol Area, the Chief Executive will make a contribution subject to prior mutual agreement, to the costs of undertaking such practices.

15.2 Where appropriate, the Chief Executive will consider using the governance entity as a provider of professional services relating to cultural advice, historical and commemorative services sought by the Chief Executive.

15.3 The procurement by the Chief Executive of any such services set out in clauses 15.1 and 15.2 is subject to the Government's Mandatory Rules for Procurement by Departments, all government good practice policies and guidelines, and the Ministry's purchasing policy.

16 CONSULTATION

16.1 Where the Chief Executive is required to consult under this Protocol, the basic principles that will be followed in consulting with the governance entity in each case are:

16.1.1 ensuring that the governance entity is consulted as soon as reasonably practicable following the identification and determination by the Chief Executive of the proposal or issues to be the subject of the consultation;

16.1.2 providing the governance entity with sufficient information to make informed decisions and submissions in relation to any of the matters that are the subject of the consultation;

16.1.3 ensuring that sufficient time is given for the participation of the governance entity in the decision making process including the preparation of submissions by the governance entity in relation to any of the matters that are the subject of the consultation;

4.3: TAONGA TUTURU PROTOCOL

16.1.4 ensuring that the Chief Executive will approach the consultation with the governance entity with an open mind, and will genuinely consider the submissions of the governance entity in relation to any of the matters that are the subject of the consultation; and

16.1.5 reporting back to the governance entity in writing, in person, or both, in regard to any decisions made that relate to that consultation.

17 REVIEW AND AMENDMENT

17.1 The Minister and the Chief Executive and Te Atiawa agree that this Protocol is a living document which should be updated and adapted to take account of future developments.

17.2 A review of this Protocol may take place, at the request of either party, at five-yearly intervals from the commencement date of this Protocol, or sooner if both parties agree.

17.3 Where the parties cannot reach agreement on any review or amendment proposal they will use the dispute resolution processes contained in clause 18 of the Protocol.

18 DISPUTE RESOLUTION

18.1 If one party considers that there has been a breach of this Protocol then that party may give written notice to the other party that they are in dispute. The following process shall be undertaken once notice is received by the other party to this Protocol:

18.1.1 Within 15 working days of being given written notice, the relevant contact person from the Ministry and the Governance Entity will meet to work in good faith to resolve the issue.

18.1.2 If the dispute has not been resolved within 20 working days of receipt of the notice referred to in 15.1(a), the Chief Executive and Governance Entity will meet to work in good faith to resolve the issue.

18.1.3 If the dispute has not been resolved within 30 working days of receipt of the notice referred to in clause 18.1 and where the matter is of such significance and the dispute remains outstanding despite the above process having been followed, provided it is not inconsistent with statutory obligations and the parties agree, the Minister or his delegate and the Governance Entity will meet to work in good faith to resolve this issue. The parties recognise that this clause is subject to this Protocol's Terms of Issue.

19 CHANGES TO POLICY AND LEGISLATION AFFECTING THIS PROTOCOL

19.1 If the Chief Executive consults with Maori generally on policy development or any proposed legislative amendment to the Act that impacts upon this Protocol, the Chief Executive shall:

19.1.1 notify the governance entity of the proposed policy development or proposed legislative amendment upon which Maori generally will be consulted;

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

4.3: TAONGA TUTURU PROTOCOL

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

20 DEFINITIONS

20.1 In this Protocol:

Chief Executive means the Chief Executive of the Ministry for Culture and Heritage and includes any authorised employee of the Ministry for Culture and Heritage acting for and on behalf of the Chief Executive.

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

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

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

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

governance entity means Te Kotahitanga o Te Atiawa Trust.

Nga Taonga Tuturu has the same meaning as in section 2 of the Act and means two or more Taonga Tuturu.

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

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

- (a) relates to Maori culture, history, or society; and
- (b) was, or appears to have been:
 - (i) manufactured or modified in New Zealand by Maori; or
 - (ii) brought into New Zealand by Maori; or
 - (iii) used by Maori; and
- (c) is more than 50 years old.

Te Atiawa has the meaning set out in clause 8.6 of the Deed of Settlement.

TE ATIWA DEED OF SETTLEMENT:
DOCUMENTS

4.3: TAONGA TUTURU PROTOCOL

ISSUED on

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

[]

Signature of Witness

Witness Name

Occupation

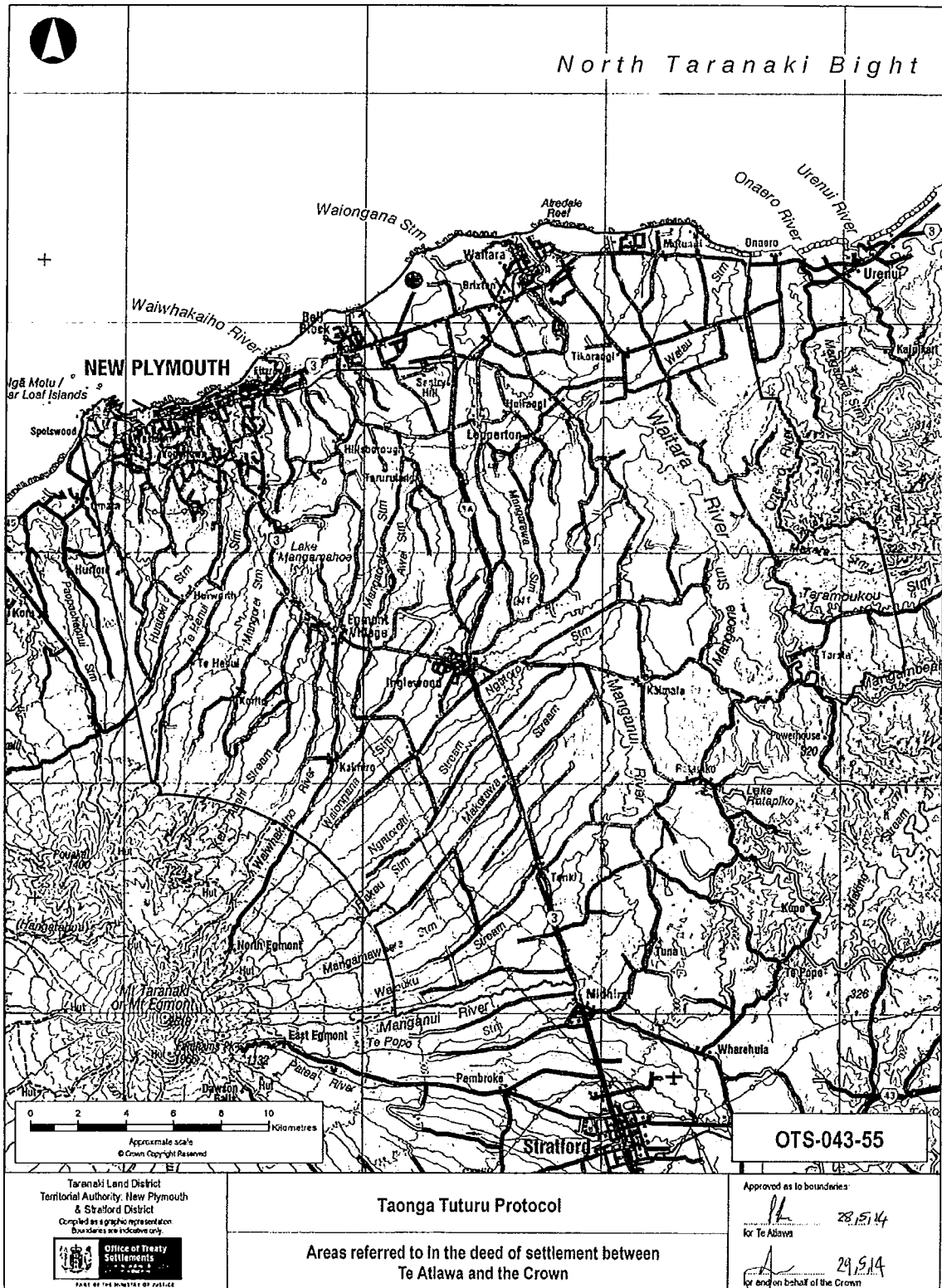
Address

7/6/87

TE ATIWA DEED OF SETTLEMENT:
DOCUMENTS

4.3: TAONGA TUTURU PROTOCOL

ATTACHMENT A
TAONGA TUTURU PROTOCOL AREA



[Handwritten Signature]
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ATTACHMENT B
SUMMARY OF THE TERMS OF ISSUE

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

1. Amendment and cancellation

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

2. Limits

2.1 This Protocol does not:

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

(a) introducing legislation; or

(b) changing government policy; or

(c) issuing a Protocol to, or interacting or consulting with anyone the Crown considers appropriate, including any iwi, hapu, marae, whanau or representative of tangata whenua (section []); or

2.1.2 restrict the responsibilities of the Minister or the Ministry or the legal rights of [] (section []); or

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

3. Breach

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

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

(

5. LEASES FOR LEASEBACK PROPERTIES

(

(

5.1 LEASE WITH THE MINISTRY OF JUSTICE

(

TE ATIAWA DEED OF SETTLEMENT:
DOCUMENTS

5.1: LEASE WITH MINISTRY OF JUSTICE

(MINISTRY OF JUSTICE)

LESSOR:

TE KOTAHITANGA O TE ATIAWA TRUST

Correct for the purposes of the Land
Transfer Act 1952

SOLICITOR FOR THE LESSEE

LESSEE:

HER MAJESTY THE QUEEN

acting by and through the Chief Executive
of the Ministry of Justice

Particulars entered in the Register
as shown herein on the date and at
the time endorsed below

MEMORANDUM OF LEASE

THE CHIEF EXECUTIVE
MINISTRY OF JUSTICE
WELLINGTON

TE ATIWA DEED OF SETTLEMENT:
DOCUMENTS

5.1: LEASE WITH MINISTRY OF JUSTICE

MINISTRY OF JUSTICE
LONG TERM LEASE OF BARE GROUND
FOR COURTHOUSE PURPOSES

The Trustees of **TE KOTAHITANGA O TE ATIWA TRUST** (hereafter called "**the Lessor**") being registered as proprietor of an estate in fee simple subject, however, to such encumbrances, liens and interests as are notified by memorandum underwritten or endorsed on Computer Freehold Register J4/127 Taranaki Land Registration District Registry, in that piece of land containing 1825 square metres more or less situate in Block V Paritutu Survey District, situated at the corner of Robe and Powderham Streets in New Plymouth being Sections 1 and 2 on Survey Office Plan 13315 and being comprised and described therein.

Does hereby lease to **HER MAJESTY THE QUEEN** acting through the Chief Executive of the Ministry of Justice (hereafter called "**the Lessee**") all the said land (hereafter called "**the Land**") to be held by the Lessee as tenant for a term of 15 years at the yearly rental of \$_____ plus GST payable annually in advance on the first day of [_____] 2014 in each year during the continuance of this Lease subject to the covenants, conditions and restrictions set forth in Schedules A and B following.

The Lessee doth hereby accept the lease of the above described land to be held by the Lessee as tenant and subject to the conditions, restrictions and covenants set forth in Schedules A and B following.

Dated this _____ day of _____ 2014

SIGNED by the Trustees of)
TE KOTAHITANGA)
O TE ATIWA TRUST)
as Lessor)

SIGNED for and on behalf of HER)
MAJESTY THE QUEEN as Lessee)
by Fraser Gibbs)
(acting by and through the Chief)
Executive of the Ministry of Justice))

TE ATIWA DEED OF SETTLEMENT:
DOCUMENTS

5.1: LEASE WITH MINISTRY OF JUSTICE

SCHEDULE A

ITEM 1 THE LAND

All that parcel of land being the Land previously specified.

ITEM 2 THE COMMENCEMENT DATE

The Commencement Date of this Lease shall be [].

ITEM 3 ANNUAL RENTAL AT COMMENCEMENT DATE

(Value in words) (\$0.00) per annum plus GST being a six per cent (6%) yield of the Agreed Transfer Value of the Land payable annually in advance on the first day of each year and during the continuance of this lease with a first payment due on the Commencement Date.

ITEM 4 TERM OF LEASE

4.1 Initial term

Fifteen (15) years from the Commencement Date to determination on the day of
20 .

4.2 Subsequent terms

Three (3) rights of renewal of ten (10) years each from the day of 20
and each 10th anniversary after that date.

ITEM 5 LESSEE OUTGOINGS

5.1 Rates, levies, charges, assessments, duties or fees payable to any local, territorial, governmental and any other statutory authority excluding only taxes levied against the Lessor in respect of its interest in the Land.

5.2 Charges for water, gas, electricity, telephones and other utilities or services.

5.3 Rubbish collection charges.

5.4 All costs associated with the repair, maintenance or replacement of any fencing on the land.

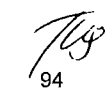

ITEM 6 PERMITTED USE

6.1 For any Justice related purposes including (but not limited to) a courthouse and such other reasonable ancillary uses deemed necessary from time to time by the Lessee for the operation of a courthouse on the Land, or any other use which conforms with the local Code of Ordinances or District Plan applying to the premises; and

6.2 Any secondary use for government works under the Public Works Act 1981 if a part of the land but not a significant part being more than half of the Land, is not required for Courthouse purposes.

ITEM 7 RIGHTS OF RENEWAL

Renewable as provided in Item 4.2 above.


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TE ATIWA DEED OF SETTLEMENT:
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5.1: LEASE WITH MINISTRY OF JUSTICE

ITEM 8 RENT REVIEW DATES

Five (5) yearly from the Commencement Date of this Lease.

ITEM 9 LESSOR'S PROPERTY

Nil.

ITEM 10 LESSEE'S IMPROVEMENTS

All buildings and other improvements together with foundations, sub-soil works and services now or hereafter constructed on the Land by the Lessee or any agent or permitted occupier of the Lessee including, without limitation, the court house building, paving areas and courtyards and asphalted carpark and all fixtures, fittings and chattels therein contained.

ITEM 11 CLAUSE 3.04(b) CHARGEHOLDER'S NOTICE

To: [The Lessor]
(hereafter called "**the Lessor**")

And to: [The Lessee]
(hereafter called "**the Lessee**")

From: [Mortgagee / Chargeholder]
(hereafter called "**the Lender**")

In consideration of the Lessee accepting a lease from the Lessor of all the Land described in the Schedule below ("**the Land**") which the Lender acknowledges will be for its benefit, the Lender acknowledges that:

- (i) It has notice of the provisions of clause 3.04(b) and (c) of the said Lease; and
- (ii) It agrees that any Lessee's Improvements placed on the Land by the Lessee at any time prior to or during the continuance of the Lease, shall remain the property of the Lessee at all times during the continuance of the Lease and for a period of six months after the expiration or sooner determination of the Lease (hereafter collectively called "**the relevant period**");
- (iii) It will not claim any interest in any Lessee's Improvements under the security for its loan during the relevant period irrespective of how any Lessee's Improvement may be annexed to the Land and irrespective of any rule of law or equity to the contrary or any provisions of its security to the contrary;
- (iv) It agrees that this acknowledgement is irrevocable.

SCHEDULE ***

[That parcel of land containing]
.....

(LENDER EXECUTION)

TLG
95
[Signature]

ITEM 12 CLAUSE 3.04(c) CHARGEHOLDER'S NOTICE

To: [The Lessor]
(hereafter called "**the Lessor**")

And to: [The Lessee]
(hereafter called "**the Lessee**")

From: [Mortgagee/Chargeholder]
(hereafter called "**the Lender**")

The Lender acknowledges that prior to the date it advanced monies to the Lessor under a security ("**the Security**") given by the Lessor over the land described in the Schedule below ("**the Land**") it had notice of and agreed to be bound by the provisions of clause 3.04(c) of the Lease of the Land and that in particular it agrees that notwithstanding any provision of the Security to the contrary and irrespective of how any Lessee's Improvement is annexed to the Land it:

- (i) Will not claim any security interest in any Lessee's Improvement placed on the Land prior to or after the commencement date of the Security;
- (ii) Will at all times acknowledge that any Lessee's Improvements shall remain the property of the Lessee at all times during the continuance of the Lease and for a period of six months after the expiration or sooner determination of the Lease.

ITEM 13 ADDRESS FOR SERVICE

Lessor:

[City/Town]

Attn: General Manager

Facsimile:

Lessee: Chief Executive
Ministry of Justice
Level 3, Justice Centre
Aitken Street
(DX SX 10088)
Wellington

Facsimile: (04) 918 8820

SCHEDULE B

PART I - PRELIMINARY

1.00 DEFINITIONS AND INTERPRETATION

1.01 In this Lease:

- (a) The expression "**the Lessor**" shall include and bind:
- (i) the persons executing this lease as Lessor; and
 - (ii) any Lessor for the time being under it; and
 - (iii) all the respective executors, administrators, successors, assigns and successors in title of each Lessor and if more than one jointly and severally.

- (b) The expression "**the Lessee**" shall include and bind:
- (i) the person executing this lease as Lessee;
 - (ii) all the Lessees for the time being under it; and
 - (iii) all the respective executors, administrators, successors, assigns and successors in title of each Lessee and if more than one jointly and severally;

and the expression "**the Lessee**" shall include the Lessee's agents, employees, contractors and invitees and any person on the Land under the control or direction of the Lessee.

- (c) The expression "**Crown Organisation**" means all instruments of Sovereign in Right of New Zealand and includes, but is not limited to:
- (i) the Executive Government of New Zealand and all Ministers of the Crown;
 - (ii) the Departments of the Public Service, as set out in Schedule 1 of the State Sector Act 1988;
 - (iii) all non-public service Departments;
 - (iv) the Reserve Bank of New Zealand, as constituted under section 5 of the Reserve Bank of New Zealand Act 1989;
 - (v) the entities listed in Schedule 4 to the Public Finance Act 1989;
 - (vi) the entities listed in Schedule 1 and Schedule 2 to the Crown Entities Act 2004, together with their subsidiaries under Section 8(2) of the Crown Entities Act 2004; and
 - (vii) a State enterprise within the meaning of the State Owned Enterprises Act 1986.
- (d) Words importing the singular or plural number shall include the plural or singular number respectively.

