
Parties

HER MAJESTY THE QUEEN

in right of New Zealand

and

TE RUNANGA O NGAI TAHU

**DEED OF 'ON ACCOUNT'
SETTLEMENT**

14 June 1996

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DEED OF 'ON ACCOUNT' SETTLEMENT

THIS DEED is made on the 14th day of June 1996

BETWEEN

- (1) HER MAJESTY THE QUEEN in right of New Zealand acting by the Minister in Charge of Treaty Negotiations
- (2) TE RUNANGA O NGAI TAHU

BACKGROUND

- A Ngai Tahu has made claims against the Crown under the Treaty of Waitangi Act 1975, and those claims have been the subject of two reports of the Waitangi Tribunal, the 1991 *Ngai Tahu Report* and the 1995 *Ancillary Claims Report*.
- B Since 1991 there have been a number of attempts by Ngai Tahu and the Crown to reach a negotiated settlement of Ngai Tahu's claims and to remove the sense of grievance felt by Ngai Tahu.
- C Ngai Tahu and the Crown now wish to recommence negotiations towards a comprehensive settlement of all claims made by or on behalf of Ngai Tahu or hapu, whanau or individuals within the Ngai Tahu Whanui against the Crown pursuant to the Treaty of Waitangi Act 1975.
- D Under section 15 of the Act, Te Runanga is recognised for all purposes as the representative of Ngai Tahu.
- E As a result of discussions between Ngai Tahu and the Crown, the parties have agreed to negotiate in good faith to achieve a settlement of all Ngai Tahu's Historical Treaty Claims and Ngai Tahu has agreed to an indefinite adjournment of certain litigation relating to the claims to allow those negotiations to take place.
- F As a sign of good faith and a demonstration of the Crown's goodwill, and in recognition of the long process of negotiation which has already taken place between the parties, the Crown has agreed to renew and modify the offer it made to Ngai Tahu in 1994 to provide certain redress to Ngai Tahu on an 'on account' basis, and Ngai Tahu has accepted that modified offer.
- G This Deed records the agreed terms on which the Crown will provide certain redress to Ngai Tahu on an 'on account' basis.



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ACCORDINGLY the Crown and Te Runanga agree as follows:

1 DEFINITIONS AND INTERPRETATION

In this Deed, unless the context requires otherwise:

Act means the Te Runanga o Ngai Tahu Act 1996;

Crown means Her Majesty the Queen in right of New Zealand;

Ngai Tahu means the Ngai Tahu Whanui as defined in section 2 of the Act;

Ngai Tahu's Historical Treaty Claims means the claims described in *Recital C*;

Ngai Tahu Pounamu means the Crown's current rights to the Pounamu referred to in *clause 3.2*, which, (subject to *clause 5.7*) are to be vested in Te Runanga upon the coming into force of the legislation referred to in *clause 3*;

Pounamu means bowenite and nephrite and also includes serpentine in the Serpentine Zones;

Serpentine Zones means the three areas identified on the map which appears as *Appendix 1*;

Takiwa of Ngai Tahu Whanui means the area identified as the Takiwa of Ngai Tahu Whanui in section 5 of the Act;

Te Runanga means Te Runanga o Ngai Tahu, established under section 6 of the Act;

Territorial Sea has the meaning given to it in section 3 of the Territorial Sea and Exclusive Economic Zone Act 1977;

Trust means the trust to be established by WDC and Te Runanga as described in *clause 4.2*;

Tutaepatu Lagoon means 49.2357 hectares in the Waimakariri District, Canterbury Land District, being Rural Section 40464, Wildlife Management Reserve, New Zealand Gazette 1976, page 423, S.O. 13696;

WDC means Waimakariri District Council.



2 'ON ACCOUNT' PAYMENT BY CROWN

The Crown agrees that it will pay to Te Runanga on the date of execution of this Deed the sum of \$10,000,000 on account of the redress to be provided by the Crown to Ngai Tahu in respect of Ngai Tahu's Historical Treaty Claims. Such payment will be made subject to the terms of clause 5.

