

NGĀTI APA KI TE RĀ TŌ

and

NGĀTI APA KI TE RĀ TŌ TRUST

and

THE CROWN

DEED OF SETTLEMENT SCHEDULE:

DOCUMENTS

TABLE OF CONTENTS

1. OVERLAY CLASSIFICATIONS	3
1.1 OVERLAY CLASSIFICATION CREATED OVER ALPINE TARNs, NELSON LAKES NATIONAL PARK	4
1.2 OVERLAY CLASSIFICATION CREATED OVER LAKES ROTOITI AND ROTOROA, NELSON LAKES NATIONAL PARK	7
1.3 OVERLAY CLASSIFICATION CREATED OVER THE HEAPHY TRACK (NORTHERN PORTION)	11
2. STATEMENTS OF ASSOCIATION	14
2.1 STATEMENT OF COASTAL VALUES	27
3. DEEDS OF RECOGNITION	30
4. PROTOCOLS	43
4.1 CONSERVATION PROTOCOL	44
4.2 FISHERIES PROTOCOL	62
4.3 TAONGA TŪTURU PROTOCOL	74
4.4 MINERALS PROTOCOL	85
5. ENCUMBRANCES	94
5.1 LEASES FOR LEASEBACK PROPERTIES - NELSON COURTHOUSE	95
5.2 LEASEBACK PROPERTIES WITH THE MINISTRY OF EDUCATION AS THE LAND HOLDING AGENCY	118

1. OVERLAY CLASSIFICATIONS

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

**1.1 OVERLAY CLASSIFICATION CREATED OVER ALPINE TARN,
NELSON LAKES NATIONAL PARK**

Clause 5.7.1(a)

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

**1.1: OVERLAY CLASSIFICATION CREATED OVER ALPINE TARN,
NELSON LAKES NATIONAL PARK**

1. DESCRIPTION OF AREA

1.1 Alpine Tarns, Nelson Lakes National Park, as shown on OTS-099-28 comprising:

- (a) Rotomairewhenua / Blue Lake;
- (b) Rotopōhueroa / Lake Constance;
- (c) Rotomaninitua / Lake Angelus;
- (d) Paratītahi Tarns; and
- (e) Paraumu Tarn.

2. PREAMBLE

2.1 Pursuant to section 54 of the draft settlement bill (clause 5.7.2 of the deed of settlement), the Crown acknowledges the statement by the Ngāti Apa ki te Rā Tō Trust of their cultural, spiritual, historic and/or traditional values relating to the Alpine Tarns as set out below.

3. NGĀTI APA VALUES

3.1 Ngāti Apa's relationship with its whenua and wai is integral to its identity as a people. The alpine tarns and lakes located within the Nelson Lakes National Park symbolise for Ngāti Apa people the intense nature of their relationship to their environment, and the mauri or life force that is contained in all parts of the natural environment and binds the spiritual and physical world.

3.2 The tarns and lakes were discovered and named by Ngāti Apa tupuna. They reflect the importance and purity of water as a taonga that helps link past, present and future generations; in doing so they provide a path to the hereafter. For Ngāti Apa these tarns and lakes are also markers on a series of interwoven trails discovered and used by Ngāti Apa over many centuries as they travelled from one part of their rohe to another. Ngāti Apa tupuna were steeped in knowledge of whakapapa, traditional trails and taonga, and placed great importance on the tapu nature of these tarns and lakes and their role in signifying, asserting and sustaining Ngāti Apa identity.

3.3 The four small tarns of Paratītahi and the larger tarn Paraumu were important means of demonstrating identity, authority and mana within Ngāti Apa communities and contributing to social organisation and stability within the iwi. Young ariki were traditionally taken to these tarns in summer months, where they would be ritually cleansed in the waters before being presented to their people.

3.4 For Ngāti Apa, traditions and stories such as these reinforce tribal identity and solidarity as well as denoting the continuity that exists across generations of Ngāti Apa. These traditions record places and events that have shaped Ngāti Apa as an iwi over many generations.

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

**1.1: OVERLAY CLASSIFICATION CREATED OVER ALPINE TARNS,
NELSON LAKES NATIONAL PARK**

4. PROTECTION PRINCIPLES

4.1 The following Protection Principles are directed at the Minister of Conservation avoiding harm to, or the diminishing of, the Ngāti Apa values related to the Alpine Tarns:

- (a) respect for their wāhi tapu nature and for the wider environment of the Alpine Tarns;
- (b) accurate portrayal of the association of Ngāti Apa with the Alpine Tarns; and
- (c) encouragement of recognition and respect for Ngāti Apa's particular association with the Alpine Tarns.

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

5.1 Pursuant to clause 5.7.7 of the deed of settlement, the Director-General 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 and volunteers will be provided with information in regards to the cultural importance of the Alpine Tarns to Ngāti Apa;
- (b) Ngāti Apa will be consulted regarding the provision of any Department of Conservation public information regarding the Alpine Tarns and where appropriate the content will reflect their significant relationships with these lakes;
- (c) The Department of Conservation will ensure that their management of the lakes and the rivers and streams which flow into the Alpine Tarns maintains, or where possible enhances, the ecological health of the tarns;
- (d) When undertaking any activities on the Alpine Tarns Department of Conservation staff and volunteers will respect their wāhi tapu nature; and
- (e) The Department of Conservation will advise Ngāti Apa, and where possible protect, anything discovered on the Alpine Tarns that could be considered culturally sensitive and/or a taonga.