TE ATIWA DEED OF SETTLEMENT:
DOCUMENTS

5.1: LEASE WITH MINISTRY OF JUSTICE

- 1.02 **"Goods and Services Tax" or "GST"** means tax levied in accordance with the Goods and Services Tax Act 1985 or any tax in the nature of a Goods and Services Tax.
- 1.03 **"Government Work"** means a work or any intended work that is to be constructed, undertaken, established, managed, operated or maintained by or under the control of the Crown or any Minister of the Crown for any public purpose.
- 1.04 **"Lease"** means, unless the context otherwise requires, this lease and any further or renewal term thereof.
- 1.05 **"Lessee's Improvements"** shall mean all improvements on the Land of any kind whatsoever including buildings, sealed yards, paths, lawns, gardens, fences and other like property of any kind whatsoever constructed or placed on the Land by the Lessee or any agent of the Lessee prior to or after the commencement of this Lease but shall exclude "Lessor's Property".
- 1.06 **"Lessee's Outgoings"** means all outgoings the Lessee is obliged to pay under the provisions of this Lease.
- 1.07 **"Lessor's Property"** means all improvements on the Land of any kind whatsoever including buildings, sealed yards, paths, lawns, gardens, fences and other like property which are placed on the Land by the Lessor after the commencement of this Lease.
- 1.08 **"The Land", "The Commencement Date", "Annual Rental", "Term of the Lease" and "Permitted Use"** shall have the meanings ascribed to them in Schedule A.
- 1.09 **"Value of the Land"** means the market value of the freehold interest in the Land as at the relevant rent review date, as vacant land in an unsubdivided state assessed in accordance with its then current underlying zoning or a courthouse, whichever is the greater, LESS an adjustment of twenty per cent (20%) to reflect the terms and conditions of this Lease while the Ministry of Justice remains the Lessee.
- 1.10 **"Working Day"** means any day of the week other than:
- (a) Saturday, Sunday, Good Friday, Easter Monday, ANZAC Day, the Sovereign's Birthday, Labour Day, New Zealand Anniversary Day and the Anniversary Day celebrated in the locality of the Premises; and
 - (b) If Waitangi Day or Anzac Day falls on a Saturday or Sunday, the following Monday; and
 - (c) A day in the period starting on 24 December in any year and ending on 5 January in the following year, both days included.

A Working Day shall be deemed to start at 9:00am and finish at 5:00pm.

- 1.11 The term **"to sublet"** shall include the granting of a licence to occupy the Land or part thereof and "subletting" and "sublease" shall be construed accordingly.
- 1.12 References to a statute include references to regulations, orders, rules or notices made under that statute and references to a statute or regulation include references to all amendments to or replacements of that statute or regulation, whether by subsequent statute, consolidation, re-enactment, substitution or otherwise.

5.1: LEASE WITH MINISTRY OF JUSTICE

- 1.13 A covenant not to do anything shall be deemed to include an obligation not to suffer, permit or cause that thing to be done.
- 1.14 Clause headings are inserted for reference only and shall not affect the interpretation of this Lease.

PART II - LESSEE'S COVENANTS

2.00 LESSEE'S COVENANTS

2.01 PAYMENT OF ANNUAL RENT

- (a) Throughout the term of this Lease, following the exercise of any rights of renewal by the Lessee, the Lessee shall pay the annual rental as assessed in accordance with Schedule C for the Land which shall be adjusted on each rent review date and shall be assessed in accordance with clause 4.05 and Schedule C noting that for so long as the Lessee is Her Majesty the Queen acting by and through the Chief Executive of the Ministry of Justice and for so long as the Lessee is using the land for the purpose of a Courthouse, the rent payable shall reflect the terms of this Lease and the use to which the Lessee is putting the Land as a Courthouse.
- (b) The Lessee shall pay the annual rent without deduction or set off in the manner and at the times provided in Item 3 of Schedule A. All payments of rent shall be paid by direct bank payment or as the Lessor may direct.

2.02 PAYMENT OF LESSEE OUTGOINGS

- (a) The Lessee shall pay the Lessee Outgoings in respect of the land which are specified in Item 5 of Schedule A direct to the creditors concerned and shall cause a separate rating assessment to issue in the name of the Lessee in respect of the Land.
- (b) The Lessee's liability to pay Lessee's Outgoings during the term of this Lease shall subsist until the end or earlier termination of this Lease.
- (c) The Lessee shall pay all other outgoings it is required to pay under this Lease.

2.03 USE OF LAND

The Lessee shall not, use the Land for any purpose other than the Permitted Use described in Item 6 of Schedule A. The Lessee acknowledges that it has entered into this Lease in reliance on its own judgement and not in reliance on any representation or warranty by the Lessor.

2.04 COMPLIANCE WITH LAW

The Lessee shall comply with the provisions of all statutes, ordinances, regulations, bylaws and codes in any way touching upon, relating to or affecting the Land or the conduct of the Permitted Use on the Land and will also at the Lessee's own cost in all things comply with the provisions of all statutes, ordinances, regulations, bylaws, codes, requisitions or notices issued, made or given by any lawful authority in respect of the Land or the Lessee's conduct of the Permitted Use on the Land or the Lessee's Improvements on the Land.

5.1: LEASE WITH MINISTRY OF JUSTICE

2.05 **AVOIDANCE OF DANGER**

The Lessee shall:

- (a) Take all reasonable precautions to minimise any danger or hazard arising from any Lessee's use of the Land and shall not permit any goods of a dangerous nature to be stored or used on the Land unless stored and used in a manner which complies with all statutes, ordinances, regulations, bylaws and codes or standards in that regard;
- (b) Promptly remedy any danger or hazard that may arise on the Land;
- (c) At all material times keep in place written rules and procedures in order to comply with health and safety in employment requirements which the Lessee is obliged by law to comply with.

2.06 **MAINTENANCE OF LESSEE'S IMPROVEMENTS**

The Lessee shall at the Lessee's own expense in all things keep any Lessee's Improvements on the Land in good order, condition and repair during the continuance of this Lease.

2.07 **NO LESSOR MAINTENANCE**

The Lessee acknowledges that the Lessor shall have no repair or maintenance obligations for any of the Lessee's Improvements on the Land.

2.08 **LESSEE'S FURTHER MAINTENANCE AND REPAIR OBLIGATIONS**

The Lessee shall punctually and at the Lessee's expense keep the Land clean and tidy, free and clear from all rubbish, noxious weeds and plants to the satisfaction of the Lessor and take any steps necessary to control any pest infestation occurring on or emanating from the Land.

2.09 **SIGNAGE**

The Lessee shall have the right to affix names, signs, nameplates, signboards and advertisements relating to the purposes of the Permitted Use without the consent of the Lessor. The Lessee shall not otherwise affix, paint or exhibit or permit to be affixed, painted or exhibited any name, sign, name-plate, signboard or advertisement of any description on or to the exterior of the Lessee's Improvements or the Land or any Lessors' Property thereon without the prior approval in writing of the Lessor. Any signage shall be secured in a substantial and proper manner so as not to cause any damage and the Lessee shall at the end or sooner determination of this Lease remove the signage and make good any damage occasioned thereby.

2.10 **INSURANCE**

- (a) The Lessee shall insure at its own cost against all public liability in the sum of at least \$2,000,000 in respect of any single event in the name of the Lessee at all times during the continuance of this Lease. The amount of this insurance shall be adjusted at any rent review or renewal of this Lease by any increase in the consumer price index (all groups) in the preceding five years measured against that index at the Commencement Date of the original term of this Lease. If

5.1: LEASE WITH MINISTRY OF JUSTICE

there is no consumer price index (all groups) then the adjustment will be made by reference to the next most appropriate index or any index published in place of the CPI (all groups).

- (b) The provisions of this clause shall be of no application whilst the Lessee is a **Crown Organisation**.

2.11 **SUNDRY LESSEE ACKNOWLEDGEMENTS**

The Lessee acknowledges:

- (a) That the Lessor shall not be liable to erect or maintain or contribute towards the cost of the erection or replacement of any dividing or boundary fence or portion thereof between the Land and any adjoining land which is the property of the Lessor;
- (b) That the Lessee shall at its own cost and expense in all things fence the boundaries of the Land insofar as the Lessee deems this reasonably necessary for the purposes of the Permitted Use.

2.12 **GST**

The Lessee shall pay to the Lessor or as the Lessor shall direct the GST payable by the Lessor in respect of the rental and other payments payable by the Lessee hereunder. The GST in respect of the rental shall be payable on each occasion when any rental payment falls due for payment and in respect of any other payment shall be payable on demand.

2.13 **LESSEE'S ACKNOWLEDGEMENT**

The Lessee agrees to occupy and use the Land at the Lessee's risk and releases to the fullest extent permitted by law the Lessor, its servants and agents from all claims and demands of any kind and from all liability which may arise in respect of any inherent defect in the Land or any accident, damage or injury occurring to any person or property in or about the Land, except where this is caused by the wilful or reckless act of the Lessor or persons acting under the control of the Lessor.

PART III

3.00 **LESSOR'S COVENANTS**

3.01 **QUIET ENJOYMENT**

Should the Lessee pay the rent and observe and perform all the covenants and agreements expressed or implied in this Lease, the Lessee shall quietly hold and enjoy the Land throughout the term of this Lease without any interruption by the Lessor or any person claiming by, through or under the Lessor.

3.02 **CONSTRUCTION OF OR ALTERATIONS TO LESSEE'S IMPROVEMENTS**

For so long as a Crown Organisation is the Lessee, the Lessee shall be allowed to construct Lessee's Improvements and to make any alterations or additions to Lessee's Improvements without the prior written approval of the Lessor where this is necessary or incidental to the Permitted Use of the Land. In all other cases, the Lessee shall be

5.1: LEASE WITH MINISTRY OF JUSTICE

obliged to seek the prior written consent of the Lessor to the construction of any Lessee's Improvements and such consent shall not be unreasonably or arbitrarily withheld.

3.03 LESSOR'S PROPERTY

The Lessor acknowledges that the Lessor's Property on the Land at the Commencement Date of this Lease (if any) is as listed in Schedule A Item 9 and that the Lessor shall not during the continuance of this Lease place any further Lessor's Property on the Land unless this is expressly permitted in writing by the Lessee prior to its construction or placement. The Lessor further acknowledges that the Lessee may at its absolute discretion in all things decline consent to the construction or placement of any Lessor's Property on the Land and that all improvements on the Land at the Commencement Date of this Lease which are not listed as Lessor's Property are Lessee's Improvements.

3.04 LESSOR'S ACKNOWLEDGEMENTS AS TO LESSEE'S IMPROVEMENTS

- (
- (a) The Lessor acknowledges in relation to Lessee's Improvements that:
- (i) notwithstanding any rule of law or equity to the contrary, property in all Lessee's Improvements shall remain with the Lessee throughout the continuance of this Lease and irrespective of how such property is annexed to the Land;
 - (ii) Lessee's Improvements are to be fully insured by the Lessee in its own name; and
 - (iii) when any Lessee's Improvements are destroyed or damaged, the decision whether to reinstate or not is solely with the Lessee and property in any insurance proceeds is also solely with the Lessee.
- (b) Should the Land be subject to any Mortgage or other charge at the Commencement Date of this Lease, then the Lessor will when presenting this Lease to the Lessee for its acceptance also present to the Lessee the written acknowledgement of any and all existing mortgagees or chargeholders of the Land prescribed in Schedule A Item 11 duly executed by any such mortgagees or chargeholders, it being further acknowledged by the Lessor that the Lessee shall not be required to execute the within Lease until the provisions of this sub clause have been fully satisfied;
- (c) Should the Lessor, subsequent to the Commencement Date of this Lease, propose to grant any mortgage or charge then, prior to doing so, it shall have executed by any proposed Mortgagee or Chargeholder the written acknowledgement prescribed in Schedule A Item 12, it being further acknowledged by the Lessor that it will not grant any mortgage or charge until the provisions of this clause have been satisfied and further that it will deliver executed originals of such acknowledgements to the Lessee within three (3) working days from the date of their receipt by the Lessor;
- (d) That the Lessee may demolish or remove any Lessee's Improvements from the Land at any time during the continuance of this Lease without the prior written consent or any other consent of the Lessor upon condition that the Lessee reinstates the Land to a neat, tidy and safe condition after any such removal.

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3.05 LESSOR CONSENT TO GROUND WORKS

- (a) Notwithstanding anything to the contrary in clauses 3.02 or 3.04(d), the Lessee shall not:
- (i) Make any excavation of the Land; or
 - (ii) Conduct any works on the Land likely to cause any subsidence, sinkage or damage to the Land or the land or property of any other person;
 - (iii) Remove any boundary-fence or retaining works except where this is necessary or conducive to the conduct of the Permitted Use and the Lessor has first been given twenty (20) working days' notice in writing of the proposed alteration or interference;
 - (iv) Make any sub-soil installation, alteration or interfere with any underground reticulated services, except where this is necessary or conducive to the conduct of the Permitted Use and the Lessor has first been given twenty (20) working days' notice in writing of the proposed installation, alteration or interference;

without, in each case, the Lessor's prior written approval, such approval not to be unreasonably or arbitrarily withheld and not to be withheld where the works are necessary or conducive to the conduct of the Permitted Use. Where the circumstances reasonably require, the Lessor's approval may be given subject to any reasonable conditions;

- (b) Should the Lessor either fail to give an approval within 14 days of being requested to do so or give an approval which is subject to conditions the Lessee considers unreasonable, then the matter shall be referred to a registered civil engineer agreed upon by the parties for his or her expert determination. Should the parties be unable to agree upon the appointment of an engineer, then either party shall be at liberty to make written application to the President for the time being of the Institute of Professional Engineers of New Zealand to appoint an engineer and any appointment so made shall be final and binding on the parties. The engineer shall act as an expert in determining the issue(s) and not as an arbitrator and the engineer's decision shall be final and binding on the parties. The engineer's costs shall be met in equal shares by the parties unless the engineer otherwise so determines.

3.06 DESIGNATION

The Lessor covenants that it consents to the Lessee maintaining a designation for courthouse purposes over the Land for the duration of this Lease, should this be desired by the Lessee. Upon the expiration of this Lease or its sooner determination, or upon the Lessee ceasing to use the Land as a Courthouse, the Lessee shall promptly uplift any designation.

3.07 PROVISION OF CERTAIN NOTICES TO THE LESSEES

Whenever the Lessor receives any notice from any local or governmental authority concerning the payment of local authority rates or the government valuation of the Land or the Lessee's Improvements, the Lessor will promptly provide a copy of such notice to the Lessee and, in any event, within sufficient time to enable the Lessee to

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make any submission as seen fit by the Lessee to the local authority or the relevant government department, as the case may be.

3.08 FIRST RIGHT OF REFUSAL TO PURCHASE

3.08.1 If, at any time during the term of this Lease or any renewal thereof the Lessor shall desire to sell the Land the Lessor shall give to the Lessee notice in writing of the Lessor's intention to sell the Land, the price fixed by the Lessor for such purchase, and other terms and conditions proposed by the Lessor ("the Lessor's Notice").

3.08.2 The Lessor's Notice must be accompanied by a signed registered valuer's certificate substantiating the price fixed by the Lessor as the market value of the Land as at the date of the Lessor's Notice, failing which the Lessor's Notice shall be null and void.

3.08.3 The Lessee shall have thirty (30) Working Days from the date of receipt of the Lessor's notice within which to elect by notice in writing to the Lessor ("the Lessee's Notice") to purchase the Land at the price and on the terms and conditions specified in the Lessor's Notice.

3.08.4 Upon the Lessee having exercised the Lessee's option to purchase by serving the Lessee's Notice pursuant to clause 3.08.3 the parties will be deemed to have entered into a contract for the sale and purchase of the Land on the terms of the agreement at the date of the exercise of the right then in use by the New Zealand Law Society in association with the Real Estate Institute of New Zealand or if no such agreement exists as at such date, the form of the agreement customarily used by solicitors acting for vendors of land in the district in which the Land is located.

3.08.5 The Lessee shall within eighty (80) Working Days of receipt by the Lessor of the Lessee's Notice complete the purchase by making payment to the Lessor of the purchase price specified in the Lessor's Notice plus GST (if any) and all rent, outgoings and other amounts payable and due or accruing due under the Lease up to the date of settlement. Upon such payment being made by the Lessee to the Lessor the Lessor will transfer the Land to the Lessee for an estate in fee simple free of any mortgage, charge or encumbrance.

3.08.6 If the Lessee declines to elect to purchase the Land or does not give notice within the said period of thirty (30) Working Days after receipt of the Lessor's Notice then the Lessor will be at liberty to sell the Land on the open market, PROVIDED THAT the Lessor may not offer to sell the Land to any other party at a price lower than that first offered by the Lessor in the Lessor's Notice or on terms and conditions more favourable to a purchaser than those specified in the Lessor's Notice without first reoffering the Land by notice in writing to the Lessee for purchase at such lower price and on such terms and conditions. In such case the Lessee shall have fourteen (14) Working Days after receipt of such notice in writing within which to elect to purchase the Land at such lower price or on such more favourable terms and conditions and shall complete such purchase in the manner hereinbefore provided within eighty (80) Working Days of receiving the Lessor's amended notice.

3.08.7 If the Lessee elects not to purchase the Land following receipt of the Lessor's first amended notice referred to in clause 3.08.6, then subject to clause

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3.08.8, the Lessor shall be free to sell the Land on the open market without further reference to the Lessee but with any such sale to be subject in all respects to this Lease.

3.08.8 If the Lessor has not entered into an agreement for the sale of the Land at the expiration of a period of 24 months from the date of the Lessor's Notice and thereafter desires to sell the Land, the provisions of this clause 3.08 shall re-apply with such modifications as may be agreed.

3.08.9 For the purposes of the section 3.08 the term "sale" means:

- (a) A sale, transfer, vesting or other disposition of the Lessor's registered estate and interest in the Land;
- (b) The entering into by the Lessor of a superior lease in respect of the Land;
- (c) Where the Lessor is a company, the only asset of which is the Land (or the Land together with other Land leased to the Lessee), any change or rearrangement in the beneficial ownership of the shareholding of the Lessor having the effect of altering the effective control of the Lessor

and the word "sell" shall have a corresponding meaning.