3 POUNAMU

3.1 The Crown agrees that it will propose for the consideration of Parliament as soon as reasonably practical after the date of this Deed and, in any event, not later than the end of the current Parliamentary session legislation which will provide for:

3.1.1 a definition of "Pounamu" in the same form as appears in clause 1; and

3.1.2 the vesting in Te Runanga of the Crown's current rights to Pounamu in the Takiwa of Ngai Tahu Whanui and in the Territorial Sea adjoining the coastal boundaries of the Takiwa of Ngai Tahu Whanui such vesting to be by way of gift from the Crown. Te Runanga acknowledges the Crown's current rights do not include privately-owned Pounamu in land held under Victorian title; and

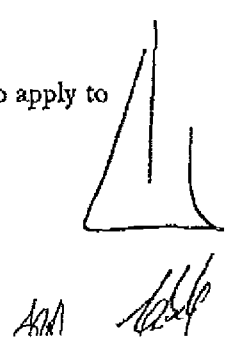
3.1.3 the continuation of all current licences relating to the Ngai Tahu Pounamu until they expire, notwithstanding the vesting of the Ngai Tahu Pounamu in Te Runanga; and

3.1.4 the payment by the Crown to Te Runanga of any royalties received by the Crown in respect of any such continuing licences together with the GST on those royalties received by the Crown; and

3.1.5 the Crown to continue to manage all continuing licences relating to the Ngai Tahu Pounamu until they expire and to continue to collect and retain licence fees from the holders of those continuing licences; and

3.1.6 a regime for access to land in which the Ngai Tahu Pounamu is situated in the same manner as is provided for in the Crown Minerals Act 1991 for persons holding a permit in respect of a mineral under that Act, unless such an access regime (or one substantially the same as it) has already been provided for in other legislation; and

3.1.7 all other legislation relating to the taking of minerals to continue to apply to the taking of the Ngai Tahu Pounamu.



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3.2 Te Runanga agrees that, immediately after the legislation referred to in *clause 3.1* is passed it will take all steps necessary to discontinue the High Court proceedings, *Ngai Tahu Maori Trust Board v Attorney-General* (Wellington Registry CP 236/94).

3.3 The parties agree that the areas identified in the map which appears as *Appendix 1* are approximate only, and that these will be identified more precisely in the legislation referred to in *clause 3.1*.

4 TUTAEPATU

4.1 The Crown agrees that it will:

4.1.1 propose for the consideration of Parliament as soon as reasonably practical after Parliament resumes sitting in 1997 but in any event not later than 30 June 1997 legislation which will:

4.1.1.1 revoke from its present classification as a Government Purpose (Wildlife Management) Reserve the Tutaepatu Lagoon; and

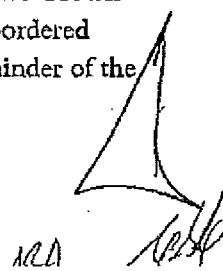
4.1.1.2 provide for the vesting of the Tutaepatu Lagoon in Te Runanga in fee simple free of any existing encumbrance, subject only to a public walkway under the New Zealand Walkways Act 1990 over the south-eastern corner of the lagoon and exempted from the marginal strip requirements of Part IVA of the Conservation Act 1987, such vesting to be by way of a gift from the Crown; and

4.1.1.3 provide for the revocation of the existing reserves and for the declaration, classification and vesting of a new recreation reserve conditional on the fulfilment of the conditions set out in *clause 4.2*; and

4.1.1.4 enable the inclusion in the management plan for the new reserve referred to in *clause 4.2* of the Tutaepatu Lagoon.

4.1.2 gift to Te Runanga \$250,000 to be used by Te Runanga for the purpose of restoring the ecology of the Tutaepatu lagoon wetlands, such sum to be paid to Te Runanga on the same date as the payment made under *clause 2*.

4.2 Subject to the enactment of the legislation referred to in *clause 4.1.1.3* the Crown will declare and classify a new recreation reserve comprising the areas bordered with bold black lines on the plan attached as *Appendix 2*, with the remainder of the



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Waikuku Beach recreation reserve to remain under the control of the WDC. The establishment of the reserve under the legislation proposed in *clause 4.1.1.3* will be subject to:

- 4.2.1 the establishment of a trust to be established by WDC and Te Runanga and to be called Te Kohaka o Tuhaitara Trust; and
 - 4.2.2 agreement between WDC and Te Runanga on the boundaries of the proposed reserve to be administered by the Trust; and
 - 4.2.3 the terms of the deed creating the Trust complying with the statutory requirements for trusts administering reserve lands.
- 4.3 On the creation of the Trust and its compliance with *clause 4.2.3* the Crown will gift to the Trust \$50,000 for the purpose of contributing to the cost of preparation of a management plan for the new reserve and the lagoon and wetlands pursuant to section 41 of the Reserves Act 1977, such sum to be paid to the Trust within 28 days after the conditions specified in this *clause 4.2* have been satisfied. The management plan will specify the manner in which the gift of \$250,000 will be used for the restoration of the lagoon.
- 4.4 The parties acknowledge that the precise boundaries of the new reserve referred to in *clause 4.2* will need to be determined by a survey of the proposed area, to be paid for by the Crown, and that the plan attached as *Appendix 2* is not a survey plan and shows approximate areas only.
- 4.5 The parties record that:
- 4.5.1 in 1993 the North Canterbury Conservation Board and the North Canterbury Fish and Game Council were consulted on proposals to:
 - 4.5.1.1 jointly vest the Woodend Conservation area in the WDC and Ngai Tahu; and
 - 4.5.1.2 to vest in fee simple in Ngai Tahu the Tutaeapatu lagoon wildlife management reserve, freed from its public reserve and wildlife refuge status; and
 - 4.5.2 the North Canterbury Conservation Board carried out a public consultation on the proposals; and

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4.5.3 as a result of the consultation the North Canterbury Conservation Board supported the overall proposals.

- 4.6 Te Runanga confirms that it intends that the future management of the Tutacapatu Lagoon will be undertaken in accordance with the objectives set out in *Appendix 3* or objectives substantially similar to them.

5 CONDITIONS OF 'ON ACCOUNT' SETTLEMENT

The Crown and Te Runanga agree and acknowledge that:

- 5.1 the obligations of the Crown under *clauses 2, 3 and 4* are not contingent on the parties reaching agreement on a comprehensive settlement of the Ngai Tahu's Claims; but
- 5.2 the provision of redress under *clause 2* is made as an 'on account' advance of the redress to be provided by the Crown in relation to the Ngai Tahu's Historical Treaty Claims; and
- 5.3 the amount of any redress which the Crown becomes obliged to provide to Te Runanga or to Ngai Tahu to discharge the Crown's obligations in respect of any of Ngai Tahu's Historical Treaty Claims will be adjusted to reflect the amount of redress provided under *clause 2*; and
- 5.4 the Crown may produce this Deed to any Court or tribunal considering the quantum of any redress to be provided by the Crown in relation to any of Ngai Tahu's Historical Treaty Claims in order to give effect to *clause 5.3*; and
- 5.5 the parties' entry into this Deed and the terms of this Deed are not intended to bind the parties in respect of any matters not expressly dealt with in this Deed, including the definition of the scope of any final settlement or the definition of the claims settled by any such final settlement; and
- 5.6 this Deed is entered into by the Crown as a sign of good faith by the Crown and a demonstration of the Crown's goodwill, and in the expectation that both parties will negotiate in good faith towards a comprehensive settlement of Ngai Tahu's claims and will use reasonable endeavours to remove any obstacles to such good faith negotiations proceeding; and
- 5.7 the provision by the Crown of the redress referred to in *clause 3* and *clause 4.1.1* is conditional upon the passing of the legislation referred to in those


SBA [Signature]

clauses respectively. Te Runanga's nominated advisers will be consulted on the form of the drafting instructions to Parliamentary Counsel to prepare the Bill or Bills to be introduced. The final form of the Bill or Bills will be determined by Cabinet.

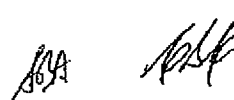
6 MANDATE

By its execution of this Deed, Te Runanga confirms that Te Runanga is acting as the representative of Ngai Tahu in entering into this Deed and in recommending negotiations with the Crown towards a comprehensive settlement of all Ngai Tahu's Historical Treaty Claims. By its execution of this Deed, Te Runanga also confirms that the Ngai Tahu Negotiating Group has been given a mandate to undertake those negotiations on behalf of Te Runanga.