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

**1.2 OVERLAY CLASSIFICATION CREATED OVER LAKES ROTOITI AND ROTOROA,
NELSON LAKES NATIONAL PARK**

Clause 5.7.1(b)

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

**1.2: OVERLAY CLASSIFICATION CREATED OVER LAKES ROTOITI AND ROTOROA,
NELSON LAKES NATIONAL PARK**

1. DESCRIPTION OF AREA

- 1.1 Lakes Rotoiti and Rotoroa, Nelson Lakes National Park, as shown on OTS-099-31.

2. PREAMBLE

- 2.1 Pursuant to section 54 of the draft settlement bill (clause 5.7.2 of the deed of settlement), the Crown acknowledges the statement by the Ngāti Apa ki te Rā Tō Trust of their cultural, spiritual, historic and/or traditional values relating to Lakes Rotoiti and Rotoroa as set out below.

3. NGĀTI APA VALUES

- 3.1 Ngāti Apa's relationship with its whenua and wai is integral to its identity as a people. Lake Rotoiti ('Small Waters') and Lake Rotoroa ('Large Waters') symbolise for Ngāti Apa people the intense nature of their relationship to their environment and the mauri or life force that is contained in all parts of the natural environment and binds the spiritual and physical world.
- 3.2 Ngāti Apa trace their connections to the lakes from their ancestor Kupe. According to Ngāti Apa tradition, Lakes Rotoiti and Rotoroa are the eye-sockets of the great wheke (octopus) Maturangi. In the ancestral homeland the wheke was in the habit of interfering with fishing expeditions undertaken by Kupe's people and by some accounts had been responsible for the death of Kupe's relatives.
- 3.3 Kupe set out in his waka Matahourua to destroy the wheke, and pursued it all the way to Aotearoa, where he killed it at the entrance to Tory Channel with a fierce downward blow of his spear or paddle (paoa) and took out its eyes. Arapaoa Island takes its name from this incident, and Te Taonui (Cape Jackson) represents Kupe's weapon. At certain times of the year red water flows through Tory Channel. According to tradition this represents the blood of the wheke. The eyes of the wheke are Nga-Whatu-kai-ponu (the Brothers Islands).
- 3.4 The lakes are the source of five important waterways: the Kawatiri, Motueka, Motupiko, Waiau-toa and Awatere rivers. The resources of the lakes and environs were used by Ngāti Tumatakokiri tupuna, and later by Ngāti Apa when they established themselves in Te Tau Ihu.
- 3.5 The lakes also formed the central terminus or hub of a series of well-known and well-used tracks ('the footprints of the tupuna') linking Kurahaupō communities in the Wairau, Waiau-toa (Clarence River), Kaituna, Whakatu, Tasman Bay, Mohua (Golden Bay) and the Kawatiri district.
- 3.6 While the lakes formed a geographical link with the wider Te Tau Ihu district, shared whakapapa within Kurahaupō iwi guaranteed the maintenance of wider Kurahaupō rights and access.
- 3.7 The lakes area was a rich source of mahinga kai, including birds (kiwi, South Island kokako, piopio and bush wren and blue ducks), kiore, eels, inanga, fern root and the root of the ti tree, and berries of the miro, tawa, kahikatea and totara. A shrub called neinei is only found in the lakes area. This was (and remains) highly valued by Ngāti Apa and was used to make korowai.

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

**1.2: OVERLAY CLASSIFICATION CREATED OVER LAKES ROTOITI AND ROTOROA,
NELSON LAKES NATIONAL PARK**

3.8 The region was used as a refuge for Ngāti Apa after the northern invasions, and formed a secure base for warriors who continued to defend their rohe, particularly in the Whakatu area (a short distance from the lakes) along a well known trail. Extensive and well-established fern gardens on the north facing slopes above Lake Rotoroa were cleared by burning and planted by Ngāti Apa people after the invasions. The gardens were described by European visitors to the region in the 1840s, and are still visible today. Ngāti Apa also constructed huts of unique design here, both for seasonal and more permanent shelter.

3.9 A Ngāti Apa pepeha relating to the lakes illustrates their connection with the area and Kehu:

*Ko Kehu te maunga
ko Kawatiri te awa
ko Rotoroa me Rotoiti nga roto
ko Ngāti Apa ki te Rā Tō te iwi
ko Kehu te tangata.*

4. PROTECTION PRINCIPLES

4.1 The following Protection Principles are directed at the Minister of Conservation avoiding harm to, or the diminishing of Ngāti Apa values related to Lakes Rotoiti and Rotoroa within the Nelson Lakes National Park:

- (a) Protection of and respect for wāhi tapu, indigenous flora and fauna and the wider environment at Lakes Rotoiti and Rotoroa;
- (b) Recognition of the mana, kaitiakitanga and tikanga of Ngāti Apa at Lakes Rotoiti and Rotoroa;
- (c) Respect for Ngāti Apa tikanga at Lakes Rotoiti and Rotoroa;
- (d) Recognition and respect for Ngāti Apa's particular association with Lakes Rotoiti Rotoroa;
- (e) Accurate portrayal of Ngāti Apa associations with Lakes Rotoiti and Rotoroa; and
- (f) Recognition of Ngāti Apa's significant spiritual and physical relationship with Lakes Rotoiti and Rotoroa.