3.09 DISPOSAL OF LESSOR'S INTEREST

3.09.1 Subject to the provisions of this clause the Lessor may at any time dispose of the Lessor's interest in the Land provided that:

3.09.1.1 the Lessor has first complied with the provisions of clause 3.08 herein; and

3.09.1.2 any such disposal shall preserve to the Lessee all the Lessee's rights and remedies under this Lease; and

3.09.1.3 for so long as the Lessee is a Crown Organisation the following further provisions shall apply:

- (1) The Lessor shall advise the Lessee in writing of the person or corporation to whom the Lessor intends to dispose of its interest in the Land (proposed Assignee).
- (2) If the Lessee has any objection to the proposed Assignee because the Lessee reasonably apprehends in good faith that either:
 - (a) The proposed Assignee presents an actual or potential threat to the discharge by the Lessee of the Lessee's statutory obligations; or
 - (b) The role or function of the Lessee will be prejudiced by the proposed Assignee becoming the Lessor;

then the Lessee shall within ten (10) working days of receiving the Lessor's advice pursuant to clause 3.09.1.2(1) above, notify the Lessor in writing of its objection to the proposed

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Assignee and shall substantiate its reasonable apprehension to the reasonable satisfaction of the Lessor;

- (3) If the Lessor does not receive written notice from the Lessee pursuant to clause 3.09.1.2(2)(a) or 3.09.1.2(2)(b) above together with grounds to substantiate its reasonable apprehension within ten (10) working days from the date of its advice to the Lessee, the Lessee shall be deemed to have accepted the proposed Assignee.
- (4) If the Lessee objects to the proposed Assignee in accordance with clause 3.09.1.2(2)(a) or 3.09.1.2(2)(b) above, then the Lessor shall not dispose of its interest to the proposed Assignee.

PART IV - MUTUAL COVENANTS

4.00 MUTUAL COVENANTS

4.01 ASSIGNMENT AND SUBLETTING

- (a) The Lessee will not without the previous consent in writing of the Lessor assign, transfer or sublease this Lease. Such consent shall not be unreasonably or arbitrarily withheld or delayed without some good cause assigned having regard to the solvency or respectability of the proposed assignee, transferee or sublessee.
- (b) Notwithstanding subclause (a), where a Crown Organisation remains as the Lessee under this Lease and in occupation of the Land no such consent shall be required from the Lessor except that on each occasion that a different Crown Organisation assumes the role and obligations of the Lessee under this Lease, the Lessee shall notify the Lessor in writing of that change.
- (c) In the case of an assignment where the proposed assignee or transferee is a company not listed by the New Zealand Stock Exchange the Lessor may require the controlling shareholders of such company to enter into a deed guaranteeing the performance by that company of the terms of this Lease such guarantee to be in a form acceptable to the Lessor.
- (d) This clause 4.01 applies to any assignment or subletting of the interest of the Lessee by any assignee of a bankrupt Lessee or any liquidator or receiver of a Lessee that is a company.
- (e) For the purpose of this clause 4.01, any proposed change in the shareholding of the Lessee or any amalgamation under section 219 of the Companies Act 1993 altering the effective control of the Lessee shall be deemed assignment of this Lease and will require the consent of the Lessor unless such deemed assignment involves a change of effective control in favour of a Crown Organisation.
- (f) For the purposes of clause 4.01(a), a proposed change in the effective control of any Lessee that is a Crown Organisation shall be a proposed assignment of this Lease. The Lessor in deciding whether or not to grant consent shall only be entitled to consider the effect of the alteration of the effective control on the

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ability of the Lessee to continue to meet its obligations under the Lease including contingent liabilities. For the purposes of this clause any change in the management structure of the Lessee shall not be construed as a change in the effective control of the Lessee.

- (g) Where any assignment or transfer of this Lease is consented to by the Lessor, the Lessor may require the execution by the assignee or transferee of a deed of covenant with the Lessor, in a form prepared by the Lessor at the Lessee's expense, that the assignee or transferee will be bound by and perform the covenants in this Lease to be observed and performed by the Lessee but the execution of such covenant shall not release the Lessee from the Lessee's obligations under this Lease.
- (h) Where the Lessor consents to a subletting the consent shall extend only to the subletting and notwithstanding anything contained or implied in the sublease the consent shall not permit any Sublessee to deal with the sublease in any way in which the Lessee is restrained from dealing without consent under this Lease.
- (i) Notwithstanding any rule of law to the contrary it is specifically agreed that in the event of an assignment or transfer of this Lease by a Crown Organisation, the following provisions shall apply:
 - (i) in the event of an assignment or transfer during the initial Term of the Lease the liability of the Crown Organisation shall cease at the expiration date of the initial Term of the Lease or of any licence period granted pursuant to clause 4.03, whichever is the later, but without releasing the Crown Organisation in respect of any liability arising in relation to any breach of the provisions of the Lease or any other act or omission before the expiration date of the initial Term of the Lease;
 - (ii) in the event of an assignment or transfer during any renewed Term of the Lease, the liability of the Crown Organisation shall cease and determine as from the expiration of that renewed term or of any licence period granted pursuant to clause 4.03, whichever is the later, but without releasing the Crown Organisation in respect of any liability arising in relation to any breach of the provisions of the Lease or any other act or omission before the expiration date of such renewed term.

4.01A RIGHT OF REFUSAL FOR LESSOR IF LESSEE TO ASSIGN

- (a) The following sub-clauses of this clause 4.01A will only apply in the event that the Lessee proposes to assign the Lessee's interest in this Lease to a party which is not a Crown Organisation. The Lessor shall have no right of first refusal in the event of the Lessee wishing to transfer or assign its interest as Lessee under this Lease to a Crown Organisation.
- (b) If at any time before the expiration or earlier termination of the term or any renewed or extended term the Lessee wishes to assign the Lessee's interest in this Lease (including any assignment by way of sale of the Lessee's Improvements) the Lessee must immediately give written notice ("Lessee's Notice") to the Lessor setting out the terms on which the Lessee wishes to assign its interest in the Lease and/or sell the Lessee's Improvements ("the Lessee's Interest").

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- (c) The Lessor will have thirty (30) Working Days following the date of receipt of the Lessee's Notice (time being of the essence) in which to exercise the Lessor's right to purchase the Lessee's Interest, by serving written notice on the Lessee ("Lessor's Notice") accepting the offer contained in the Lessee's Notice.
- (d) If the Lessor does not serve the Lessor's Notice on the Lessee in accordance with sub-clause 4.01A(c) then the Lessee may assign the Lessee's Interest to any other person on no more favourable terms than those previously offered to the Lessor.
- (e) The provisions of clause 4.01 of this Lease will apply to any such assignment. If the Lessee wishes to offer more favourable terms for assignment of the Lessee's interests than the terms contained in the Lessee's Notice, the Lessee must first re-offer its interest therein to the Lessor on those terms by written notice to the Lessor and Clauses 4.01(a), (b), (c), and (d) (inclusive) shall apply. If the re-offer is made within six months of the initial Lessee's Notice, the 30 working day period for acceptance shall be reduced to 20 working days.

4.02 LESSOR MAY REMEDY LESSEE DEFAULT

- (a) Should the Lessee default in the observance or performance of any of the Lessee's obligations hereunder and should the Lessor have first served not less than twenty-one (21) clear days' written notice of its intention to enter upon the Land and to do, execute and perform or procure to be performed all such acts, deeds, matters and things required to make good any Lessee default except in the case of an emergency where no notice shall be required, then it shall be lawful for the Lessor in addition to any of its remedies to enter the Land and do all such acts, deeds, matters and things required to make good such default and to recover the costs of such action from the Lessee.
- (b) Any notice served under the provisions of clause 4.02(a) shall specify sufficient particulars to adequately advise the Lessee of the breach (or breaches) of Lease in respect of which notice is issued and the fact that such notice is issued under the provisions of this clause. Non compliance with these requirements shall render any such notice void.

4.03 LESSEE'S IMPROVEMENTS

- (a) If at any time during the Term of the Lease the Lessee declares that the Lessee's Improvements are surplus to the requirements of the Crown and the Lessee decides to sell the Lessee's Improvements, then the Lessee will first give the Lessor notice in writing of the Lessee's intention to sell, the price fixed by the Lessee for such purposes, the timeframe for exercising the option to purchase and other terms and conditions proposed by the Lessee ("the Lessee's Notice"). If the Lessor does not exercise its right to purchase as specified in the Lessee's Notice, then the Lessee will be at liberty to sell the Lessee's Improvements on the open market provided the Lessee will not offer the Lessee's Improvements to any other party at a price lower than the first offered by the Lessee or more favourable terms and conditions than those specified in the Lessee's Notice.

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- (b) Subject to clause 4.03(a), the parties acknowledge that:
- (i) The Lessee not being in breach of the Lease may, either prior to or on the expiry of this Lease, remove all or any Lessee's Improvements from the Land without being obliged to pay the Lessor any compensation for their removal if they are removed within a period of six months from the expiration or sooner determination of the within Lease, it being acknowledged by the Lessor that property in all Lessee's Improvements remains with the Lessee until this time and that no prior written consent or any other consent of the Lessor shall be required in respect of any such removal elected by the Lessee. The Lessor further acknowledges that it will be deemed by the provisions of this clause to have granted to the Lessee a Licence to enter the Land for a period of six (6) months subsequent to the expiration of this Lease and remove Lessee's Improvements and further that this provision shall ensure for the benefit of the Lessee notwithstanding the prior expiration of this Lease and shall also bind any successor in title to the Lessor subsequent to the expiry of the Lease;
 - (ii) In the event the Lessee removes its Lessee's Improvements from the Land as aforesaid, it shall make good any damage to the Land and restore the Land to a neat, tidy and safe condition subsequent to any such removal;
 - (iii) The Lessor shall do nothing to obstruct or otherwise impede the removal of any Lessee's Improvements from the Land at any time prior to the expiration or sooner determination of the Lease or within six months after this time and notwithstanding any rule of law or equity to the contrary;
 - (iv) In any review of rent under the provisions of this Lease any Lessee's Improvements shall be entirely excluded from the assessment of any new rental;
 - (v) Notwithstanding the generality of the provisions of clause 4.03(b)(i), the Lessee shall not remove any boundary fencing or any sub-soil drainage or reticulated sub-soil service(s) or any retaining walls on the Land without the prior written consent of the Lessor, which may be given or withheld at the discretion in all things of the Lessor.

For the avoidance of doubt, nothing herein shall obligate the Lessee to remove the property referred to in this clause 4.03(b)(v), should the Lessee decide to abandon such property to the Lessor upon the expiration of this Lease;
 - (vi) The Lessee shall pay a licence fee equal to the rental payable immediately before the determination of the Lease for the six month period, or such lesser period as the Lessee requires to remove Lessee's Improvements from the Land;
 - (vii) The provisions of this clause shall not merge upon the expiration or sooner determination of this Lease but shall ensure for the benefit of the party entitled until completely performed;

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- (viii) All Lessee's Improvements remaining upon the Land after the expiration of the six month period provided in subclause 4.03(b)(i) shall vest in and become the property of the Lessor. No compensation or other consideration shall be payable by the Lessor to the Lessee in respect of any Lessee's Improvements vesting in the Lessor.
- (c) Notwithstanding the forgoing provisions of this clause 4.03, if the Lessee is not a Crown Organisation as at the expiry of the term of this Lease, the then Lessee will if required by the Lessor in writing demolish or remove all of the Lessee's Improvements (or such lesser portion as may be acceptable to the Lessor) from the Land at the expiry of the term without being obliged to pay to the Lessor any compensation for their demolition or removal. Following such demolition or removal the Lessee shall make good any damage to the Land and leave the Land in a neat, tidy and safe condition.

4.04 RENEWAL

- (a) The Lessee, not being at that time in breach of any material provision of this Lease shall on or prior to the end of the initial term of any subsequent term of this Lease, be entitled to a renewal of this Lease for the further term specified in Schedule One from the date of expiry of the initial term of any subsequent term as follows:
 - (i) The Annual Rent will be agreed upon or failing agreement will be determined in accordance with clause 4.05 as though the commencement date of the renewed term was a Rent Review Date.
 - (ii) The renewed Lease will otherwise be on and subject to the covenants and agreements expressed or implied in this Lease except that the term of this Lease plus all further terms shall expire on or before the 45th anniversary of the Commencement Date.
- (b) No earlier than 24 months prior to the expiration to the initial term or any subsequent term, the Lessor shall give written notice to the Lessee specifying that the term of the Lease is due to expire and that if the Lessee fails to exercise the right of renewal referred to in clause 4.04(a) within six (6) months from the date of receipt of notice from the Lessor (time being of the essence) then the Lessee shall be deemed to have irrevocably waived its right to renew the Lease. The parties acknowledge and agree that the earliest date by which the Lessee can be required to give notice of renewal as a result of the operation of this clause 4.04(b) is the date which falls 18 months prior to the expiration of the relevant term.
- (c) In the event that the Lessor does not give notice to the Lessee pursuant to clause 4.04(b), the Lessee shall be entitled to renew this Lease by notice in writing to that effect given to the Lessor at any time up until the expiry date.
- (d) The annual rent for the first five (5) year period of any renewal shall be agreed upon or, failing agreement, shall be determined in accordance with clause 4.05 which shall apply with such modifications as may be necessary.
- (e) Otherwise, the renewed Lease shall be upon the same terms and conditions as are expressed or implied in this Lease.

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4.05 RENT REVIEW

- (a) The Annual Rental payable as from each review date shall be determined as follows:
- (i) Either party may not earlier than three (3) months prior to review date and not later than one (1) year after any review date (time being of the essence) give written notice to the other party specifying the annual rent proposed as the current annual rent as at the relevant review date which shall be equal to six percent (6%) of the Value of the Land as defined in clause 1.09;
 - (ii) If the party receiving the notice ("the Recipient") gives written notice to the party giving the notice ("the Initiator") within twenty (20) Working Days after service of the Initiator's notice disputing the annual rent proposed and specifying the annual rent proposed by the recipient as the current annual rent, then the new rent shall be determined in accordance with clause 4.05(b);
 - (iii) If the Recipient fails to give such notice (time being of the essence) the Recipient shall be deemed to have accepted the annual rent specified in the Initiator's notice and the extension of time for commencing arbitration proceedings contained in the Arbitration Act 1996 shall not apply;
 - (iv) The Annual Rental agreed, determined or imposed pursuant to this clause shall be the annual rental payable as from the relevant rent review date, or the date of service of the Initiator's notice if such notice is served later than 6 months after the relevant rent review date but subject to clauses (c) and (d).
 - (v) The rent review at the option of either party may be recorded in a Deed.
- (b) Immediately following service of the Recipient's notice on the Initiator, the parties shall endeavour to agree upon the current annual rent for the Land, but if agreement is not reached within twenty (20) working days then the same may be determined either:
- (i) By one party giving written notice to the other requiring the current annual rent for the Land to be determined by arbitration; or
 - (ii) If the parties so agree by registered valuers acting as experts and not as arbitrators as follows:
 - (aa) Each party shall appoint a valuer and give written notice of the appointment to the other party within twenty (20) working days of the parties agreeing to so determine the new rent;
 - (bb) If the party receiving a notice fails to appoint a valuer within the twenty (20) working day period then the valuer appointed by the other party shall determine the new rent and such determination shall be binding on both parties;
 - (cc) The valuers appointed before commencing their determination shall appoint a third expert who need not be a registered valuer. If the

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parties cannot agree on the third expert, the appointment shall be made on the application of either party by the President or Vice President for the time being of The New Zealand Institute of Valuers.

- (dd) The valuers appointed by the parties shall determine the current annual rent for the Land but if they fail to agree then the rent shall be determined by the third expert;
 - (ee) Each party shall be given the opportunity to make written or oral representations subject to such reasonable time and other limits as the valuers or the third expert may prescribe and they shall have regard to any such representations but not be bound thereby.
- (c) In ascertaining the new annual rental to apply from a review date:
- (i) the value of any building or improvements then existing upon the Land shall not be taken into consideration; and
 - (ii) For so long as the Lessee is Her Majesty the Queen acting by and through the Chief Executive of the Ministry of Justice and so long as the Lessee is using the Land for the purpose of a Courthouse, the parties and their valuers shall take into account the contents of Schedule C in determining the new rent.
- (d) When the new rent has been determined, the person or persons determining the same shall give written notice thereof to the parties. The notice shall provide as to how the costs of the determination shall be borne and which provision shall be binding on the parties.
- (e) The annual rent so determined or accepted:
- (i) Shall not, in the case of a rent review during the initial term of this Lease, be less than the Annual Rental payable as at the Commencement Date, or in the case of a rent review during any subsequent term, be less than the Annual Rental payable at the commencement of such subsequent term; and
 - (ii) Shall be the Annual Rental from the Rent Review Date, or the date of the initiated notice if such notice is given later than 6 months after the Rent Review Date.
- (f) For the avoidance of doubt, where the rent review date coincides with the commencement of a renewed or subsequent terms, the annual rent shall be the current annual rent payable by the Lessee as agreed or determined as at that date in accordance with the foregoing provisions, and no minimum rent shall apply.

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- (g) Pending determination of the current annual rent for the Land, the Lessee if it is a Crown Organisation shall from the relevant review date, or the date of service of the Initiator's notice if such notice is served later than 3 months after the relevant review date, until the determination of the current annual rent, pay an interim rent equivalent to that prior to the review date, however if the Lessee is not a Crown Organisation it will pay an interim rent as follows:
- (i) If both parties supply a registered valuer's certificate substantiating the new rents proposed, the interim rent payable shall be half way between the new rents proposed by the parties; or
 - (ii) If only one party supplies a registered valuer's certificate, the interim rent payable shall be the rent substantiated by the certificate; or
 - (iii) If no registered valuer's certificates are supplied, the interim rent payable shall be the rent payable immediately prior to the relevant review date.
- (h) Upon determination of the new rent, any overpayment shall be applied in payment of the next month's rent and any amount then remaining shall immediately be refunded to the Lessee. Any shortfall in payment shall immediately be payable by the Lessee.

4.06 LESSEE'S RIGHT OF EARLY TERMINATION

- (a) Notwithstanding anything to the contrary herein contained or implied it is agreed that the Lessee may at any time in its sole discretion and without being required to give any reason, terminate this Lease by providing to the Lessor not less than twelve (12) months' notice in writing to that effect PROVIDED THAT:
- (i) No such notice may be given during the initial fifteen (15) year term of this Lease; and
 - (ii) No such notice may be given so as to effect termination of this Lease within the first five (5) years of any renewed term of this Lease.
- (b) The parties' respective rights and obligations under this Lease will cease from the effective date of termination, but without prejudice to any rights which have accrued up to the date of termination.