7 GOODS AND SERVICES TAX

The amounts payable by the Crown to Te Runanga under *clause 2* and *clause 4.1.2* and the amount payable to the Trust under *clause 4.3* are intended by the parties to be received by Te Runanga and the Trust without any obligation for Te Runanga or the Trust to account to the Inland Revenue Department for any GST. If a GST liability exists or arises, it is intended by the parties that no net detriment or benefit should result to Te Runanga, the Trust, or the Crown. To this end the parties agree the following and agree that the payment to the Trust under *clause 4.2.3* will be subject to its agreement to the following:

- 7.1 if the payment of the amount referred to in *clause 2* to Te Runanga or the Trust (or the payment of any indemnity payment made under this clause) results in Te Runanga or the Trust being required to account for output tax as provided by the Goods and Services Tax 1985, the Crown will indemnify Te Runanga or the Trust against that GST liability and, on the day on which Te Runanga or the Trust accounts to the Inland Revenue Department for such output tax, the Crown must (subject to *clause 7.2*) pay to Te Runanga or the Trust, as the case may be, the amount of such GST liability and any GST paid on that payment;
- 7.2 if, for whatever reason, Te Runanga or the Trust obtains a refund or credit in respect of any output tax for which an indemnity payment is made by the Crown to Te Runanga or the Trust under *clause 7.1*, or in respect of any supply on which GST was not chargeable then, on the day following the day on which the refund or credit arises, Te Runanga or the Trust, as the case may be, must pay to the Crown an amount equating to the refund or credit



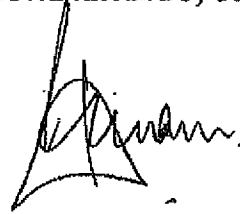
together with any interest payable by the Commissioner of Inland Revenue on that refund or credit.

8 COUNTERPART EXECUTION

This Deed may be executed in two counterparts. Once a counterpart has been executed by a party (and a copy of that counterpart has been sent by facsimile transmission to the other party) that counterpart will be deemed to be as valid and binding on the party who executed it as if it had been executed by both parties.

EXECUTED as a Deed on 14 June 1996

SIGNED for and on behalf of
HER MAJESTY THE QUEEN in right
of New Zealand by the Minister in Charge
of Treaty of Waitangi Negotiations,
DOUGLAS ARTHUR MONTROSE
GRAHAM in the presence of)




D.A.M. Graham

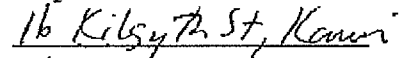
Witness:



Signature



Occupation



Address

SIGNED for and on behalf of
NGAI TAHU by TE RUNANGA O
NGAI TAHU)

THE COMMON SEAL of
TE RUNANGA O NGAI TAHU
was affixed to this document
in the presence of)







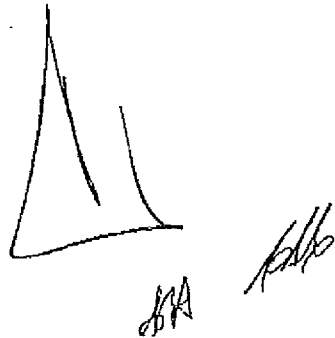
Runanga Representative

Secretary

APPENDIX 1

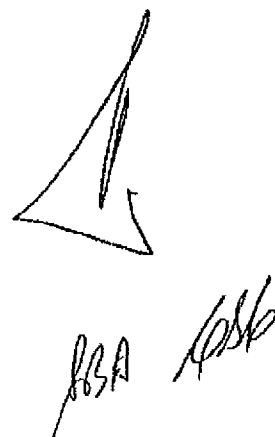
Maps identifying Serpentine Zones
(Clause 1, Definition of Serpentine Zones)