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

5.1 Pursuant to clause 5.7.7 of the deed of settlement, the Director-General 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 and volunteers will be provided with information in regards to the cultural importance of Lakes Rotoiti and Rotoroa to Ngāti Apa;
- (b) Ngāti Apa will be consulted regarding the provision of all new Department of Conservation public information regarding Lakes Rotoiti and Rotoroa and where appropriate the content will reflect their significant relationships with these lakes;

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

**1.2: OVERLAY CLASSIFICATION CREATED OVER LAKES ROTOITI AND ROTOROA,
NELSON LAKES NATIONAL PARK**

- (c) The Department of Conservation will ensure that their management of the lakes and the rivers and streams which flow into Lakes Rotoiti and Rotoroa maintains, or where possible enhances, the ecological health of the lakes;
- (d) The Department of Conservation's work programme will include measures to monitor the health of, and where necessary take steps to protect, the indigenous flora and fauna of the lakes; and
- (e) The Department acknowledges the recognition of Ngāti Apa's customary use of eels from the lakes under clause 5.30 of the Deed of Settlement.

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

**1.3 OVERLAY CLASSIFICATION CREATED OVER THE HEAPHY TRACK
(NORTHERN PORTION)**

Clause 5.7.1(c)

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

**1.3: OVERLAY CLASSIFICATION CREATED OVER THE HEAPHY TRACK
(NORTHERN PORTION)**

1. DESCRIPTION OF AREA

- 1.1 Heaphy Track (northern portion), as shown on OTS-099-67.

2. PREAMBLE

- 2.1 Pursuant to section 54 of the draft settlement bill (clause 5.7.2 of the deed of settlement), the Crown acknowledges the statement by the Ngāti Apa ki te Rā Tō Trust of their cultural, spiritual, historic and/or traditional values relating to the Heaphy Track as set out below.

3. NGĀTI APA VALUES

- 3.1 Ngāti Apa's relationship with its whenua and wai is integral to its identity as a people. Kehu's (Heaphy) Track symbolises for Ngāti Apa people the intense nature of their relationship to their environment, and the mauri or life force that is contained in all parts of the natural environment and binds the spiritual and physical world.
- 3.2 Ngāti Apa have an unbroken historical, traditional and spiritual association with Kehu's Track stretching back several hundred years to the time of their Ngāti Tumatakokiri tupuna who first discovered and utilised this route.
- 3.3 For centuries Ngāti Apa have been born and raised at or near the track. They have lived, hunted, fished and gathered the natural resources of the region, trod the tracks, built pā and kainga, and received tribal lore and traditions handed down by their elders, and in turn have passed on to their children the mauri of the whenua, the moana and the awa. They have buried their dead, composed waiata and pepeha about the area, and named the landscape. Their links with what is now known as the Heaphy are particularly strong, and are associated with their tupuna Kehu.
- 3.4 Occupation areas were set up and maintained by Ngāti Apa around important mahinga kai areas in the region of Kehu's track, including estuaries and the coastline. Pahi (seasonal and temporary camps) were also set up in inland areas for hunting, gardening and food gathering.
- 3.5 Ngāti Apa's knowledge and use of the track was exemplified by Kehu (also known as Hone Mokehakeha, or Mokekehu). Kehu was a Ngāti Tumatakokiri / Ngāti Apa tohunga and kaitiaki of the inland trails and the natural resources of the region.
- 3.6 Kehu's track formed an extremely important and well-used highway which connected far-flung Ngāti Apa settlements in Te Tai Aorere, Mohua, Te Tai Tapu and the Kawatiri area. The manner in which the track connected settlements across their vast rohe made it the 'backbone' of Ngāti Apa, and was central to maintaining the unity, mauri and integrity of the tribe. Ngāti Apa tupuna also used the track to gain access to limestone caves used as urupā, which remain tapu today.
- 3.7 Land and waterways along the trail were a rich source of mahinga kai such as upokorokoro (grayling or native trout), as well as inanga, kokopu and eels; and birds such as kereru, kiwi, kakapo, weka, korimako (bellbird) and koko (tui). There were also extensive Ngāti Apa cultivations associated within various micro-climates of the track. These were planted and grown on a seasonal basis and used to sustain travelling parties year round.

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

**1.3: OVERLAY CLASSIFICATION CREATED OVER THE HEAPHY TRACK
(NORTHERN PORTION)**

- 3.8 'Prefabricated' huts, of a type and design specific to Ngāti Apa, were strategically placed along the trail for the accommodation of travellers.
- 3.9 All these values and relationships remain important to Ngāti Apa today.