4.07 RE-ENTRY

- (a) The Lessor may re-enter the Land where:
- (i) rental is in arrears for a period exceeding thirty (30) days after any rent payment date;
 - (ii) the Lessee is in breach of any covenant on the Lessee's part herein expressed or implied;
 - (iii) the Lessee makes or enters into or attempts to make or enter into any composition, assignment or other arrangement with or for the benefit of the Lessee's Creditors;

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(iv) the Lessee becomes insolvent, bankrupt or goes into liquidation;

and the term of this Lease shall terminate on such re-entry and all Lessee's Improvements on the Land shall vest in and become the property of the Lessor, and no compensation or other consideration shall be payable by the Lessor to the Lessee in respect of any Lessee's Improvements vesting in the Lessor. Termination shall otherwise be without prejudice to the rights of either party against the other.

(b) Whilst a **Crown Organisation** is the Lessee under this Lease and should a **Crown Organisation** either default in the payment of any rental for a period exceeding thirty days or more or otherwise breach any covenant on the Lessee's part herein expressed or implied, then before exercising any rights of re-entry the Lessor shall serve a notice (hereafter called "**the Default Notice**") on the Lessee specifying the breach complained of with sufficient particularity to enable the Lessee to clearly identify the default alleged.

(c) The **Default Notice** notwithstanding anything to the contrary contained in clause 4.07(a) above shall specify that:

(i) the Lessee must within 30 days of receipt of such notice remedy the default specified; and

(ii) that should the Lessee not remedy the default specified within this time, the Lessor shall thereafter be at liberty to re-enter the Land and to determine this Lease pursuant to this clause 4.07.

(d) The Lessor acknowledges that it shall not re-enter the Land unless and until the provisions of clause 4.07(b) have been satisfied in full and further that any re-entry contrary to the provisions of clause 4.07(b) shall be null and void ab initio.

4.08 **INSURANCE**

(a) The Lessor shall be responsible for insuring any Lessor's Property on the Land.

(b) The Lessee shall be responsible for insuring or self insuring any Lessee's Improvements on the Land.

(c) Should any property referred to in sub clauses (a) and (b) above be damaged or destroyed, then it shall be the sole responsibility of the party effecting insurance to decide (subject to the rights of any mortgagee of theirs) whether to effect reinstatement or not and the other party shall abide by this decision whatever it may be.

4.09 **RATING ASSESSMENTS**

The parties agree that the Lessee may at any time make application to the Valuation Department for a separate rating assessment of the Land in its name and thereafter account direct to the Territorial Authority for all rates payable on the Land.

5.1: LEASE WITH MINISTRY OF JUSTICE

4.10 ENTIRE AGREEMENT

This Lease constitutes the entire and complete agreement between the parties in relation to the lease of the land and no variation shall be effective or binding unless it is recorded in writing and executed in the same manner as this Lease.

4.11 DIFFERENCES AND DISPUTES

- (a) Unless any dispute or difference is resolved by mediation or other agreement, the same shall be submitted to the arbitration of one arbitrator who shall conduct the arbitral proceedings in accordance with Arbitration Act 1996 and any amendment thereof or any other statutory provision then relating to arbitration.
- (b) If the parties are unable to agree on the arbitrator, an arbitrator shall be appointed, upon the request of any party, by the president or vice president for the time being of the Taranaki branch of the New Zealand Law Society. That appointment shall be binding on all parties to the arbitration and shall be subject to no appeal. The provisions of Article 11 of the First Schedule of the Arbitration Act 1996 are to be read subject hereto and varied accordingly.
- (c) The procedures described in this clause shall not prevent the Lessor from taking proceedings for the recovery of any rental or other moneys payable hereunder which remain unpaid or from exercising the rights and remedies prescribed in clauses 4.06 and 4.07 hereof.
- (d) The provisions of this clause shall be of no application to any review of rental under the provisions of clause 4.05(b)(ii).

4.12 SERVICE OF NOTICES

Any notice or other document required to be given, delivered or served under this Lease may be given, delivered, posted by ordinary post, served or transmitted by facsimile transmission (in which case it shall be subsequently posted) to the respective addresses for service of the Lessor and the Lessee set out in Item 13 of Schedule A. Any alteration to or change in any detail of a party's address for service shall be promptly advised to the other party.

If either party does not have a current address for service, then service in terms of this clause may be effected on that party by registered post addressed to the registered office or principal place of business of the party intended to be served; and any notice or other document given or served shall be deemed to have been given or served and received by the other party two days after the date of posting.

4.13 REGISTRATION OF LEASE

The parties acknowledge their agreement that this Lease be registered under the provisions of the Land Transfer Act 1952 at the expense of the Lessee in all things. The Lessor agrees to make title available for this purpose and consents to the Lessee caveating the title to protect its interest in the within Lease prior to the registration of this Lease. The parties shall take all practical steps to register the Lease as soon as possible and the Lessee shall withdraw any caveat it has lodged on the registration of the Lease.

5.1: LEASE WITH MINISTRY OF JUSTICE

4.14 COSTS

- (a) The parties shall pay their own costs of and incidental to the negotiation, preparation and execution of this Lease. The Lessee shall pay the Lessor's costs of and incidental to the preparation and execution of any variation (where this is requested by the Lessee), renewal or surrender of this Lease or the obtaining of any consents or approvals associated with this Lease.
- (b) The Lessee shall pay the Lessor's reasonable costs (including reasonable legal costs) of and incidental to the proper enforcement or proper attempted enforcement of the Lessor's powers, rights or remedies under or pursuant to this Lease.

4.15 INTEREST

If the Lessee shall fail to pay any instalment of rental or other sum of money payable to the Lessor under this Lease within 14 days of the day on which it fell due or, if the Lessee shall fail to pay to the Lessor upon demand any amount paid by the Lessor to remedy any default by the Lessee of the Lessee's obligations under this Lease within 14 days from the date such demand is received by the Lessee, then any amount not so paid shall bear interest at the maximum rate of interest from time to time payable by the Lessor to its principal banker for overdraft accommodation plus a margin of 4% per annum accruing on a daily basis from the due date for payment or the due date of payment by the Lessor (as the case may be) down to the date that such amount is paid by the Lessee. The Lessor shall be entitled to recover such interest in the same manner as if it were rent in arrears.

4.16 ESSENTIAL TERMS

Any breach by the Lessee of the following provisions shall be deemed to be a breach of an essential term of this Lease:

(a) ***Payment of Rental***

The covenant to pay rental or other money payable by the Lessee under this Lease;

(b) ***Assignment of Sub Leasing***

The provisions dealing with assignment and sub leasing; or

(c) ***Use of Land***

The provisions restricting the use of the Land.

4.17 WAIVER

The acceptance by the Lessor of any arrears of rental or other money payable under this Lease shall not constitute a waiver of the essential obligation to pay any other rental or money payable under this Lease, nor shall it constitute a waiver of any other essential term of this Lease.

5.1: LEASE WITH MINISTRY OF JUSTICE

4.18 RENT MORATORIUM

If any moratorium or other law, act or regulation that (notwithstanding clause 4.06 hereof) applies to this Lease has the effect of postponing any periodic review of rental as at a review date, then if and whenever such moratorium is lifted or the law, act or regulation is repealed or amended so as to permit the rent to be reviewed, the review that has been postponed shall take place as at the date that the moratorium is lifted or such law, act or regulation is repealed or amended to the intent that the rent review shall establish the rental as at such date and not as at the postponed review date. Any subsequent rent review shall take place on the next following review date as specified in Item 8 of Schedule A.

4.19 ARTEFACTS OR FOSSILS

Artefacts, fossils, articles of value or antiquity and structures and other remains or things of geological, historical, archaeological or cultural interest relating to the indigenous people of New Zealand discovered on or under the surface of the Land shall, as between the Lessor and Lessee, be deemed to be the property of the Lessor. The Lessee shall use its best endeavours to prevent such articles or things being removed or damaged and shall, as soon as practicable, notify the Lessor of such discovery and carry out, at the expense of the Lessor, the Lessor's reasonable instructions as to delivery or disposal of such articles or things.

4.20 EXCLUSION OF IMPLIED CONDITIONS

The parties agree that following covenants, conditions, and powers implied in leases of land pursuant to Schedule 3 of the Property Law Act 2007 shall not apply to this Lease:

- (i) Part 2, Clause 5;
- (ii) Part 2, Clause 10;
- (iii) Part 2, Clause 11; and
- (iv) Part 3, Clause 13.

5.1 LEASE WITH THE MINISTRY OF JUSTICE

SCHEDULE C

1.00 ESTABLISHING RENTAL ON RENT REVIEWS

- 1.01 The parties acknowledge and agree that in establishing the Agreed Transfer Value for the purpose of transferring the Land from the Lessee to the Lessor on [insert settlement date], the transfer price is to be established by assessing the current market value of the Land less a twenty per cent (20%) adjustment to reflect the designation and associated use of the Land as a Courthouse by the Lessee.
- 1.02 The parties acknowledge the importance of maintaining consistency between the approach taken on setting the value for the transfer on [insert settlement date] and the approach to be taken in setting the rent payable by the Lessee while the Land remains designated as a Courthouse and used by the Lessee as a Courthouse.
- 1.03 In order to maintain consistency, the parties shall ensure that on each rent review, the respective valuers are instructed to assess the rent payable by the Ministry of Justice by assessing the current market value of the Land less an adjustment of twenty per cent (20%) to recognise the designation and use of the Land as a Courthouse, on the same basis as which Agreed Transfer Value was established at the outset of the Lease, as articulated in Schedule C Paragraph 1, and assessing the annual rental as six per cent (6%) of the reduced value.

5.2 LEASE WITH THE NEW ZEALAND POLICE

5.2: LEASE WITH THE NEW ZEALAND POLICE

TE KOTAHITANGA O TE ATIWA TRUST

AND

HER MAJESTY THE QUEEN

acting by and through the

COMMISSIONER OF POLICE

MEMORANDUM OF LEASE

WTS

5.2: LEASE WITH THE NEW ZEALAND POLICE

MEMORANDUM OF LEASE

DATE

PARTIES

- (1) **TE KOTAHITANGA O TE ATIWA TRUST** (Lessor)
- (2) **HER MAJESTY THE QUEEN** acting by and through the **COMMISSIONER OF POLICE** (Lessee)

THE LESSOR DOES HEREBY LEASE TO THE LESSEE and THE LESSEE DOES TAKE ON LEASE the Land for the term and at the rental set out in the Reference Schedule and subject to the covenants, conditions, agreements and restrictions set out in this Lease which comprises the Schedule of Terms, the Reference Schedule and the Schedule of Land.

IN WITNESS WHEREOF these presents have been executed this day of [year].

Signed for and on behalf of
TE KOTAHITANGA O TE ATIWA TRUST
in the presence of:

)
)
)

Signed for and on behalf of
HER MAJESTY THE QUEEN
acting By and through the
COMMISSIONER OF POLICE by
authorised agent of the Commissioner
of New Zealand Police, on behalf of the
Commissioner of New Zealand Police
in the presence of:

)
)
)
)
)
)
)
)
)

5.2: LEASE WITH THE NEW ZEALAND POLICE

THE REFERENCE SCHEDULE

ITEM 1: LESSOR PARTICULARS:

Name: Te Kotahitanga o Te Atiawa Trust

Address:

Fax:

Telephone:

Contact Person:

ITEM 2: LESSEE PARTICULARS:

Name: Her Majesty the Queen acting by and through the Commissioner of Police

Address:

Fax:

Telephone:

Contact Person:

ITEM 3: THE LAND

ITEM 4: THE TERM

Twenty (2) years

ITEM 5: DATE OF COMMENCEMENT:

ITEM 6: FURTHER TERMS:

Perpetual rights of renewal, each of ten (10) years.

ITEM 7: RENEWAL DATES:

[20XX] and every tenth (10th) anniversary date thereafter.

ITEM 8: ANNUAL RENT:

[\$] plus GST

ITEM 9: REVIEW DATES:

Every five (5) years from date of commencement.

ITEM 10: PERMITTED USE:

For Police purposes and any permitted activity under the relevant Regional and District Plans or use permitted under any resource consent held in respect of the Land.



5.2: LEASE WITH THE NEW ZEALAND POLICE

THE SCHEDULE OF TERMS

1. INTERPRETATION

- 1.1 For the purpose of the interpretation or construction of this Lease unless the context provides otherwise:
- (i) Words importing any gender shall include all other genders.
 - (ii) Words importing the singular shall include the plural and vice versa.
 - (iii) Payments shall be made in the lawful currency of New Zealand.
 - (iv) Headings are for ease of reference only and do not in any way limit or govern the construction of the terms of this Lease.
 - (v) References to schedules are references to schedules in this Lease and clauses are references to clauses in this Schedule of Terms and references to parties are references to the parties to this Lease and their respective successors and assigns (if permitted in the case of the Lessee under Clause 13) unless expressly stated otherwise.
 - (vi) Any reference in this Lease to any statute is deemed to include all amendments, revisions, substitutions or consolidations made from time to time to that statute.
 - (vii) A "person" shall include any individual person, a corporation, a company or other body corporate, an unincorporated body of persons, a public body, firm, partnership, joint venture, association, organisation, trust or a Crown entity as defined in Section 7(1) of the Crown Entities Act 2004 or a State Owned Enterprise in each case whether or not having separate legal personality.
 - (viii) "Writing" shall include words visibly represented or reproduced.
 - (ix) No consent or waiver, express or implied, by the Lessor to or of any breach of any covenant, condition, or duty of the Lessee will be construed as a consent or waiver to or of any other breach of the same or any other covenant, condition or duty. No waiver of any breach of the Lessee will be implied from the Lessor's failure to exercise the Lessor's rights or any of them in respect of that breach.
 - (x) Nothing contained in this Lease shall be deemed or construed or constitute any party, a partner, agent or representative of the other party or be deemed to create any trust, commercial partnership or joint venture.
 - (xi) The invalidity of any part or provision of this Lease shall not affect the enforceability of any other part or provision thereof.
 - (xi) The parties acknowledge and agree that certain covenants set out in this Lease (in particular provisions relating to the treatment of Improvements on termination or sooner determination of this Lease) shall continue beyond determination of this Lease for the benefit of the parties notwithstanding such determination.

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5.2: LEASE WITH THE NEW ZEALAND POLICE

- (xii) The parties acknowledge and agree that certain covenants set out in this Lease (in particular provisions relating to the treatment of Improvements on termination or sooner determination of this Lease) shall continue beyond determination of this Lease for the benefit of the parties notwithstanding such determination.
- (xiii) This Lease shall be construed and take effect in accordance with the laws of New Zealand.
- (xiv) Any provision in this Lease to be performed by two or more persons shall bind those persons jointly and severally.
- (xv) Any reference in this Lease to "month" or "monthly" shall mean respectively calendar month and calendar monthly.
- (xvi) "Authority" means any Government authority whether national or territorial or any other Government or statutory authority appointed or established by statute in New Zealand having jurisdiction over or in respect of the Land and any Improvements.
- (xvii) "Business days" means any day other than a Saturday or Sunday or statutory or anniversary holiday.
- (xviii) "Date of Commencement" means the date specified in Item 5 of the Reference Schedule.
- (xix) "Improvements" means all Improvements excluding Lessor's Improvements whether constructed or installed on the Land before or at any time during the term of this Lease (including any renewal or variation extending the term of this Lease), including any building, structure or other improvements on or fixed to the Land and any concrete paving, tiles, carpark sealing, mechanical services, plant, machinery, equipment, signage, fixtures and fittings.
- (xx) "The Land" means that land described in the Schedule of Land excluding the Improvements.
- (xxi) The expression "Lessor" and "Lessee" includes their respective successors and assigns (if permitted in the case of the Lessee under Clause 13) and where the context permits the Lessee includes the Lessee's Sublessees and other lawful occupiers of the Land and the Lessee's contractors, agents and invitees (which persons shall be those deemed to be persons under the control of the Lessee).
- (xxii) "Lessor's Improvements" means work done or material used on or for the benefit of the Land (whether before or during the term of this Lease including any renewal or variation extending the term of this Lease) in:
 - (a) the draining, excavation, filling, or reclamation of the Land, or the making of retaining walls or other works appurtenant to that draining, excavation, filling or reclamation; or
 - (b) the grading or levelling of the Land or the removal of rocks, stone, sand or soil therefrom; or

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- (c) the removal or destruction of vegetation, or the effecting of any change in the nature or character of the vegetation; or
 - (d) the alteration of soil fertility or of the structure of the soil; or
 - (e) the arresting or elimination of erosion or flooding.
- (xxiii) "Reference Schedule" means the schedule preceding this Schedule of Terms described as such and forming part of this Lease.
- (xxiv) "Regional Plan" and "District Plan" shall have ascribed to them the definitions set out in section 2 of the Resource Management Act 1991 and "Regional and District Plans" shall be construed accordingly and shall extend to include any successor or replacement planning regime imposed by the relevant Authority having jurisdiction in respect thereof.
- (xxv) "Schedule of Land" means the schedule described as such and forming part of this Lease.
- (xxvi) "Schedule of Terms" means this schedule described as such and forming part of this Lease.

2. TERM

The term of this Lease shall commence on the Date of Commencement and shall be for the period specified in Item 4 of the Reference Schedule.

3. RIGHT OF RENEWAL OF LEASE

- 3.1 If the Lessee has not been in any material breach of this Lease and has given to the Lessor written notice to renew this Lease at least six (6) calendar months before the end of each term then the Lessee shall have the right to obtain in accordance with the provisions hereinafter contained a renewed lease of the Land for the term of years specified in Item 6 of the Reference Schedule computed from the relevant date specified in Item 7 of the Reference Schedule and subject to the same covenants and provisions expressed and implied in this Lease.
- 3.2 If the Lessee fails within the time aforesaid to give any notice under Clause 3.1 as to whether it desires a renewed lease and the Lessor at any time after such expired time has given one month's written notice to the Lessee advising the Lessee that it has one further month from the date of such letter to exercise its right of renewal, and the Lessee still fails to advise the Lessor of its desire to renew, then the Lessee shall be deemed to have given notice that a renewed lease is not required. If the Lessee gives notice in writing that it does not desire a renewed lease or there is a deemed notice that a renewal is not required then its right for a renewed lease shall cease on expiry of the one month notice period aforesaid or on the date at which notice is received by the Lessor (as the case may be).
- 3.3 Any notice by the Lessee under clause 3.1 or clause 3.2 of its desire to accept a renewed lease shall be deemed to constitute a contract between the Lessor and the Lessee for the granting and acceptance of a renewed lease at the rent to be determined under Clause 5 for the term and subject to the covenants and provisions referred to in Clause 3.1.