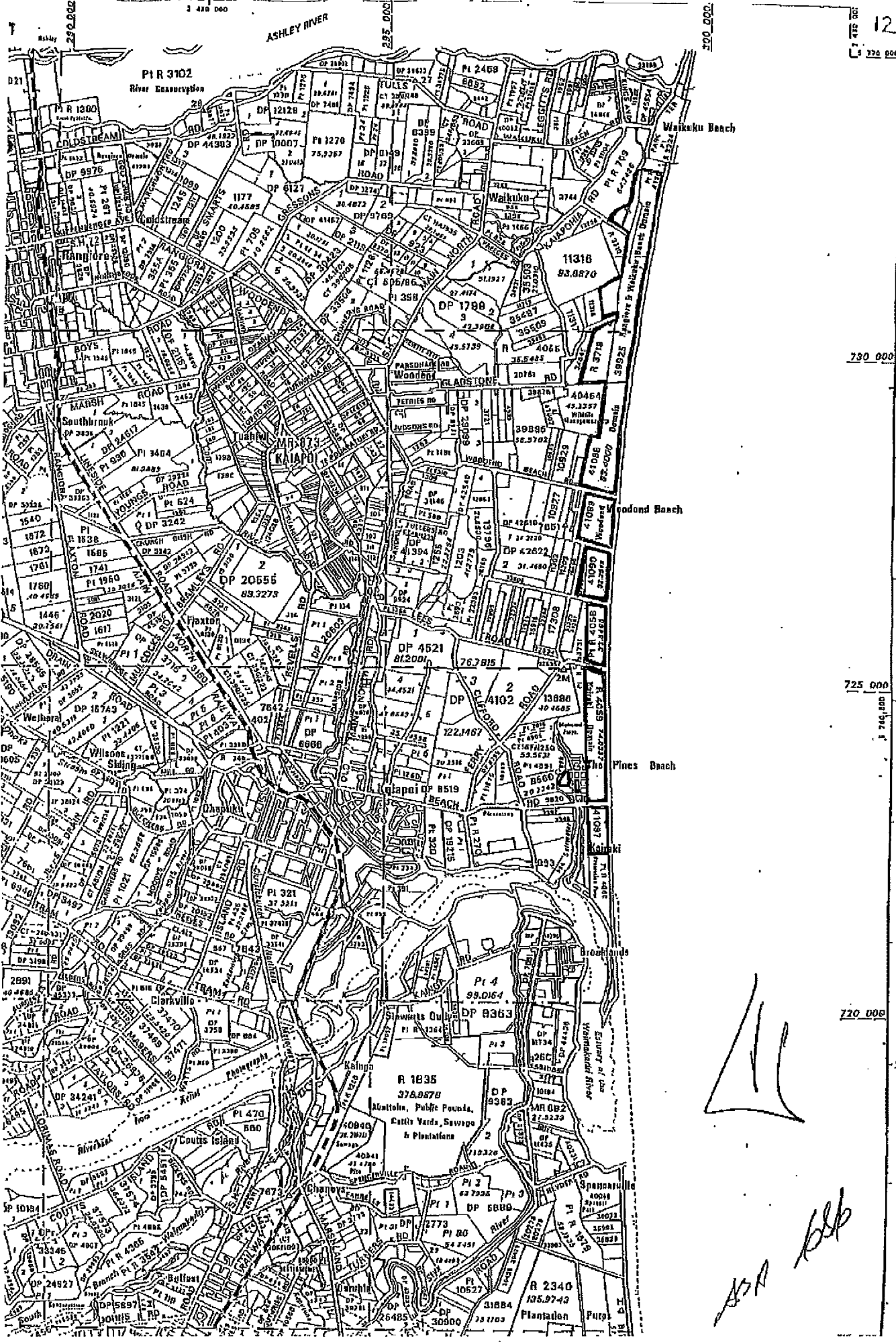
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APPENDIX 2

Plan of Tutaepatu
(Clause 4)

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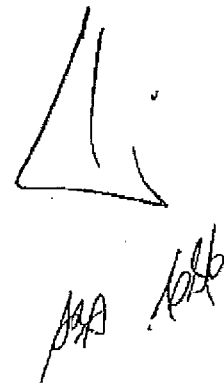
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APPENDIX 3

Proposal for the Future Management of the Tutaepatu Lagoon
(Clause 4.6)

- 1 The Lagoon/wetlands will be included in the management plan for the new reserve. The Lagoon/wetlands will be appropriately restored and maintained for the benefit of present and future generations.
- 2 Appropriate public access to the Lagoon/wetlands will be allowed except for those times when, after notification in the local newspaper, a rahui is applied.
- 3 Scientific research and observation of the flora and fauna will be actively encouraged by Te Runanga, with a particular emphasis on Ngai Tahu's philosophy of sustainable management.
- 4 The North Canterbury Fish and Game Council will have the opportunity to contribute its expertise.
- 5 There will be no harvesting or taking or killing of native and introduced birds or their eggs in a manner which would be inconsistent with the role of the Lagoon in the management and maintenance of waterfowl and other birds in North Canterbury. Dogs will be prohibited.

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