4. PROTECTION PRINCIPLES

- 4.1 The following protection principles are directed at the Minister of Conservation avoiding harm to, or the diminishing of Ngāti Apa values related to the Heaphy Track:
- (a) Protection of wāhi tapu, indigenous flora and fauna and the wider environment of the Heaphy Track;
 - (b) Recognition of the distinct Ngāti Apa mana, kaitiakitanga and tikanga within the Heaphy Track;
 - (c) Respect for the distinct Ngāti Apa tikanga and kaitiakitanga within the Heaphy Track;
 - (d) Encouragement of recognition and respect for Ngāti Apa's particular association with the Heaphy Track;
 - (e) Accurate portrayal of the separate and distinct association and kaitiakitanga relationship of Ngāti Apa with the Heaphy Track; and
 - (f) Respect for and recognition of the distinct relationship of Ngāti Apa with the wāhi tapu and wahi whakahirahira.

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

- 5.1 Pursuant to clause 5.7.7 of the deed of settlement, the Director-General 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 (including local landowners) will be provided with information about Ngāti Apa's values related to the Heaphy Track and will be encouraged to respect Ngāti Apa's separate and distinct association with the Heaphy Track;
 - (b) Ngāti Apa will be consulted regarding the provision of all new Department of Conservation public information or educational material related to the Heaphy Track;
 - (c) Ngāti Apa's separate and distinct association with the Heaphy Track will be accurately portrayed in all new DOC Information and educational material related to the Heaphy Track.
 - (d) Any kōiwi (human remains) or other taonga found or uncovered by the Department of Conservation within the overlay classification area will be left untouched and Ngāti Apa informed as soon as possible to enable the Iwi/Hapū with a recognised relationship to the kōiwi or taonga to deal with the kōiwi or taonga in accordance with their tikanga, subject to any procedures required by law.

2. STATEMENTS OF ASSOCIATION

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

2: STATEMENTS OF ASSOCIATION

The settling group's statements of association are set out below. These are statements of the settling group's particular cultural, spiritual, historical, and traditional association with identified areas.

2: STATEMENTS OF ASSOCIATION

LAKE ROTOITI AND LAKE ROTOROA, NELSON LAKES NATIONAL PARK

Ngāti Apa's relationship with its whenua and wai is integral to its identity as a people. Lake Rotoiti ('Small Waters') and Lake Rotoroa ('Large Waters') symbolise for Ngāti Apa people the intense nature of their relationship to their environment, and the mauri or life force that is contained in all parts of the natural environment and binds the spiritual and physical world.

Ngāti Apa trace their connections to the lakes from their ancestor Kupe. According to Ngāti Apa tradition Lakes Rotoiti and Rotoroa are the eye-sockets of the great wheke (octopus) Muturangi. In the ancestral homeland the wheke was in the habit of interfering with fishing expeditions undertaken by Kupe's people, and by some accounts had been responsible for the death of Kupe's relatives.

Kupe set out in his waka Matahourua to destroy the wheke, and pursued it all the way to Aotearoa, where he killed it at the entrance to Tory Channel with a fierce downward blow of his spear or paddle (paoa) and took out its eyes. Arapaoa Island takes its name from this incident, and Te Taonui (Cape Jackson) represents Kupe's weapon. At certain times of the year red water flows through Tory Channel. According to tradition this represents the blood of the wheke. The eyes of the wheke are Nga-Whatu-kai-ponu (the Brothers Islands).

The lakes are the source of five important waterways: the Kawatiri, Motueka, Motupiko, Waiau-toa and Awatere rivers. The resources of the lakes and environs were used by Ngāti Tumatakokiri tupuna, and later by Ngāti Apa when they established themselves in Te Tau Ihu.

The lakes also formed the central terminus or hub of a series of well-known and well-used tracks ('the footprints of the tupuna') linking Kurahaupō communities in the Wairau, Waiau-toa (Clarence River), Kaituna, Whakatu, Tasman Bay, Mohua (Golden Bay) and the Kawatiri district.

While the lakes formed a geographical link with the wider Te Tau Ihu district, shared whakapapa within Kurahaupō iwi guaranteed the maintenance of wider Kurahaupō rights and access.

The lakes area was a rich source of mahinga kai, including birds (kiwi, South Island kokako, piopio and bush wren and blue ducks), kiore, eels, inanga, fern root and the root of the ti tree, and berries of the miro, tawa, kahikatea and totara. A shrub called neinei is only found in the lakes area. This was (and remains) highly valued by Ngāti Apa and was used to make korowai.

The region was used as a refuge for Ngāti Apa after the northern invasions, and formed a secure base for warriors who continued to defend their rohe, particularly in the Whakatu area a short distance from the lakes along a well known trail. Extensive and well-established fern gardens on the north facing slopes above Lake Rotoroa were cleared by burning and planted by Ngāti Apa people after the invasions. The gardens were described by European visitors to the region in the 1840s, and are still visible today. Ngāti Apa also constructed huts of unique design here, both for seasonal and more permanent shelter.