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3.4 The term of any renewed lease shall run from the day immediately after the expiry of the prior lease, and the rent thereunder shall accrue from that date instead of the rent reserved in the prior lease, notwithstanding the fact that the renewed lease may not be executed until after that date. Clause 5.11 shall otherwise apply.

3.5 The Lessor shall prepare each memorandum of renewal of this Lease and the Lessee will forthwith enter into and execute such memorandum of renewal of lease.

3.A. RIGHT OF EARLY TERMINATION

3.6 Notwithstanding clauses 2 and 3, it is agreed that the Lessee may at any time at its sole discretion terminate this Lease by providing to the Lessor not less than 24 months notice in writing to that effect, provided that no such notice may be given during the initial term of this Lease. The parties' respective rights and obligations under this Lease will cease from the effective date of termination, but without prejudice to any rights which have accrued up to the date of termination.

4. RENT

4.1 The Lessee shall pay the annual rent specified in Item 8 of the Reference Schedule from the Date of Commencement until the rent is varied under Clause 5 at which time the Lessee will pay rent at the varied rate.

4.2 Rent shall be paid by two instalments on 1st July and 1st January each year with broken period payments due on a proportionate basis for any broken period at the Date of Commencement and on expiry of the Lease term.

4.3 All rent shall be paid without any deduction or set-off whatsoever by direct automatic bank payment to the Lessor or as the Lessor may otherwise direct.

5. RENT REVIEW PROVISIONS

5.1 In this clause "Initiating Party" means the party that gives the Notice defined in Clause 5.2 and "Recipient" means the party that receives that Notice.

5.2 The annual rent may be reviewed by the Lessor or by the Lessee on the dates specified in Item 9 of the Reference Schedule. At any time not earlier than three (3) months prior to the relevant date specified in Item 9 of the Reference Schedule (each of such dates being called the "review date") either party may give notice in writing to the other ("the Notice") of that party's assessment of the annual rent of the Land to apply from that particular review date.

5.3 The annual rent of the Land shall be assessed on the basis of current market rental of the Land as determined as at the review date. In determining the annual rent of the Land the valuers and any umpire shall, in addition to other relevant factors:

(i) Disregard:

(a) any deleterious condition of the Land if such condition results from any breach of this lease by the Lessee;

(b) the value of any goodwill attributable to the Lessee's business; and

(c) all Improvements made to the Land.



5.2: LEASE WITH THE NEW ZEALAND POLICE

- (ii) Have regard to:
 - (a) the Lessor's Improvements; and
 - (b) the permitted use under this Lease; and
 - (c) Regional and District Plans.

- 5.4 In the event that the Recipient does not agree with the Initiating Party's assessment of the annual rent of the Land to apply from the particular review date, the Recipient shall notify the Initiating Party in writing ("the Counter Notice") within twenty-one (21) days (in which respect time shall be of the essence) that the Recipient requires such rent to be determined in accordance with Clause 5.7 and the Recipient shall set out in the Counter Notice the amount which the Recipient considers to be the annual rent as at the particular review date.

- 5.5 Unless such notice is given by the Recipient within twenty-one (21) days, then the amount stated in the Notice shall become the annual rent of the Land reserved by this Lease as and from the particular review date in substitution of the previous amount payable.

- 5.6 Neither party shall by reason of its failure to give the Notice prior to any review date forfeit its right to have the annual rent reviewed as from that particular review date and the reviewed annual rent which should have been paid from that particular review date shall date back to and be payable from that particular review date and any payment of or receipt for the payment of ground rent due on or after a particular review date shall not prejudice either party's right to demand repayment or payment thereafter of any additional annual rent overpaid or payable pursuant to the provisions of Clause 5.7(ii).

- 5.7 Where the Counter Notice is given, the Lessor and Lessee shall enter into negotiations to resolve the dispute. Should agreement not be reached within fourteen (14) days (or such longer period as the Lessor and Lessee shall agree upon in writing) after the date on which the Recipient gives the Counter Notice then:
 - (i) The Lessor and Lessee shall, within twenty-one (21) days after the date on which the Recipient gives the Counter Notice, each appoint a valuer to jointly determine the ground rent of the Land. A valuer nominated by either party pursuant to this Clause shall be a full registered member of the New Zealand Institute of Valuers and shall be competent to practice as a valuer of ground leases and shall have at least five (5) years experience in valuing ground leases within the district in which the Land is situated and be active in the market at the time of his or her appointment.
 - (ii) If either the Lessor or the Lessee fails to appoint a valuer within twenty-one (21) days as aforesaid, then the determination of the annual rent shall be made by the sole valuer as nominated by either the Lessor or Lessee as the case may be, within one (1) month of the expiry of the twenty-one (21) days as aforesaid and his or her determination shall be final and binding on both parties as if his or her appointment had been by consent.
 - (iii) Before proceeding with their determination, the said valuers shall agree upon and appoint an umpire (who need not be a registered valuer) and obtain the umpire's acceptance in writing of his or her appointment and who, as a condition of his or her acceptance, undertakes to hand down his or her

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determination of the annual rent within one month of being instructed to proceed or such other time period as the Lessor and Lessee may agree, whichever is the latest.

- (iv) If the said valuers within fourteen (14) days of the date of their appointment either fail to appoint an umpire or are unable to agree upon an umpire, then either the Lessor or the Lessee may request the President, for the time being, of the New Zealand Institute of Valuers or any successor to such Institute to appoint an umpire and obtain the umpire's acceptance in writing of his or her appointment and who as a condition of his or her acceptance undertakes to hand down his or her determination of the annual rent in the same manner as if he or she had been appointed pursuant to Clause 5.7(i).
- (v) Subject to Clauses 5.7(ii), 5.7(iii) and 5.7(iv) the valuers so nominated shall within one (1) month of the date of appointment jointly determine the annual rent as at that particular review date.
- (vi) In the event that either valuer fails to provide to the other valuer his or her written assessment of the annual rent within one month of the date of appointment, then the annual rent shall be determined by the other valuer and his or her determination shall be final and binding on both parties.
- (vii) If the said valuers are unable to agree upon a determination within one month of their appointment or within such extended time as the Lessor and Lessee may agree, then the annual rent shall be determined by the umpire whose determination shall be final and binding on the parties. The umpire shall without limiting his or her enquiries and conduct of any hearing:
 - (a) arrange for a hearing to be conducted without delay;
 - (b) call for evidence in chief to be presented on behalf of each party to be circulated prior to a hearing;
 - (c) allow representation of each party and cross-examination of evidence and any re-examination of evidence at the hearing;
 - (d) have due regard to any evidence submitted by the valuers as to their assessment of the annual rent;
 - (e) take into account any expert witness evidence considered relevant to the hearing;
 - (f) have regard to the legal rules of evidence and the interests of natural justice in the conduct of any hearing as between the parties; and
 - (g) give in his or her determination the reasons therefor in writing.
- (viii) The costs incurred in the determination pursuant to Clause 5.7 of the annual rent shall be borne by the parties in the following manner:
 - (a) subject to Clause 5.7(viii)(b) each party shall be responsible for the cost of its own appointed valuer;

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- (b) where the determination is made by a single valuer pursuant to Clause 5.7(ii) the cost of his or her determination shall be apportioned equally as between the Lessor and Lessee;
- (c) the parties shall share equally the costs of the umpire unless any party has acted capriciously or unreasonably in any of the proceedings pursuant to the provisions of this Clause 5.7 in which case the umpire may determine the manner in which such costs shall be apportioned between the parties PROVIDED THAT in all cases if the annual rent to apply from the review date is:
- (1) equal to or exceeding the annual rent nominated in the notice given by the Lessor (whether the Notice or the Counter Notice) then all costs of the valuers and the umpire (where applicable) shall be borne by the Lessee alone, or
 - (2) equal to or less than the annual rent nominated in the notice given by the Lessee (whether the Notice or the Counter Notice) then all costs of valuers and the umpire (where applicable) will be borne by the Lessor alone;
 - (3) other than the foregoing then all costs of valuers and the umpire (where applicable) will be borne equally by the Lessor and the Lessee.
- 5.8 The valuers or umpire shall be deemed to be acting as experts and not as arbitrators.
- 5.9 Any variation in the annual rent resulting from such determination shall take effect on and from that particular review date.
- 5.10 Where a review pursuant to this Clause 5 of the annual rent reserved by this Lease is completed after the review date, then:
- (i) Pending completion of the review, annual rent shall be paid at the rate prevailing immediately prior to the relevant review date;
 - (ii) On completion of the review, any increased annual rent payable as from the review date shall be paid by the Lessee to the Lessor no later than the date on which the next instalment of annual rent is payable hereunder;
 - (iii) On completion of the review, any overpayment of annual rent paid as from the review date shall be held by the Lessor to the Lessee's credit on account of annual rent next falling due for payment unless the Lessee requests the Lessor in writing to refund such payment in which case the Lessor will comply with that request.
- 5.11 If any moratorium or other law Act or regulation that applies to this Lease has the effect of postponing any periodic review of annual rent as at the review date then if and whenever such moratorium is lifted or the law, Act or regulation is repealed or amended so as to permit the annual rent to be reviewed then the review that has been postponed shall take place as at the date that such moratorium is lifted or such law, Act or regulation is repealed or amended to the intent that the rent review shall establish the annual rent as at such date and not as at the postponed review date but any

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subsequent rent review shall take place on the next following review date fixed in accordance with Clause 5.

- 5.12 Immediately upon the parties agreeing to pay a revised annual rent or on determination under Clause 5.7 the Lessee shall enter into an appropriate registrable Memorandum of Variation of Lease recording such revised annual rent prepared by the Lessor.

6. CHARGES

- 6.1 The Lessee will pay all charges incurred by the Lessee for electricity, gas, water or power or other services in respect of the Land and Improvements including all connection, disconnection, or other fees payable by the Lessee or the Lessor to other authorities in respect of such services.
- 6.2 The Lessor will pay for all costs of service, installation, maintenance and connection to the nearest approved local authority connection points.

7. PAYMENT OF RATES AND IMPOSITIONS AND OTHER OUTGOINGS

- 7.1 The Lessee will pay all rates, taxes (including without limitation land or improvements tax but excluding any income tax or capital gains tax or such similar tax which is personal to the Lessor which is imposed as a result of any sale or other disposal of the Land or because of income gained by the Lessor from the Land), charges, assessments, impositions and outgoings whatsoever which now are or which during the term or any renewed lease shall be taxed, rated, charged, assessed or imposed on the Land, any Improvements or on the Lessor or Lessee in respect thereof by any Authority.
- 7.2 In addition to the charges and costs referred to in clause 6, and in clause 7.1, the Lessee shall pay all costs associated with the repair and maintenance of the Land including without limitation the maintenance of grounds and gardens, and the repair, maintenance or replacement of any fencing on or about the Land.

8. GOODS AND SERVICES TAX

The Lessee shall pay to the Lessor upon demand any taxes paid or payable by the Lessor or accountable by the Lessor pursuant to the provisions of the Goods and Services Tax Act 1985 or any similar tax levied in substitution therefore including all amendments and any enactments in substitution therefore or in addition thereto or otherwise in respect of any payments made by the Lessee under this Lease (including the payment of annual rent) or paid by the Lessor on behalf of the Lessee's obligation to make such payment under this Lease.

9. INTEREST ON OVERDUE RENT OR OTHER MONEYS

Without prejudice to other rights powers and remedies of the Lessor, if any annual rent, goods and services tax or other payment or amount owing by the Lessee to the Lessor whatsoever pursuant to this Lease shall be in arrears and unpaid for fifteen (15) business days after the due day for payment thereof (whether any formal or legal demand therefore shall have been made or not) such unpaid moneys shall bear interest on a daily basis compounded on monthly rests computed from such due date until the date of payment in full of such moneys at a rate equal to the bank overdraft rate of the Lessor's bank at the time of any default, plus a margin of 4%, and the said interest shall be recoverable in the same manner as rent in arrears.

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5.2: LEASE WITH THE NEW ZEALAND POLICE

10. USE OF THE LAND AND IMPROVEMENTS

- 10.1 The Lessee shall be permitted the right to carry on the business specified in Item 10 of the Reference Schedule.
- 10.2 Should any of the uses of the Land and any Improvements be permissible only with the consent or licence of any Authority under or in pursuance of statute or any Regional and District Plans or regulation or other enactment or order of Court the Lessee shall obtain such consent or licence at the sole cost and expense of the Lessee including but not limited to any costs of financial contributions required and the Lessee shall at all times comply with any conditions of such consent, order or authority obtained.
- 10.3 Where the Lessee is lawfully obliged to obtain any licence, resource consent (including any land use consent or discharge permit) or other consents from any Authority such as required under section 348 of the Local Government Act 1974, the Lessor agrees that it and any officer, or employee or agent of the Lessor shall not raise any objection or requisition relating thereto as landowner of the Land where the Lessee is using the Land for any permitted use under this Lease and is not in any material breach or likely to be in any material breach at any time in the future of any terms and conditions of this Lease.
- 10.4 Despite any other provision in this Lease, if at any time during the term of this Lease, the Land cannot be, or can no longer be lawfully used for Police purposes, the Lessee may terminate this Lease on giving reasonable notice to the Lessor. PROVIDED HOWEVER that the Lessee may not terminate the Lease if the reason why the Land cannot, or can no longer be, lawfully used for Police purposes is because of an act or omission by the Lessee. This clause will only apply while Her Majesty the Queen acting by and through the Minister of Police is the Lessee under this Lease.

11. NO FENCING

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

12. STATUTORY REQUIREMENTS

- 12.1 The Lessee must comply with all statutes, Regional and District Plans, bylaws and regulations which relate to the Land and Improvements or which relate to the Lessee's use of the Land and Improvements and with all conditions or requirements which may be given or required by any person having any lawful authority and will in particular but without limitation:
- (i) ensure that a warrant of fitness is obtained each year in respect of any Improvements if required under the Building Act 2004;
 - (ii) comply with and observe at all times the terms and conditions of all resource consents held in respect of the use of the Land and the requirements imposed and otherwise arising under the Resource Management Act 1991; and
 - (iii) ensure that proper and adequate health and safety procedures are adopted in accordance with the Health and Safety in Employment Act 1992.

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5.2: LEASE WITH THE NEW ZEALAND POLICE

12.2 The Lessee shall not, during the term of this Lease:

- (i) make or enter into or endeavour to make or enter into any composition, assignment or other arrangement with or for the benefit of the Lessee's creditors;
- (ii) suffer insolvency, bankruptcy or liquidation;
- (iii) suffer distress or allow execution to issue against the Lessee's property, goods or effects under any judgment against the Lessee in any Court in a sum in excess of twenty five thousand dollars (\$25,000.00) provided however that this subclause 12.2(iii) shall have no application or effect whilst Her Majesty the Queen acting by and through the Minister of Police is the Lessee hereunder.

13. ASSIGNMENT OR SUBLETTING

- 13.1 The Lessee will not without the previous consent in writing of the Lessor assign or transfer or sublease this Lease. Such consent shall not be unreasonably or arbitrarily withheld or delayed without some good cause assigned having regard to the solvency or respectability of the proposed assignee or transferee or sublessee. Notwithstanding this Clause where the Crown (as that term is defined in section 2 of the Public Finance Act 1989) remains as the Lessee under this Lease and in occupation from the Lessor the consent of the Lessor shall not be required when another Crown entity assumes occupation of all or any part of the Land except that on each occasion that a different Crown entity (as defined in section 7(1) of the Crown Entities Act 2004) or other Crown body or state owned enterprise assumes the role and obligations of the Lessee under this Lease the Lessee shall notify the Lessor in writing of that change.
- 13.2 In the case of an assignment where the proposed assignee or transferee is a company not listed by the New Zealand Stock Exchange the Lessor may require the directors and/or the controlling shareholders of such company to enter into a deed guaranteeing the performance by that company of the terms of this Lease such guarantee to be in a form reasonably acceptable to the Lessor.
- 13.3 Clause 13 applies to any assignment or subletting of the interest of the Lessee by any assignee of a bankrupt Lessee or any liquidator or receiver of a Lessee that is a company.
- 13.4 For the purposes of Clause 13.1 any proposed change in the shareholding of the Lessee or any amalgamation under Section 219 of the Companies Act 1993 altering the effective control of the Lessee shall be a deemed assignment of this Lease and will require the consent of the Lessor unless such deemed assignment involves a change of effective control to any of the entities mentioned in Clause 13.5.
- 13.5 For the purposes of Clause 13.1 any proposed change in the effective control of any Lessee that is a Crown entity as that term is defined in section 7(1) of the Crown Entities Act 2004 or a State Owned Enterprise shall be a proposed assignment of this Lease. The Lessor in deciding whether or not to grant consent shall only be entitled to consider the effect of the alteration of the effective control in the ability of the Lessee to continue to meet its obligations under the Lease including contingent liabilities. For the purposes of this Clause any change in the management structure of the Lessee shall not be construed as a change in the effective control of the Lessee.


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- 13.6 Where any assignment or transfer of this Lease is consented to by the Lessor, (including any assignment or transfer to a Crown entity or a State Owned Enterprise) the Lessor may require the execution by the assignee or transferee of a deed of covenant with the Lessor, in a form prepared by the Lessor at the Lessor's expense, that the assignee or transferee will be bound by and perform the covenants in this Lease to be observed and performed by the Lessee but the execution of such covenant shall not release the Lessee from the Lessee's obligations under this Lease.
- 13.7 Notwithstanding any Rule of Law or anything herein expressed or implied to the contrary where Her Majesty the Queen acting by and through the Minister of Police in New Zealand as Lessee assigns this Lease under the provisions of this clause 13, all the liabilities of the Lessee expressed or implied under this Lease, whether contingent or otherwise for the payment of future rents or other moneys or the future observants or performance of any of the Covenants, conditions or agreements on the part of the Lessee shall cease and determine absolutely as from the date of the Assignment thereof, but without releasing the Lessee from liability for any antecedent breach thereof.
- 13.8 Where this lease is assigned to a non-crown entity, the perpetual renewal entitlement will cease and be replaced with terms to be agreed between landlord and assignee.

14. LESSEE'S ACKNOWLEDGEMNT OF RISK

The Lessee agrees to occupy and use the Land and any Improvements at the Lessee's risk and release to the full extent permitted by law the Lessor its employees and agents from all claims and demands of any kind and from all liability which in the absence of any negligence on its or their part may arise in respect of any accident damage or injury occurring to any person or property in or about the Land and any Improvements thereon except where the Lessor or any person under the control of the Lessor is at fault or negligent through their own acts or omissions.

15. QUIET ENJOYMENT/REPUDIATION

- 15.1 Provided the Lessee performs and observes the covenants provisos conditions and agreements contained in this Lease the Lessee shall peaceably hold and enjoy the Land and Improvements thereon without hindrance or interruption by the Lessor or by any person or persons claiming under the Lessor until the expiration or sooner determination of this Lease. For the avoidance of doubt, the phrase "person or persons claiming under the Lessor" does not include beneficiaries of any trust of which the Lessor is trustee.
- 15.2 The Lessor is to compensate the Lessee and the Lessee shall be entitled to recover any damages for any loss or damage suffered by reason of any acts or omissions of the Lessor constituting a repudiation of the Lease or the Lessor's obligations under the Lease. Such entitlement shall subsist notwithstanding any cancellation or early termination of the Lease and shall be in addition to any other right or remedy which the Lessee may have.

16. REGISTRATION

- 16.1 The Lessor shall register this Lease under the provisions of the Land Transfer Act 1952.

5.2: LEASE WITH THE NEW ZEALAND POLICE

16.2 The Lessee will be responsible for survey and other costs incurred in obtaining registration of this Lease.

17. IMPROVEMENTS DURING LEASE

17.1 Throughout the term of this Lease and on any renewal any Improvements installed or erected on the Land shall be deemed to remain in the ownership of the Lessee unless the Lessor and the Lessee otherwise agree in writing.

17.2 Throughout the term of this Lease and on any renewal the Lessee shall have the right to remove, alter, construct and demolish any Improvements on the Land without the need to obtain the Lessor's consent providing all obligations required of the Lessee under this Lease relevant to Improvements on the Land are satisfied.

18. IMPROVEMENTS ON TERMINATION OF LEASE

18.1 No later than twelve (12) months prior to the expiry of any ten (10) year term of Lease the Lessee may give notice ("the Lessee's Transfer Notice") to the Lessor specifying any Improvements which the Lessee wishes to transfer to the Lessor following expiry of the Lease or renewal. The Lessee's Transfer Notice shall contain details of those Improvements, their current market value and the proposed terms of transfer of the Improvements.

18.2 The Lessor agrees to consult with the Lessee regarding the Improvements specified in the Lessee's Transfer Notice, and to consider any proposal to transfer such Improvements. Nevertheless, the Lessee acknowledges that nothing in this clause or in the Lessee's Transfer Notice shall oblige the Lessor to take a transfer of, or to pay any compensation or consideration for, such Improvements.

18.3 If no agreement is reached regarding the transfer of Improvements pursuant to this clause (before six months prior to the expiry of the Lease, or before the earlier termination of the Lease), the following provisions of this Clause 18 shall apply.

18.4 On termination of this Lease (whether by expiry of time or otherwise) except where the Lessee has exercised any rights of renewal, the Lessee may, but shall not be required by the Lessor to, remove any Improvements specified in a written notice ("the Lessee's Removal Notice") given to the Lessor in accordance with Clause 18.5.

18.5 The Lessee shall be under no obligation to give a Lessee's Removal Notice, but any such Notice to be effective shall be given no later than three (3) months prior to the expiry of the term (time being of the essence) or one (1) month after any sooner termination.

18.6 The Lessee must remove all Improvements specified in the Lessee's Removal Notice within six (6) months from the date of termination (time being of the essence) and must ensure within that time that all services to any Improvements are properly and lawfully disconnected, the Land under any Improvements is adequately filled with soil so that the surface of the Land is stable and restored to the Lessor's reasonable satisfaction and such Land is otherwise grassed and left in a neat and tidy condition.

18.7 If the Lessee fails to remove any Improvements specified in the Lessee's Removal Notice in accordance with Clause 18.6 then the Lessor may remove them and all costs and expenses incurred directly and indirectly shall be recoverable against the Lessee.

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- 18.8 Any improvements remaining on the Land after the period referred to in Clause 18.6 not specified in the Lessee's Renewal Notice shall become the property of the Lessor without any compensation or other payment whatsoever to the Lessee.
- 18.9 The Lessee must continue to pay rent and outgoings under this Lease and comply with all other obligations under this Lease until it has met its obligations under Clause 18.6.
- 18.10 Whenever resource consent is required to remove or demolish any Improvements the Lessee shall use all reasonable endeavours to obtain all necessary consents and shall continue to be obliged to pay rent and outgoings under this Lease until such time that the Lessor is satisfied on reasonable grounds that the Lessee has used all reasonable endeavours to obtain all necessary consents and produced to the Lessor evidence satisfactory to the Lessor to satisfy this requirement.

19. DESTRUCTION AND REDEVELOPMENT

- 19.1 The Lessee shall be entitled to carry out repairs, demolition, relocation, additions, reinstatement or redevelopment to any Improvements on the Land in the event of total or partial destruction or in the event of the Lessee wishing to demolish, relocate, redevelop, replace or add to any Improvements on the Land provided the following conditions are or will be satisfied:

- (i) any repair, demolition, relocation, addition, reinstatement or redevelopment shall fully comply with Regional and District Plans and all statutory and regulatory requirements in force at the time; and
- (ii) the Lessee is able to obtain all resource and building consents necessary to carry out any works programme;

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

- 19.2 In the event that the Lessee is prevented or unable to reinstate or rebuild in the event of total or partial destruction it may terminate this Lease on giving three month's notice in writing to the Lessor, provided that the Lessee demolishes the Improvements and clears and restores the Land all in accordance with the requirements of Clause 18.6.

20. NOTICES

- 20.1 All notices must be in writing and must be served by one of the following means:

- (i) in the case of a notice under sections 245 or 246 of the Property Law Act 2007 in the manner prescribed by section 353 of that Act; and
- (ii) in all other cases, unless otherwise required by sections 352 to 361 of the Property Law Act 2007:
 - (a) in the manner authorised by sections 354 to 361 of the Property Law Act 2007; or
 - (b) by personal delivery, or by posting by registered or ordinary mail, or by facsimile transmission.

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5.2: LEASE WITH THE NEW ZEALAND POLICE

- 20.2 All notices to be given to the Lessor or to the Lessee hereunder shall be deemed sufficiently served:
- (i) in the case of personal delivery, when received by the addressee at the address detailed in clause 20.3; and
 - (ii) in the case of posting by registered mail, on the third working day following the date of posting to the addressee at the address detailed in clause 20.3; and
 - (iii) in the case of facsimile transmission, on the working day following the date of sending to the addressee's facsimile number designated in clause 20.3 provided that the sender produces a confirmation notice that the facsimile has been sent on that day.

20.3 Details for Notices:

[Entity]
[address]

Fax:

The District Commander
[address]

Fax:

- 20.4 A notice shall be valid if given by the duly authorised representative of the party giving the notice. If a notice is not given by the Lessor, it is to be supported by satisfactorily written delegation from the Lessor confirming the appointment of the party giving the notice.

21. DEFAULT BY LESSEE

- 21.1 The Lessor may (in addition to the Lessor's right to apply to the Court for an order for possession) cancel this Lease by re-entering the land at the time or any time thereafter:

- (i) if the rent shall be in arrear twenty (20) working days after any of the rent payment dates and the Lessee has failed to remedy that breach within ten (10) working days after service on the Lessee of a notice in accordance with section 245 of the Property Law Act 2007;
- (ii) in case of breach by the Lessee of any covenant or agreement on the Lessee's part herein expressed or implied (other than the covenant to pay rent) after the Lessee has failed to remedy that breach within the period specified in a notice served on the Lessee in accordance with Section 246 of the Property Law Act 2007;

and the term shall terminate on such cancellation but without prejudice to the rights of either party against the other.

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22. DISPUTE RESOLUTION

- 22.1 Any dispute or difference which may arise between the parties concerning the interpretation of this Lease or relating to any other matter arising under this Lease will be actively and in good faith negotiated by the parties with a view to a speedy resolution of such differences.
- 22.2 If the parties cannot resolve a dispute or difference within fifteen (15) business days of any dispute or difference arising then, unless otherwise expressly provided in this Lease, they will without prejudice to any other right, explore whether such dispute or difference can be resolved by agreement between them using informal dispute resolution techniques such as mediation. The rules governing any such technique if adopted will be agreed between the parties or as selected by the organisation known as "LEADR" (Lawyers Engaged in Alternative Dispute Resolution).
- 22.3 If the parties cannot agree on any dispute resolution technique within a further fifteen (15) business days of any dispute or difference being considered for referral by both parties to any informal dispute resolution technique under Clause 22.2 then the dispute or difference shall be settled by reference to arbitration. Except as otherwise expressly provided in this Lease the reference shall be to a single arbitrator if one can be agreed upon, or to two arbitrators (one to be appointed by each party) and their umpire (appointed by them prior to their arbitration), such arbitration to be carried out in accordance with the Arbitration Act 1996 or any successor Act.
- 22.4 The parties will co-operate to ensure the expeditious conduct of any arbitration. In particular, each party will comply with any reasonable time limits sought by the other for settling terms of reference, interlocutory matters and generally all steps preliminary and incidental to the hearing and determination of the proceedings.

23. COSTS

- 23.1 The parties shall each pay their own solicitors' costs of preparing, negotiating and finalising this Lease, or any renewal or variation of this Lease.
- 23.2 The Lessee shall be responsible for payment of all registration fees including agency charges imposed and all government tax duty or imposts at any time payable on this Lease or any renewal or variation to this Lease.
- 23.3 The Lessee shall pay for all costs, charges and expenses for which the Lessor shall become liable in consequence of or in connection with any breach or default by the Lessee in the performance or observance of any of the terms, covenants and conditions of this Lease.

24. LESSOR'S RIGHTS TO INSPECT AND DISPLAY SIGNS

- 24.1 The Lessor will have the right to inspect the Land no more than twice each year during the term or any renewal of this Lease with valuers or other experts and consultants provided such inspections are carried out at times reasonably acceptable to the Lessee on reasonable notice to the Lessee and only when accompanied by a servant or agent of the Lessee. Any such inspections should be carried out in accordance with the Lessee's security and health and safety requirements and the Lessee shall have the right to change any suggested time to a mutually convenient time.

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5.2: LEASE WITH THE NEW ZEALAND POLICE

- 24.2 Notwithstanding anything else herein, the parties agree that the Lessee may require any person wishing to enter the Land for inspection purposes to first provide their details to the Lessee for a security check. If the results of such check are not acceptable to the Lessee for any reason then such person may be refused entry to the Land.
- 24.3 If the Lessor desires to, or is required to, undertake any works on the Land, including any repair or maintenance works, that involves the use of contractors or other third parties, the Lessor must procure any contractor or other third party who will have access to the Land to undertake such works to:
- (i) complete a security check on terms reasonably acceptable to the Lessee;
 - (ii) provide the Lessee with a copy of the contractor's Health and Safety Plan which shall be subject to the Lessee's reasonable approval prior to any work commencing; and
 - (iii) familiarise themselves with and commit to complying with the Lessee's own Health and Safety Plan in all material respects.
- 24.4 The Lessor will not provide or allow the provision of any information relating to the structure, or access to, the buildings on the Land in any way to any person without first obtaining the written permission of the Lessee.
- 24.5 The Lessee will during the period of three (3) months prior to the termination date of this Lease permit the Lessor to exhibit the Land to prospective lessees or purchasers and allow the Lessor to affix to the Land appropriate sale or reletting notices.

25. DISPOSAL OF LESSOR'S INTEREST

- 25.1 Subject to the provisions of this clause the Lessor may at any time dispose of the Lessor's interest in the Land provided:
- (i) any such disposal shall preserve to the Lessee all the Lessee's rights and remedies under this Lease; and
 - (ii) that while Her Majesty the Queen is the Lessee and occupies the Land the following further provisions shall apply:
 - (a) The Lessor shall advise the Lessee in writing of the person or corporation to whom the Lessor intends to dispose of its interest in the Land (proposed Assignee).
 - (b) If the Lessee has any objection to the proposed Assignee because the Lessee reasonably apprehends in good faith that either:
 - (1) The proposed Assignee presents an actual or potential threat to the discharge by the Lessee of the Lessee's statutory obligations;
 - or

5.2: LEASE WITH THE NEW ZEALAND POLICE

- (2) The role or function of the Lessee will be prejudiced by the proposed Assignee becoming the Lessor;

then the Lessee shall within five (5) working days of receiving the Lessor's advice pursuant to clause 25.1(ii)(a) above, notify the Lessor in writing of its objection to the proposed Assignee and shall substantiate its reasonable apprehension to the reasonable satisfaction of the Lessor;

- (c) If the Lessor does not receive written notice from the Lessee pursuant to clause 25.1(ii) 2(1) or (2) above together with grounds to substantiate its reasonable apprehension within five (5) working days from the date of its advice to the Lessee, the Lessee shall be deemed to have accepted the proposed Assignee.
- (d) If the Lessee objects to the proposed Assignee in accordance with clause 25.1(ii) 2(1) or (2) above, then the Lessor shall not dispose of its interest to the proposed Assignee.
- (e) If the Lessor fails to advise the Lessee in writing of the disposal of its interest in the Land and the Lessee has objections to the proposed Assignee based on those reasons set out in clauses 25.1(ii)(3)(c) above, then the Lessee shall be entitled at any time thereafter to terminate this Lease on seven (7) days written notice and the Lessee's obligations under this Lease shall cease from the expiration of such notice.

26. RIGHT OF FIRST REFUSAL FOR LESSOR IF LESSEE TO ASSIGN

- 26.1 (a) The following subclauses of this clause 26 will only apply in the event that the Lessee proposes to assign the Lessee's interests in this Lease to a party which is not a Crown entity or a State Owned Enterprise.
- (b) If at any time before the expiration or earlier termination of the term or any renewed or extended term the Lessee wishes to assign the Lessee's interest in this Lease (including any assignment by way of sale of the Improvements) the Lessee must immediately give written notice ('Lessee's Notice') to the Lessor setting out the terms on which the Lessee wishes to assign its interest in the Lease and sell the Improvements (together 'the Lessee's Interest').
- (c) The Lessor will have 60 Working Days following the date of receipt of the Lessee's Notice (time being of the essence) in which to exercise the Lessor's right to purchase the Lessee's Interest, by serving written notice on the Lessee ('Lessor's Notice') accepting the offer contained in the Lessee's Notice.
- (d) If the Lessor does not serve the Lessor's Notice on the Lessee in accordance with subclause (c) then the Lessee may assign the Lessee's Interest to any other person on no more favourable terms than those previously offered to the Lessor. The provisions of clause 13 of this Lease will apply to any such assignment.
- (e) If the Lessee wishes to offer more favourable terms for assignment of the Lessee's Interest than the terms contained in the Lessee's Notice, the Lessee must first re-offer its interest therein to the Lessor on those terms by written notice to the Lessor and clauses 26(b), (c) and (d) (inclusive) shall apply. If the

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re-offer is made within 6 months of the initial Lessee's Notice, the 60 Working Day period for acceptance shall be reduced to 30 Working Days.

26. HOLDING OVER

If the Lessor permits the Lessee to remain in occupation of the Land after the expiration or sooner determination of this Lease, such occupation shall be a tenancy at will only terminable by twenty (20) working days written notice at the rent then payable per month for the Land and otherwise on the same covenants and agreements (so far as applicable to a tenancy at will) as herein expressed or implied.

27. EXCLUSION OF IMPLIED PROVISIONS

27.1 The following covenants, conditions and powers implied in leases of land pursuant to Schedule 3 of the Property Law Act 2007 are expressly excluded from application to this Lease:

- (a) clause 10 - Premises unable to be used for particular purpose;
- (b) clause 11 - Power to inspect premises; and
- (c) clauses 13(2) and (3) - Lessee to keep and yield up premises in existing condition.

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SCHEDULE OF LAND

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LEASE OF FREEHOLD

Correct for the purposes of the Land Transfer
Act 1952

TE KOTAHITANGA O TE ATIWA TRUST
Lessor

HER MAJESTY THE QUEEN
acting by and through the
COMMISSIONER OF POLICE
Lessee

Particulars entered in the Register
on the date and at the time recorded

District Land Registrar/Assistant
of the Wellington Land Registry

TLB
N 142

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6. RELATIONSHIP AGREEMENTS

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**6.1 RELATIONSHIP AGREEMENT WITH THE MINISTRY OF BUSINESS, INNOVATION
AND EMPLOYMENT IN RELATION TO PETROLEUM AND MINERALS**

6.1: RELATIONSHIP AGREEMENT WITH THE MINISTRY OF BUSINESS, INNOVATION AND EMPLOYMENT
IN RELATION TO PETROLEUM AND MINERALS

AGREEMENT dated

2014

PARTIES

1. The Ministry of Business, Innovation and Employment
2. Te Kotahitanga o Te Atiawa Trust

Each one a Party and together referred to as the Parties.

BACKGROUND

- A. In July 1999, the Wai 796 claim was filed by Tohepakanga Ngatai on behalf of Ngaruahine regarding petroleum resources in the Taranaki region including the rohe of Te Atiawa. Hapu of Te Atiawa participated in the Wai 796 claim. The claim asserted that in the nineteenth century, and up to 1937, the Crown was implicated in many breaches of the Treaty whereby Taranaki lost their land and the petroleum that went with it. The Crown's nationalisation of the petroleum resource through the Petroleum Act 1937 without paying compensation to landowners, and without making provision for royalties, was claimed to be a further breach of the Treaty.
- B. The Waitangi Tribunal held an urgent hearing was held in 2000 to address the claims by Ngaruahine as well as Ngati Kahungunu in relation to their interests in the petroleum resource.
- C. The Waitangi Tribunal issued its report - the *Petroleum Report* - on the petroleum claims in 2003. That report focused on issues of ownership and did not address the management of the resource.
- D. The Crown's management of petroleum formed the subject of a second Tribunal report - the *Report on the Management of the Petroleum Resource* - released in 2010. That report highlighted the 'critical importance' of procedural changes required to the current petroleum regime. Te Atiawa hapu (Otaraua) also participated in that claim (Wai 2262).
- E. In August 2012, Ngaruahine, Taranaki Iwi and Te Atiawa together commenced discussions with the Ministry as part of the Treaty settlement negotiation process. The three iwi worked collectively to negotiate this Agreement with officials from the Ministry of Business, Innovation and Employment.