A Ngāti Apa pepeha relating to the lakes illustrates their connection with the area and with Kehu:

*Ko Kehu te maunga
ko Kawatiri te awa
ko Rotoroa me Rotoiti nga roto
ko Ngāti Apa ki te Rā Tō te iwi
ko Kehu te tangata.*

2: STATEMENTS OF ASSOCIATION

TE OPE-A-KUPE (TE ANAMĀHANGA / PORT GORE)

Ngāti Apa's relationship with its whenua and wai is integral to its identity as a people. Te Ope-a-Kupe symbolises for Ngāti Apa people the intense nature of their relationship to their environment, and the mauri or life force that is contained in all parts of the natural environment and binds the spiritual and physical world.

Te Anamāhanga ('The Twin Bays') was one of the two tentacles of the Wheke Mutarangi, the great octopus killed by Kupe. The other was Te Anatohia (East Bay).¹ Te Anamāhanga lies in the shadow of two significant maunga, which were also used as navigation aids. They are Puhikereru, named after a Kurahaupō tupuna, and Parororangi, ('Stormy Sky') who was named after a place in Hawaiki. Parororangi was (and is) an important weather indicator.

Te Ope-a-Kupe was and is a tauranga waka (landing place) used by generations of Ngāti Apa. Kupe landed here in his waka, Te Matahourua. Indentations on rocks were formed by Kupe's footprints and he named the place Te Ope-a-Kupe ('The Footprints of Kupe'). Other Ngāti Apa migrations led by tupuna such as Te Kahawai, Te Ahuru and Kotuku all used Te Ope-a-Kupe and resided in Te Anamāhanga. Ngāti Apa have been kaitiaki of this very tapu place from that time until the present day. Karaka trees at Te Anamāhanga are known to Ngāti Apa as Te Karaka o Kupe, because the famous navigator is believed to have introduced them. Because of the associations with Kupe this iconic area remains central to the identity of Ngāti Apa.

Te Anamāhanga was one of the first places in Te Tau Ihu occupied by Ngāti Apa, and they have lived there continuously since the fourteenth century. It contains pā sites, cultivations, kainga and urupā. The wāhi tapu and other spiritual sites are still important to Ngāti Apa today

MT FURNEAUX (PUHIKERERU)

Ngāti Apa's relationship with its whenua and wai is integral to its identity as a people. Puhikereru is a sacred maunga for Ngāti Apa people, a symbol of the intense nature of their relationship to their environment, the mauri or life force that is contained in all parts of the natural environment and that binds the spiritual and physical world.

Puhikereru overlooks Te Anamāhanga (Port Gore). Its name ('plume of the pigeon') evokes the kereru that were found here, the appearance of the clouds as they come over the maunga, and also recalls a tupuna particularly associated with this place.

The maunga is also of great significance to Ngāti Apa because of its association with Kupe. When Kupe came to Aotearoa he brought two birds with him named Rupe and Kawau-a-toru. The task of these birds was, among other things, to seek out the fruits of the forest and determine currents. When Kupe settled at Rimurapa (Sinclair Head, on the northern shores of Cook Strait or Raukawakawa Moana) his birds flew to Te Wai Pounamu and alighted on Puhikereru. Rupe joined the local pigeons in feasting on the abundant forest food of the maunga and its environs, and never returned to Kupe.

Ngāti Apa tupuna had considerable knowledge of the best places to gather kai, and tikanga for the proper and sustainable utilisation of resources. Puhikereru was also an important mahinga kai for Ngāti Apa residing at Anamāhanga and elsewhere. It was a place where kereru could be found in abundance, feeding on karaka, miro and other berries.

¹ Use of the prefix 'Ana' is typical of Kurahaupō nomenclature and is common, particularly in the Sounds/Te Hoiere area.

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

2: STATEMENTS OF ASSOCIATION

All these values remain important to Ngāti Apa today.

KOHI TE WAI (BOULDER BANK SCENIC RESERVE)

Ngāti Apa's relationship with its whenua and wai is integral to its identity as a people. Kohi te Wai symbolises for Ngāti Apa people the intense nature of their relationship to their environment, and the mauri or life force that is contained in all parts of the natural environment and binds the spiritual and physical world.

Kohi te Wai was a Ngāti Apa pā (called 'Skoī-Tehai' by Dumont D'Urville when he observed it in 1827), kainga, cultivation area, urupā and important fishing station located near Whakatu (Nelson) on the landward end of Te Taero a Kereopa (The Boulder Bank).

Kohi te Wai is associated with Kupe. Two of his crew wished to stay in Te Waipounamu, and accompanied by two women, stole a canoe and set off. Kupe pursued them, but they recited karakia which caused the rocks which now form Kohi te Wai to fall from the cliffs at what is now known as Glenduan. This created a barrier and allowed them to escape Kupe's wrath.

Ngāti Apa tupuna had considerable knowledge of places for gathering kai and other taonga, ways in which to use the resources of the moana and tikanga for the proper and sustainable utilisation of resources. All these values remain important to Ngāti Apa today.

Ngāti Apa inhabitants of Kohi te Wai would observe a nearby maunga (Hororoiangi) to assess pending sea conditions. When bad weather threatened, the peak became enveloped in cloud and sea travel was suspended. Later Kohi te Wai was the site of a battle and later abandoned. The ruins of the pā were observed by James Mackay in 1845.

All these values remain important to Ngāti Apa today.

KAITERITERI SCENIC RESERVE

Ngāti Apa's relationship with its whenua and wai is integral to its identity as a people. Kaiteriteri symbolises for Ngāti Apa people the intense nature of their relationship to their environment, and the mauri or life force that is contained in all parts of the natural environment and binds the spiritual and physical world.

Kaiteriteri lies at the centre of what was for several generations a large and intensive Ngāti Apa occupation and cultivation complex. This complex occupied a 10km stretch of coastline, including the current Kaiteriteri scenic reserve. It included up to eight pā, as well as associated kainga, urupā, cultivations, mahinga kai areas and fishing stations.

Some of the more notable Ngāti Apa pā at Kaiteriteri were Kaka Island/Point, Puketawai (located on Anawera Point just south of Kaiteriteri Beach on the headland separating Tapu Bay and Stephens Bay) and Mangatawai. At Mangatawai, Ngāti Apa tupuna Te Rangihiroa and Koroneho Titi were captured after a battle with northern iwi. Komakorau, the son of Te Rato was killed by a northern taua at Puketawai. Te Rato was one of the Ngāti Apa rangatira who met Captain Cook in the Queen Charlotte Sound.

The cliffs at Ana-waka-u contained burial caves, and a stream called Wai atau, running beside the cliffs, was a tauranga waka for Ngāti Apa. A Ngāti Apa urupā is located on the small islet at the northern end of the main Kaiteriteri beach.

Ngāti Apa tupuna had considerable knowledge of the best places at Kaiteriteri to gather kai and other taonga, as well as ways to use the resources of the moana, and tikanga for the

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

2: STATEMENTS OF ASSOCIATION

proper and sustainable utilisation of resources. For Ngāti Apa, Kaiteriteri was and remains an important fishing area (mahinga mataitai).

All these values remain important to Ngāti Apa today.

TARAKAIPA ISLAND

Ngāti Apa's relationship with its whenua and wai is integral to its identity as a people. Tarakaipa symbolises for Ngāti Apa people the intense nature of their relationship to their environment, and the mauri or life force that is contained in all parts of the natural environment and binds the spiritual and physical world.

Tarakaipa is one of the largest islands in Tennyson Inlet. It was named after the Ngāti Apa tupuna Tarakaipa, a great-grandson of Tamahau and son of Rawaru. Tarakaipa was an important rangatira who was among the leaders of an early migration to Te Tau Ihu. He arrived in Te Tau Ihu on the sacred waka Te Awatea, built from a hull of the Kurahaupō waka. Tarakaipa is also the name of a hapū of Ngāti Apa.

Ngāti Apa tupuna had considerable knowledge of places for gathering kai and other taonga, ways in which to use the resources of the moana and tikanga for the proper and sustainable utilisation of resources. Tarakaipa was an important fishing area (mahinga mataitai) for Ngāti Apa, providing access to important moki and elephant fish breeding grounds.

The island contained a pā and kainga/fishing station complex associated with these activities. It still contains a number of urupā and other spiritual sites which are connected to Ngāti Apa people.

All these values are still important to Ngāti Apa today.

FAREWELL SPIT

Ngāti Apa's relationship with its whenua and wai is integral to its identity as a people. Te One Tahua symbolises for Ngāti Apa people the intense nature of their relationship to their environment, the mauri or life force that is contained in all parts of the natural environment and binds the spiritual and physical world.

Te One Tahua (the Sandy Bank) was the name given to this area by Ngāti Apa tupuna. Ngāti Apa have an unbroken historical, traditional and spiritual association with Te One Tahua stretching back several hundred years.

Ngāti Apa occupied the coastline and inland area south of Te One Tahua for centuries. Ngāti Apa believe that the spirits of their deceased ancestors travelled from the mountains up the coastline to Te One Tahua on their journey to Hawaiki. Due to the spiritual nature and significance of Te One Tahua to Ngāti Apa, specific tikanga and kawa were observed to enable safe travel or resource collection.

Ngāti Apa tupuna had considerable knowledge of places for gathering kai and other taonga, ways in which to use the resources of the moana, and tikanga for the proper and sustainable utilisation of resources. Te One Tahua was an important fishing area (mahinga mataitai), giving access to tuatua and cockles. Occupation areas and tauranga waka were set up and maintained around the landward end of Te One Tahua.

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

2: STATEMENTS OF ASSOCIATION

The descendants of the original Ngāti Apa occupiers of the land still possess strong spiritual links with the area and continue to regard the coastal waters of Te Tai Tapu and Golden Bay as one of their most important kai moana and resource areas.

THE BROTHERS

Ngāti Apa's relationship with its whenua and wai is integral to its identity as a people. The Brothers Islands are a symbol for Ngāti Apa people of the intense nature of their relationship to their environment, and the mauri or life force that is contained in all parts of the natural environment and binds the spiritual and physical world.

The Brothers are known to Ngāti Apa as Nga Whatu-kai-pono ('The Eyes That Stand as Witness to the Deeds of Kupe'). For Ngāti Apa the islands have always been a tapu place. They are the eyeballs of Maturangi, the wheke (octopus) slain by Kupe, which he cast into the ocean after killing it. The eye sockets of the wheke are Lake Rotoiti and Lake Rototora.