AGREEMENT

1. Interpretation

- 1.1 **Definitions:** In this Agreement, the following terms have the following meanings except to the extent that they may be inconsistent with the context:

'**Agreement**' means this agreement and includes any amendments made in accordance with clause 15.2;

'**Annual Block Offer Round Meeting**' means the meeting held in accordance with clause 7;

6.1: RELATIONSHIP AGREEMENT WITH THE MINISTRY OF BUSINESS, INNOVATION AND EMPLOYMENT
IN RELATION TO PETROLEUM AND MINERALS

'**Annual Forum**' means the meeting held in accordance with clause 6;

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

'**Crown-owned minerals**' means any mineral that is the property of the Crown in accordance with sections 10 and 11 of the Crown Minerals Act 1991 or over which the Crown has jurisdiction in accordance with the Continental Shelf Act 1964;

'**Deed of Settlement**' means the Deed of Settlement dated [] between the Crown and Te Atiawa;

'**Governance Entity**' means the trust known as Te Kotahitanga o te Atiawa Trust established by trust deed dated 20 June 2013;

'**Mineral**' means a naturally occurring inorganic substance beneath or at the surface of the earth, whether or not under water, and includes all metallic minerals, non-metallic minerals, fuel minerals (including coal and petroleum), precious stones, industrial rocks and building stones within the meaning of the Act and a prescribed substance within the meaning of the Atomic Energy Act 1945;

'**Minister**' means the Minister of Energy and Resources;

'**Ministry**' means the Ministry of Business, Innovation and Employment;

'**Relationship Manager**' means the person appointed in accordance with clause 10.1;

'**Secretary**' means the Chief Executive of the Ministry of Business, Innovation and Employment;

'**Te Atiawa**' has the meaning given to it in the Te Atiawa Deed of Settlement;

'**Te Atiawa Area of Interest**' has has the meaning given to it in the Te Atiawa Deed of Settlement and is the area identified in the map included in Schedule 1 of this Agreement;

'**Treaty**' means Te Tiriti o Waitangi (the Treaty of Waitangi); and

'**Working Day**' means the days Monday through Friday exclusive of any public holiday and excluding 24 December to 2 January (inclusive).

1.2 **General construction:** In interpreting this Agreement, unless the context otherwise requires:

- (a) headings to clauses are for reference only and are not an aid in interpretation;
- (b) references to statutory provisions will be construed as references to those provisions as they may be amended or re-enacted or as their application is modified by other provisions from time to time;
- (c) references to documents will be construed as references to those documents as they may be amended from time to time;

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- (d) references to clauses are to clauses of this Agreement;
- (e) all periods of time include the day on which the period commences and also the day on which the period ends; and
- (f) words importing the plural include the singular and vice versa and words importing gender import all genders.

2. PURPOSE

- 2.1 The purpose of this Agreement is to provide for the development and maintenance of a dynamic, respectful, robust and evolving relationship between the Parties based on the principles of Te Tiriti o Waitangi / the Treaty of Waitangi.

3. SHARED ACKNOWLEDGEMENTS

- 3.1 The Ministry acknowledges that Te Atiawa have developed a deep understanding of the challenges and opportunities that accompany the petroleum industry. This understanding arises from their experiences with petroleum exploration and production over the last century, and their role as kaitiaki. In this role as kaitiaki, the Ministry acknowledges that Te Atiawa have a close understanding of and relationship with their environment, and therefore have relevant information to share with the Ministry and petroleum industry. The Ministry also acknowledges that Te Atiawa have growing experience in relation to the minerals sector.
- 3.2 The Ministry further acknowledges that Te Atiawa have investment and economic development aspirations, and may wish to broaden their participation and investment in the petroleum and minerals sector.
- 3.3 Acknowledging further that both Te Atiawa and the Ministry have limited resources, both Parties commit to implementing this agreement in a way that makes the most efficient use of available resources.
- 3.4 The Parties acknowledge that, while this Agreement relates specifically to engagement over energy and resources portfolio matters, there will be opportunities for engagement on other matters that are administered by the Ministry, such as broader economic development, outside the confines of this Agreement.

4. PRINCIPLES

- 4.1 The Parties agree that in working together under this Agreement, the following high-level principles will apply:
- (a) **Meaningful engagement and consultation:** This will include annual meetings and opportunities for discussion, with a focus on block offers and other processes;
 - (b) **Respecting information of a confidential nature:** This will include developing processes for the appropriate management of confidential information shared between the Parties;
 - (c) **Reflecting a balance between development and protection:** This will include exploring mechanisms to enhance protection of wahi taonga, while

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acknowledging that Te Atiawa may also seek to broaden economic development opportunities in the petroleum sector;

- (d) **Enhancing the capacity of the Parties:** This will include, for example, opportunities for sharing information; and
- (e) **Review and evolution:** This will include the identification of a relationship manager by both Parties to maintain and enhance the relationship, and mechanisms to resolve any issues that arise in the relationship.

5. APPLICATION

5.1 **Scope:** This Agreement applies to all functions and responsibilities of the Minister of Energy and Resources and the Chief Executive of the Ministry of Business, Innovation and Employment within the Energy and Resources portfolio.

5.2 **Enforcement:** The Parties acknowledge that this Agreement is not intended to be legally enforceable, but that this does not diminish the intention of the Parties to comply with the terms and conditions of this Agreement.

5.3 **Agreement subject to rights and obligations:** For the sake of clarity, this Agreement does not override or limit:

- (a) legislative rights, powers or obligations; or
- (b) functions, duties and powers of the Minister and any officials under legislation; or
- (c) the ability of the Crown to introduce legislation and change government policy; or
- (d) the ability of the Crown to interact or consult with any other person, including any iwi, hapu, marae, whanau or their representative; or
- (e) the requirement that the Ministry act in accordance with directions from Ministers; or
- (f) the legal rights and obligations of the hapu of Te Atiawa and Te Kotahitanga o Te Atiawa Trust.

6. ANNUAL FORUM

6.1 **Annual Forum:** The Parties agree to meet on an annual basis in a meeting to be known as the Annual Forum.

6.2 **Timing:** The Annual Forum will be timed to coincide with the Ministry's business planning process and the beginning of the annual block offer cycle (usually in May of each year).

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6.3 **Agenda:** The Annual Forum will include the following agenda items:

The Annual Forum will include the following agenda items:

- (a) a discussion of policy, regulatory and work plan developments envisaged for the forthcoming year across both petroleum and minerals development;
- (b) broad aspects of permit operations within the Taranaki region, including any compliance and relevant operational matters;
- (c) review of past year's engagement and future opportunities to develop mutual understandings and relationships;
- (d) review of early engagement, as outlined in clause 7 below, on block offers and any other competitive tenders; and
- (e) a broad indication of the Ministry's future strategy for block offer areas.

6.4 **Participants**

The parties agree that:

- (a) the Annual Forum will involve senior managers from both Parties; and
- (b) the best endeavours of both Parties will be made to include the eight iwi of Taranaki in the Annual Forum.

The Ministry will endeavour to facilitate participation by other regulatory bodies with a role in petroleum and minerals regulation in the Annual Forum.

6.5 **Economic development**

The Parties agree to discuss at the first Annual Forum, the nature of any assistance that the Ministry may be able to provide to Te Atiawa to broaden their participation and investment in the petroleum and minerals sector, and thereby benefit from the economic development opportunities that the sector can offer.

7. **ANNUAL BLOCK OFFER ROUND MEETING**

7.1 **Annual Block Offer Round Meeting**

The Parties agree to meet at an early stage of the annual block offer cycle (or other competitive tendering) and prior to formal consultation. This meeting shall be known as the Annual Block Offer Round Meeting.

7.2 **Timing**

The Annual Block Offer Round Meeting will take place after the process by which industry express interest in particular blocks has closed (usually in August of each year).

The meeting will be scheduled so as to allow Te Atiawa as much time as possible, taking into account the statutory timeframe, to plan their response and/or submission

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for the formal consultation stage. This may include, for example, planning hui, identifying issues, undertaking research and commissioning advice.

7.3 **Agenda**

The Annual Block Offer Round Meeting will include the following agenda items:

- (a) Ministry information about the next planning year's petroleum block offer proposals (or any minerals competitive tendering) to enable the iwi to plan for any formal engagement ahead of the formal process;
- (b) sharing of information by the Parties about local issues and opportunities and an explanation by the Ministry of the potential prospectivity of the area to be covered by the block offer or competitive tender for consideration; and
- (c) if either party considers it necessary, exploration of mechanisms to enhance the Ministry's understanding of iwi issues and wahi taonga.

7.4 **Participants**

The Parties agree that the Annual Block Offer Round Meeting will involve senior managers from both Parties.

8. **FORMAL CONSULTATION**

8.1 **Permit applications**

The Parties agree that in respect of any minerals permit applications, the Ministry will consult with Te Atiawa in the following circumstances:

- (a) **Petroleum permit applications:** when any application for a petroleum permit is received, which relates, whether wholly or in part, to the Te Atiawa Area of Interest, except where the Parties agree the application relates to a block offer over which consultation has already taken place under clause 7;
- (b) **Amendments to petroleum permits:** when any application to amend a petroleum permit, by extending the land to which the permit relates, is received where the application relates, wholly or in part, to the Te Atiawa Area of Interest;
- (c) **Permit applications for Crown-owned minerals other than petroleum:** when any application for a permit in respect of Crown-owned minerals other than petroleum is received, which relates, whether wholly or in part, to the Te Atiawa Area of Interest, except where the Parties agree the application relates to a block offer over which consultation has already taken place under clause 7 or where the application relates to newly available acreage;
- (d) **Newly available acreage:** when the Secretary proposes to recommend that the Minister grant an application for a permit for newly available acreage in respect of minerals other than petroleum, which relates, whether wholly or in part, to the Te Atiawa Area of Interest;
- (e) **Amendments to permits for Crown-owned minerals other than petroleum:** when any application to amend a permit in respect of Crown owned minerals

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other than petroleum, by extending the land or minerals covered by an existing permit is received, where the application relates, wholly or in part, to the Te Atiawa Area of Interest; and

- (f) **Gold fossicking areas:** when any request is received or proposal is made to designate lands as a gold fossicking area, which relates, whether wholly or in part, to the Te Atiawa Area of Interest.

8.2 **Matters to be given regard to**

Each decision on an application referred to in clause 8.1 will be made having regard to any matters raised as a result of consultation with the Governance Entity and having regard to the principles of the Treaty.

9. **OTHER ENGAGEMENT**

9.1 **Maori land and significant sites (Wahi taonga)**

The Parties agree, consistent with provisions and responsibilities within the Crown Minerals Act 1991 regime:

- (a) to enhance iwi engagement mechanisms to better provide for the protection of areas of particular importance to Te Atiawa, by means such as access by the Ministry to Te Atiawa sites of significance registers if iwi agree;
- (b) where Te Atiawa are requested to identify areas of particular importance to them, to provide greater guidance to the Ministry and Te Atiawa, the Parties will discuss:
- (i) the characteristics and nature of significant sites, including wahi taonga;
- (ii) the nature and size of the area that could reasonably be expected to be excluded or amended; and
- (iii) the nature and quality of information required in order for an application for exclusion or amendment to be adequately considered by the Ministry;
- (c) to explore mechanisms for improving notice to Maori land owners of activities which will impact on Maori land (as defined by Te Ture Whenua Maori Act 1993).

9.2 **Review of Minerals Programmes**

The Parties agree that in respect of any minerals programme review, the Ministry will:

- (a) consider any proposals made by Te Atiawa as to the scope of any review of minerals programmes;
- (b) provide an early opportunity, before any public consultation process, for discussion with Te Atiawa of those parts of new draft minerals programmes that either party identifies as affecting Te Atiawa interests; and

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- (c) meet with Te Atiawa during the public consultation phase of any minerals programme review or the minerals regime generally if the review may affect iwi interests and the governance entity requests a meeting.

The Parties will work together to identify opportunities for improving engagement by the Ministry with Te Atiawa in relation to the management of minerals.

9.3 Working Groups

Where both Parties agree, they may establish working groups to examine particular issues. This may include matters such as the identification of circumstances in which a cultural impact assessment may be useful, and the development of processes for better coordination between regulatory authorities.

9.4 Facilitating constructive engagement with industry

The Ministry will:

- (a) review information provided by the Ministry to industry on Te Atiawa and their concerns, if any, and provide assistance to industry on how to build and maintain good relationships with Te Atiawa;
- (b) require permit holders to report on the engagement they have undertaken with Te Atiawa, as required by legislation, minerals programmes and/or block offer notices;
- (c) provide Te Atiawa opportunity to comment to the Ministry on a permit holders' engagement with Te Atiawa;
- (d) facilitate introductions of Te Atiawa representatives to permit holder/s as early as feasible after the allocation of a permit;
- (e) facilitate the development of industry best practice guidelines for engagement with iwi; and
- (f) where requested by Te Atiawa, endeavour to facilitate meetings with relevant permit holders.

10. RELATIONSHIP MANAGEMENT

10.1 Relationship manager

Each party will appoint a senior representative to be their respective Relationship Manager and who will:

- (a) be the key point of contact for any matters relating to this Agreement;
- (b) oversee the implementation of this Agreement; and
- (c) be responsible for coordinating the Annual Forum in a timely manner.

6.1: RELATIONSHIP AGREEMENT WITH THE MINISTRY OF BUSINESS, INNOVATION AND EMPLOYMENT
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10.2 Facilitating relationships outside of this Agreement

The Ministry's Relationship Manager will endeavour to facilitate introductions to other parts of the Ministry if requested to do so by Te Atiawa.

10.3 Other meetings

Outside of the annual meetings provided for under this Agreement, relevant representatives of the Parties will meet as required.

10.4 Restructuring changes in Ministry

The Ministry will notify the Governance Entity of any re-structuring or re-organising of the Ministry which might affect the operation of this Agreement.

11. INFORMATION PROVISION AND BUILDING MUTUAL CAPACITY

11.1 Information resources

The Parties agree that the Governance Entity will assist the Ministry with the development of information resources (if any) about activities relating to petroleum and minerals for use in discussion with other iwi and communities in other parts of Aotearoa/New Zealand.

11.2 Building mutual capacity

The Parties agree to work together to develop measures to enhance the capacity of both the Ministry and Te Atiawa to engage constructively with each other including:

- (a) facilitating a better understanding by Ministry staff dealing with petroleum and minerals development of issues of importance to Te Atiawa;
- (b) to the extent that resources allow, providing opportunities (such as workshops and seminars) for information sharing and expertise enhancement; and
- (c) the Ministry providing information through websites and other media as appropriate to make transparent any agreements and protocols in place between the Crown and Te Atiawa, where both Parties support such publication.

12. CONFIDENTIALITY

12.1 The Parties agree that:

- (a) subject to clause 12.3, the Ministry will ensure appropriate arrangements are in place to provide for confidentiality of material provided by the Governance Entity and Te Atiawa, and identified by either the Governance Entity or Te Atiawa as requiring such confidentiality; and
- (b) the Governance Entity will ensure appropriate arrangements are in place to provide for confidentiality of material provided by the Ministry and identified by the Ministry as requiring such confidentiality.

**6.1: RELATIONSHIP AGREEMENT WITH THE MINISTRY OF BUSINESS, INNOVATION AND EMPLOYMENT
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12.2 Subject to clause 12.3, with regard to information sharing and confidential information, the Ministry will, on request, make available to Te Atiawa existing information held by, and reasonably accessible to, the Ministry that is directly relevant to Te Atiawa with regard to this Agreement.

12.3 Clauses 12.1 and 12.2 do not apply to information either:

- (a) that the Ministry is legally prevented from providing (for example, information that is subject to an obligation of confidentiality or non-disclosure); or
- (b) that the Ministry is legally required to provide, for example under the Official Information Act 1982.

13. COMPLIANCE

If it becomes apparent that elements of this Agreement may not be achievable, the Parties will raise this with each other as soon as possible and work towards a common understanding of the issues and a positive way to address those elements.

14. DISPUTE RESOLUTION (ESCALATION OF MATTERS)

14.1 Dispute resolution process

The dispute resolution process is as follows:

- (a) If one party considers that there has been a breach of this Agreement, then that party may give written notice to the other that they are in dispute.
- (b) As soon as practicable upon receipt of the notice referred to in clause 14.1, the Parties' representative(s) will meet to work in good faith to resolve the issue.
- (c) If the dispute has not been resolved within 20 Working Days of receipt of the notice, the Chief Executive of the Ministry and the Chief Executive Officer/General Manager of the Governance Entity will meet in good faith to resolve the issue.
- (d) If the dispute has not been resolved within 20 Working Days of the meeting set out in clause 14.1(c), the Chair of the Governance Entity or nominee will meet in good faith with the Minister to resolve the issue.

15. REVIEW AND AMENDMENT

15.1 Review

The Parties agree that this Agreement is a living document which can be updated and adapted to take account of future developments and additional relationship opportunities.

This Agreement will be reviewed within three years of the date on which it is entered and thereafter every three years. The matters to be covered by the review will be agreed between the Parties.

Where the Parties cannot reach agreement on any review or variation proposal they will use the escalation processes contained in clause 14 above.

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15.2 **Amendment**

The Parties may vary or cancel this Agreement at any time by agreement in writing.

EXECUTION

SIGNED for and on behalf of the
Ministry of Business, Innovation and
Employment

[insert name and position]

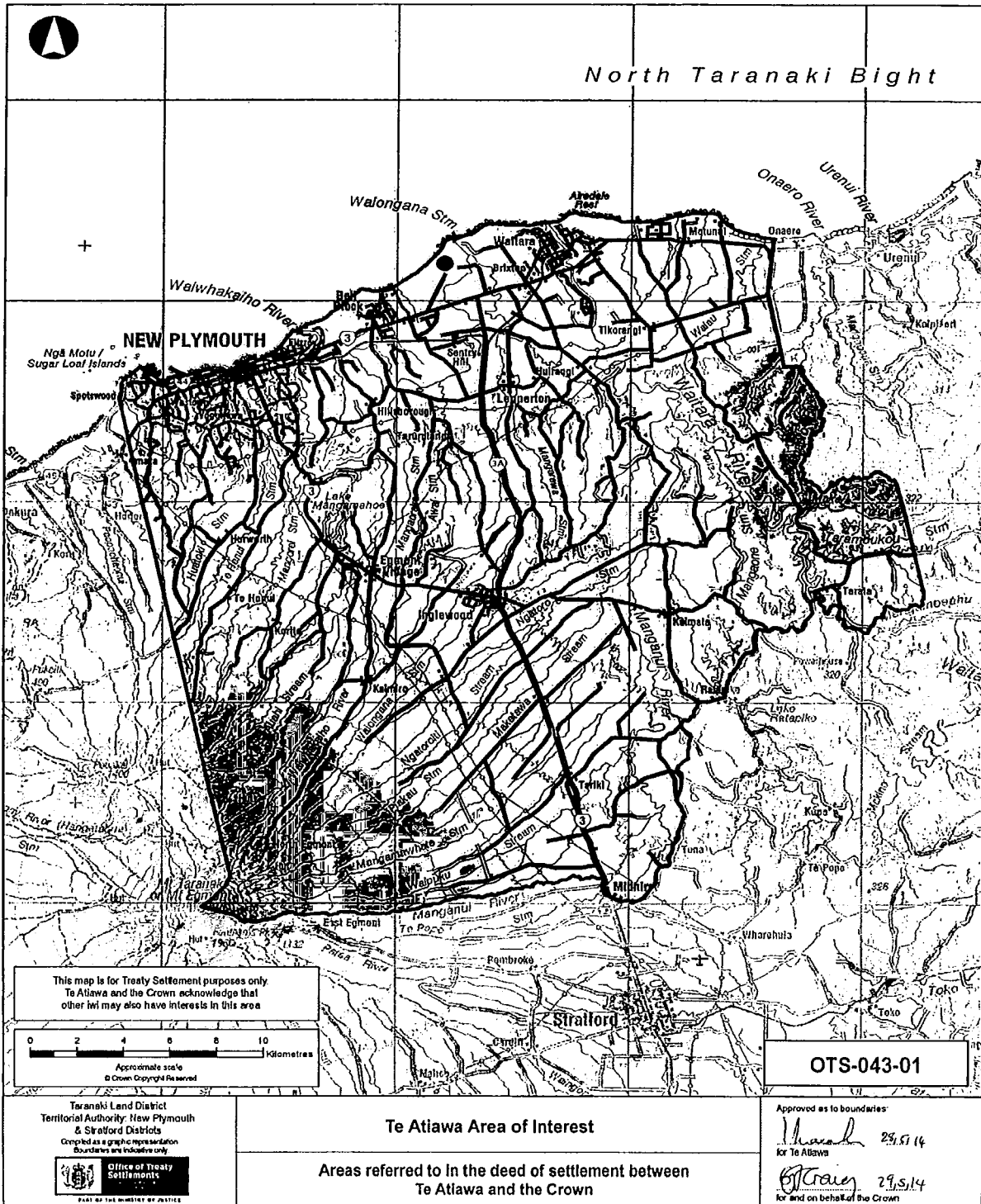
SIGNED for and on behalf of the
Te Kotahitanga o Te Atiawa Trust

[insert name and position]

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IN RELATION TO PETROLEUM AND MINERALS

Schedule 1: Te Atiawa Area of Interest



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6.2 RELATIONSHIP AGREEMENT WITH THE MINISTRY FOR THE ENVIRONMENT

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6.2: RELATIONSHIP AGREEMENT WITH THE MINISTRY FOR THE ENVIRONMENT

RELATIONSHIP AGREEMENT BETWEEN THE MINISTRY FOR THE ENVIRONMENT
AND TE ATIAWA

1. PURPOSE

- 1.1 This agreement (the "**Relationship Agreement**") formalises the relationship between the Ministry for the Environment (the "**Ministry**") and the Te Atiawa post-settlement governance entity (the "**Governance Entity**") and establishes a framework to enable the parties to maintain a positive and enduring working relationship.

2. RELATIONSHIP PRINCIPLES

- 2.1 In implementing the Relationship Agreement, the Secretary for the Environment (the "**Secretary**") and the Governance Entity agree to act consistently with the following relationship principles:

- a work consistently with Te Tiriti o Waitangi/the Treaty of Waitangi and its principles (refer section 8);
- b operate a 'no surprises' approach;
- c work in a spirit of co-operation;
- d acknowledge that the relationship is evolving, not prescribed;
- e respect the independence of the parties and their individual mandates, roles and responsibilities; and
- f recognise and acknowledge that the parties benefit from working together by sharing their vision, knowledge and expertise.

3. SCOPE

- 3.1 The Relationship Agreement applies to all functions, powers, responsibilities and actions of the Secretary for the Environment that are exercised in relation to managing the use, development and protection of natural and physical resources within, or that affect, the Te Atiawa Area of Interest as defined in the Te Atiawa Deed of Settlement.
- 3.2 The Relationship Agreement does not extend to the Secretary's role in appointing officials and statutory officers, and their roles and responsibilities.

4. COMMUNICATION

- 4.1 The Ministry will seek to establish and maintain effective and efficient communication with the Governance Entity on a continuing basis through:
- a relationship meetings held in accordance with clause 5;
 - b maintaining information on the Governance Entity's office holders, their addresses and contact details;
 - c providing a primary Ministry contact for the Governance Entity who will act as a liaison person with other Ministry staff;

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- d providing reasonable opportunities for the Governance Entity to meet with senior Ministry staff to discuss and (if possible) resolve any issues that may arise; and
- e informing relevant Ministry staff of the contents of this relationship agreement and their responsibilities and roles under it.

5. RELATIONSHIP MEETINGS

5.1 The parties agree that senior representatives of the Governance Entity and the Ministry will participate in a biennial relationship meeting.

5.2 Before each meeting under clause 5.1, representatives of the Governance Entity and the Ministry will agree administrative arrangements for the meeting.

5.3 The agenda for each meeting will be agreed between the parties no later than ten working days before the meeting. Standard agenda items could include:

- a any legislative or policy developments of interest to Te Atiawa, including but not limited to reform of the Resource Management Act 1991 ("RMA"), freshwater issues, climate change, the Emissions Trading Scheme, exclusive economic zone issues, and development of new resource management tools (in particular, national policy statements and national environmental standards);
- b a discussion on the management of the Waitara River and its catchment, including Te Atiawa exercise of kaitiakitanga and their participation in resource and freshwater management planning processes;
- c local authority performance in the Te Atiawa Area of Interest in implementing Te Tiriti o Waitangi / the Treaty of Waitangi provisions in the RMA consistent with clause 7 below; and
- d any other matters of mutual interest.

5.4 Each party will meet the costs and expenses of its representatives attending relationship meetings.

5.5 The first relationship meeting will take place within 3 months of a written request by the Governance Entity.

6. BIENNIAL REGIONAL FORA

6.1 The Ministry will establish a biennial regional forum in the Taranaki region to enable Te Atiawa [Governance Entity] and the mandated representatives of the other iwi of the Taranaki region to meet the Minister for the Environment (subject to the Minister's availability) and a Deputy Secretary from the Ministry.

6.2 The purpose of the biennial regional forum will be to discuss environmental issues affecting the region, including the development of any new policy and legislation. To facilitate that purpose, the Ministry will coordinate invitations to senior representatives of other government agencies with an interest in natural resources to attend the biennial regional forum where relevant, or where Te Atiawa [Governance Entity] so requests.

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- 6.3 The timing of the biennial regional forum and annual relationship meeting referred to in the relationship agreement will be coordinated to fall on consecutive days insofar as is reasonably practicable.
- 6.4 Prior to the Biennial Regional Forum, the Ministry will seek input from the trustees of the Te Kotahitanga o Te Atiawa Trust and the mandated representatives of the other iwi of the Taranaki region on the following:
- a. potential dates for the Regional Forum;
 - b. agenda items; and
 - c. other invitees (for example, other agencies or local authorities) to all or part of the Forum.
- 6.5 The state and management of the Waitara and Waiwhakaiho Rivers and their catchments will be a standing item on the agenda for the Biennial Regional Forum.

7. WAITARA RIVER MANAGEMENT

8. Should Te Atiawa wish to develop an iwi management plan in relation to the Waitara River and rohe, the Ministry for the Environment will support its development through providing advice, information and review upon request.
9. Support provided by the Ministry will be technical in nature, and does not include financial support.

10. LOCAL GOVERNMENT PERFORMANCE

- 10.1 The Minister for the Environment (the "**Minister**") has the function of monitoring the effect and implementation of the RMA (refer section 24). The Minister also has the power to require local authorities (and others) to supply information about the exercise of their functions, powers, or duties (refer section 27).
- 10.2 The way in which these functions and powers are exercised varies from time to time. At the date of execution of the Relationship Agreement, the Ministry, on behalf of the Minister, surveys all New Zealand local authorities every two years about their processes under the RMA. The survey includes questions relating to Maori participation.
- 10.3 The Ministry also separately collects information on environmental outcomes through state of the environment monitoring.
- 10.4 Before each relationship meeting held under clause 5, the Ministry will provide the Governance Entity with:
- a the most recent published information from any such survey; and
 - b details of any current or completed state of the environment monitoring;
- as it relates to the Te Atiawa Area of Interest and, subject to any constraints on information sharing, including under the Official Information Act 1982 ("**OIA**") and Privacy Act 1993.

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- 10.5 The Ministry will also receive and consider any further information or comment that the Governance Entity would like to make on the effect and implementation of the RMA, including local government performance.

11. OFFICIAL INFORMATION

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

12. AMENDMENT

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

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7. TAUMATA EASEMENT

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TE ATIWA DEED OF SETTLEMENT:
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7. TAUMATA EASEMENT

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

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

Land registration district

--

Grantor

[INSERT DETAILS OF TRUSTEES OF TE KOTAHITANGA O TE ATIWA TRUST]

Grantee

HER MAJESTY THE QUEEN in Right of New Zealand acting by and through the Minister for Arts, Culture and Heritage

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

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

Dated this day of 20

Attestation

See annexure schedule	Signed in my presence by the Grantor

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

See annexure schedule	Signed in my presence by the Grantee

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

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

[Solicitor for] the Grantee

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7. TAUMATA EASEMENT

ANNEXURE SCHEDULE 1

Schedule A

Continue in additional Annexure Schedule, if required

Purpose (Nature and extent) of easement; <i>profit</i> or covenant	Shown (plan reference)	Servient Tenement (Computer Register)	Dominant Tenement (Computer Register) or in gross
Right to locate, access and maintain monuments		[INSERT COMPUTER FREEHOLD REGISTER FOLLOWING SUBDIVISION] (formerly Road to be closed and part Lot 2 DP 2485)]	In gross

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

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** by the provisions set out in Annexure Schedule 2.

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



7. TAUMATA EASEMENT

Annexure Schedule 2

Page 1 of 5 Pages

Insert instrument type

Easement Instrument

BACKGROUND

- A. The Grantor is pursuant to [INSERT LEGISLATIVE AUTHORITY] the registered proprietor of that land contained in computer freehold register [INSERT CFR DETAILS].
- B. The parties acknowledge that there are monuments and graves located on the Servient Land which are owned and maintained by the Grantee.
- C. The Grantee wishes to enter upon and cross the Servient Land for the purpose of accessing and maintaining the graves and monuments located on the Servient Land and up keeping the land in the immediate vicinity.
- D. The Grantor has agreed to allow the Grantee to access the Servient Land for these purposes on the terms and conditions set out in this Easement.

EASEMENT TERMS AND CONDITIONS

1. DEFINITIONS AND CONSTRUCTION

1.1 DEFINITIONS

In this Easement, unless the context otherwise requires:

Grantee also includes the licensees, lessees, employees, agents, contractors, successors and assigns of the Grantee;

Grantor also includes the other registered proprietors from time to time of the Servient Land;

Servient Land means the land described in Background A and Schedule 1, and includes any part thereof;

1.2 CONSTRUCTION

- (a) In the construction of this Easement unless the context otherwise requires:
- (b) the headings and sub-headings appear as a matter of convenience and shall not affect the construction of this Easement;
- (c) references to clauses and the Schedule are to the clauses and the Schedule of this Easement;
- (d) references to any statute, regulation or other statutory instrument or bylaw shall be deemed to be references to the statute, regulation, instrument or bylaw as from time to time amended and includes substituted provisions that substantially correspond to those referred to; and

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

7. TAUMATA EASEMENT

Annexure Schedule 2

Page 2 of 5 Pages

Insert instrument type

Easement Instrument

- (e) the singular includes the plural and vice versa, and words importing any gender include the other genders.

2. GRANT OF ACCESS RIGHTS / RIGHT TO LOCATE AND ACCESS GRAVES AND MONUMENTS

2.1 Together with the rights and powers set out in schedule four of the land transfer regulations 2002 except to the extent that they are modified, varied or negated by the terms and conditions set out in this easement, and subject always to clause 3.5, the grantor grants to the grantee as an easement in gross in perpetuity the following rights:

- (a) the right to locate the graves and monuments on the Servient Land;
- (b) the right to enter those parts of the Servient Land as are reasonable on foot or with or without vehicles, plant and equipment at any time, for the purposes of allowing the Grantee to exercise the rights granted under this Easement, including inspecting, maintaining, removing, repairing, upgrading, and replacing the graves and monuments and associated fencing, and maintaining that part of the Servient Land immediately surrounding the graves and monuments; and
- (c) the right to carry out earthworks or cut down, pull out, dig up, use, remove or otherwise dispose of or trim any vegetation on the Servient Land which in the Grantee's reasonable opinion may impede or obstruct the monuments or graves or cause any damage or danger to persons or property.

2.2 In consideration of the grantor agreeing to enter into this easement the grantee shall duly observe the obligations imposed on it under this easement.

3. OBLIGATIONS OF THE GRANTEE

3.1 The rights and powers conferred under clause 2 of this easement are granted subject to the following conditions and obligations.

3.2 The grantee shall when passing or repassing over the servient land:

- (a) cause as little damage or disturbance as possible to the Servient Land and will complete all works on the Servient Land promptly and in a proper workmanlike manner and shall at its cost restore the surface of the Servient Land as nearly as reasonably possible to the condition it was in, prior to the Grantee's exercise of its rights under this Easement;
- (b) ensure that it does not obstruct or hamper the Grantor in its normal or reasonable use of the Servient Land;

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- (c) wherever possible, remain on the roads and tracks constructed on the Servient Land and when on those roads or tracks comply with all traffic laws and regulations as are applicable to public roads;
 - (d) leave any gates on the Servient Land as they were found, and will, at the Grantor's request, issue keys and padlocks (to be inserted into the chains in a manner that allows the gates to be unlocked and relocked) for use by the Grantee; and
 - (e) take all reasonable and proper precautions for guarding against any danger (including, but without limitation, fire, physical damage, disease or the spread of noxious weeds and pests) on the Servient Land, and in particular shall (but without limiting the general obligation to take reasonable and proper precautions pursuant to this clause 3.2(e)):
 - (i) comply strictly with all reasonable conditions that may be imposed from time to time by the Grantor or other lawful authority; and
 - (ii) not use or operate any vehicle or machinery unless it is provided with safe and sufficient means of preventing the escape of sparks or flames.
- 3.3 The grantee will ensure, at all times in the exercise of the rights set out in this easement, that its agents, employees or contractors will not obstruct or hamper the grantor or its agents, employees and contractors, in its or their normal or reasonable use of the servient land.
- 3.4 The grantee shall not, without the prior written approval of the grantor, carry or discharge any firearm, missile or other offensive weapon, or kill or trap any animals or birds, over or on the servient land, nor shall the grantee authorise such carrying, discharging, killing, or trapping without the prior written approval of the grantor.
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- 3.5 The grantee shall comply at all times with all statutes and regulations, and obtain all approvals, consents and authorisations as are necessary for the grantee to conduct the activities permitted by this easement, including without limitation [insert legislative authority].
- 4. GRANTOR NOT TO INTERFERE WITH GRANTEE'S RIGHTS**
- 4.1 The grantor shall not at any time, do or permit or suffer to be done any act whereby the rights granted under this easement may be interfered with.
- 4.2 The grantor further acknowledges and agrees that ownership of the graves and monuments located on the servient land shall at no time vest in the grantor.

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5. COSTS

The Grantee shall be liable to the Grantor for actual and reasonable costs and expenses, including reasonable legal costs, incurred by the Grantor arising from the enforcement of any provision in this Easement.

6. DELEGATION

All rights, benefits, and obligations of a party to this Easement arising under this Easement may be exercised by a person duly appointed by that party **PROVIDED THAT** the exercise of any such rights, benefits, or obligations by that duly appointed person shall not limit the liability of either party in the performance or observance of the provisions of this Easement.

7. NOTICES

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

(a) the Grantor's address:

Te Kotahitanga o Te Atiawa Trust
101A Fulford Street
New Plymouth 4310

(b) the Grantee's address:

Ministry for Arts, Culture and Heritage
PO Box 5364
Wellington 6145

Facsimile: +64-4-499-4490

7.2 Any notice posted shall be deemed to be served three (3) working days after the date of posting.

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8. SEVERABILITY

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

9. DISPUTES RESOLUTION

9.1 Should any dispute arise between the parties touching any matter relating to this easement then:

- (a) any dispute will be defined by written notice by the party raising it to the other and will immediately be discussed (on a 'without prejudice' basis) by the parties in an attempt to resolve their differences amicably, including, with the agreement of both parties, the discussion extending to a mediation discussion in the presence of an experienced mediator (who will be agreed between the parties or, failing agreement, a mediator appointed by the President for the time being of the New Zealand Law Society);
- (b) if such discussion or mediation between the parties fails to produce any agreement, within 14 days of receipt by the other party of the written notice, the matter in dispute will be referred to arbitration in accordance with the Arbitration Act 1996;
- (c) the arbitration will be commenced by either party giving to the other notice in writing stating the subject matter and details of the difference and that party's desire to have the matter referred to arbitration; and
- (d) the arbitration will be by one arbitrator to be agreed by the parties and, failing agreement, as appointed by the then President of the New Zealand Law Society or its successor. The award in the arbitration will be final and binding on the parties.

10. ASSIGNMENT

10.1 The grantee may grant and/or assign the rights and obligations under this easement subject to the assignee entering into a deed of covenant with the grantor agreeing to be bound by the terms of this easement. From the date of assignment, the grantee shall cease to have any liability whatsoever in respect of this easement and the grantor agrees to release the grantee from all obligations under this easement from that date. This release will not prejudice or affect the rights of the grantor against the grantee regarding any breach of the grantee's obligations in this easement occurring before the date of release.

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