The tapu associated with the islands required travellers to recite karakia when crossing Raukawakawa Moana (Cook Strait), and only the descendants of Kupe, persons of high mana or tohunga could look at the islands. If they were gazed upon by anyone else a misfortune would occur. In order to avoid mishap the eyes of travellers of lesser mana were bound with kawakawa leaves. This is the source of the name Raukawakawa Moana.

BIG RIVER SITE (TE TAI TAPU), WESTHAVEN (TE TAI TAPU) MARINE RESERVE AND WESTHAVEN (WHANGANUI INLET) WILDLIFE MANAGEMENT RESERVE

Ngāti Apa's relationship with its whenua and wai is integral to its identity as a people. Te Tai Tapu ('The Sacred Tides') symbolises for Ngāti Apa people the intense nature of their relationship to their environment, and the mauri or life force that is contained in all parts of the natural environment and binds the spiritual and physical world.

Te Tai Tapu was the name given to this area by Ngāti Apa tupuna. Ngāti Apa have an unbroken historical, traditional and spiritual association with Te Tai Tapu stretching back several hundred years. For Ngāti Apa this area forms an interrelated iconic site which embodies their fundamental associations with Te Tai Tapu in both a physical and spiritual sense. For centuries Ngāti Apa have been born and raised at Te Tai Tapu. They have lived, hunted, fished and gathered the natural resources of the region, trod the tracks, built pā and kainga, received tribal lore and traditions handed down by their elders, and in turn have passed on to their children the mauri of the whenua, the moana and the awa. They have buried their dead, composed waiata and pepeha about the area, and named the landscape. Their links with what is now known as the Heaphy are particularly strong, and are associated with their tupuna Kehu.

Ngāti Apa intermarried with the people they found in western Te Tau Ihu (Ngāti Tumatakokiri) and continue to embody the traditions of their Tumatakokiri tupuna.

Occupation areas were set up and maintained by Ngāti Apa around important mahinga kai areas of Te Tai Tapu, such as the estuarine areas of Paturau, Whanganui and along the coastline. Pahi (seasonal and temporary camps) were also set up in inland areas for hunting, gardening and food gathering.

Pā sites, kainga, urupā and cultivation areas included Te Awaturoto and Taurangahioi at Whanganui Inlet. The renowned Ngāti Apa tupuna Te Kotuku was killed at Te Awaturoto, and his korowai named Te Rarawa was taken. The Tupuna Te Whio was also killed at Whanganui Inlet. The tupuna Paihora was killed at Taurangahioi. Other Ngāti Apa chiefs who resided in

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

2: STATEMENTS OF ASSOCIATION

the area were Matiaha Tumaunga, Aperahama Matimati, Heni Tumanga, Meihana Kereopa and his mother Kerenapu, and Wirihana Maui. Two pā (first occupied by Ngāti Tumatakokiri) were located at Puponga Point.

Ngāti Apa tupuna had considerable knowledge of places for gathering kai and other taonga, ways in which to use the resources of the moana and tikanga for the proper and sustainable utilisation of resources. This area was an important shark fishery and a source of quartzite used for the manufacture of tools. A major iron ore deposit at Parapara provided red ochre (kokowai) for local use and trade. Clay containing the necessary silicates was dried and ground, then mixed with fish or whale oil or a substance obtained from pitoko seeds to create ochre of high quality. Ochre was used as personal decoration and to decorate and protect waka and carvings. Nearby Parapara Inlet contained a pā, kainga and fishing station. Parapara was also home to the celebrated taniwha Kai Whakaruaki, who was ultimately destroyed by Ngāti Apa warriors assisted by other southern iwi.

Other pā sites were Puramahoi, Taupo Point and Pungarau-Whiti. Patuarau, at the mouth of the river of the same name, was another kainga, cultivation site and fishing station. Another pā site was located at Toropuhi, south of Big Bay. Weka was the chief of this place at the time of the northern invasions.

Ngāti Apa people continued to occupy Te Tai Tapu until title was determined by 1883. Ngāti Apa rangatira Meihana Kereopa stated that his ancestors had lived at Te Tai Tapu. He claimed 'through ancestry and claimed the whole'. Ngāti Apa people continued to harvest food and other resources from Te Tai Tapu.

The descendants of the original Ngāti Apa occupiers of the land still possess strong spiritual links with the area and continue to regard the coastal waters of Te Tai Patu and Golden Bay as one of their most important kai moana and resource areas.

Ngāti Apa believe that the spirits of their deceased ancestors travel along the coastline and mountains of Te Tai Tapu to Te One Tahua (Farewell Spit) on their journey to Hawaiki.

WAIMEA, WAI-ITI, AND WAIROA RIVERS AND THEIR TRIBUTARIES

Ngāti Apa's relationship with its whenua and wai is integral to its identity as a people. The Waimea River is a symbol for Ngāti Apa people of the intense nature of their relationship to their environment, the mauri or life force that is contained in all parts of the natural environment and that binds the spiritual and physical world.

Ngāti Apa tupuna had considerable knowledge of places for gathering kai and other taonga, and ways in which to use the resources of the awa and tikanga in a proper and sustainable way. Ngāti Apa valued Te Waimea as an important source of mahinga kai. Its pure water was abundant in fish such as mako and patiki in the estuarine waters at the mouth of the river, as well as kokopu, inanga, kahawai, kekewai and koura, and a rich source of birds such as kaka, kereru and koko (bellbird). The river environs were also a good source of flax, and clay used in the process of drying the flax came from the river near the inland foothills of the ranges.

The Waimea River also formed a water source for the renowned Waimea gardens, located at the mouth of the Waimea River adjacent to a pā and kainga complex. Smaller 'satellite' pā were located elsewhere on the banks of the river and at the junction of the Wairoa and Wai-iti rivers. This was a site of great significance to Ngāti Apa and the other Kurahaupō iwi. Around 1,000 acres of cultivation located near the river mouth represent generations of sustained effort by the tupuna. The cultivation land was built up with ash (to provide potash and lime), gravel and fine sand and silt to raise soil temperatures. This is sometimes referred to as

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

2: STATEMENTS OF ASSOCIATION

'Maori soil'. It was highly suitable for kumara production. The modified soil remains darker and more productive than surrounding soil to this day. Huge pits nearby reveal the source of gravel. The extent of these gardens and the effort involved in creating them indicates that the area was once occupied by a substantial population.

Early chiefs of this place were Te Hapuku and Te Pipiha. The latter was killed here during the northern invasions. Other tupuna associated with Waimea were Titiko and Whakatapihi. After the northern invasions many tupuna from the pā moved to another pā in what later became known as Budes Bush, in the Wairoa River Valley on the north slope of Mount Heslington.

Ngāti Apa were among those who continued to cultivate and occupy the land until at least the mid-1840s, when produce grown in the extensive gardens was traded with the Nelson settlers at a market in the town at Matangi Awhio. Waimea was a residence of the tupuna Meihana Kereopa at this time.

ANATORI RIVER AND ITS TRIBUTARIES

Ngāti Apa's relationship with its whenua and wai is integral to its identity as a people. The Anatori River was named by Ngāti Apa tupuna and is a symbol for Ngāti Apa people of the intense nature of their relationship to their environment, and the mauri or life force that is contained in all parts of the natural environment and binds the spiritual and physical world.

The Anatori River trail linked with other major routes (including what is now known as the Heaphy Track) and the Aorere River. A series of kainga and cultivations were to be found along its lower reaches, including Te Awaturoto and Taurangahioi at Whanganui Inlet.

Ngāti Apa tupuna had considerable knowledge of places for gathering kai and other taonga, ways in which to use the resources of the awa and tikanga in a proper and sustainable way. Ngāti Apa valued Te Anatori as an important source of mahinga kai. Its pure water was abundant in fish such as kokopu, inanga, kahawai, kekewai and koura, and birds such as kereru, torea, koko (tui), korimako (bellbird) and toreapongo.

MOTUPIKO RIVER AND ITS TRIBUTARIES

Ngāti Apa's relationship with its whenua and wai is integral to its identity as a people. The Motupiko River was named by Ngāti Apa tupuna and is a symbol for Ngāti Apa people of the intense nature of their relationship to their environment, and the mauri or life force that is contained in all parts of the natural environment and binds the spiritual and physical world.

An ancient trail follows the course of the Motupiko and Motueka Rivers from Mangatawhai, or 'The Place of Many Trails' (Tophouse, near the Nelson Lakes). This formed the main track linking Golden Bay and Tasman Bay with the Wairau and Kawatiri districts.

Ngāti Apa tupuna had considerable knowledge of places for gathering kai and other taonga, ways in which to use the resources of the awa and tikanga in a proper and sustainable way. Ngāti Apa valued Te Motupiko as an important source of mahinga kai. Its pure water was abundant in fish such as upokorokoro (grayling or native trout), as well as inanga, kokopu and eels; and birds such as kereru and koko (tui). Some of these species are now virtually extinct as a result of the effects of settlement, river diversion and pollution.

A series of Ngāti Apa pā, kainga, mahinga kai (especially birding areas) and cultivations are therefore associated with the Motupiko River and its environs. Many artefacts have been found where the Motupiko converges with the Motueka River.

2: STATEMENTS OF ASSOCIATION

BULLER (KAWATIRI) RIVER AND ITS TRIBUTARIES (NORTHERN PORTION)

Ngāti Apa's relationship with its whenua and wai is integral to its identity as a people. The Kawatiri is a symbol for Ngāti Apa people of the intense nature of their relationship to their environment, the mauri or life force that is contained in all parts of the natural environment and that binds the spiritual and physical world. The Kawatiri River and its associated settlement sites are of inestimable importance to Ngāti Apa in a physical and spiritual sense.

Ngāti Apa tupuna had considerable knowledge of places for gathering kai and other taonga, ways in which to use the resources of the awa and tikanga in a proper and sustainable way. Ngāti Apa valued the Kawatiri as an important source of mahinga kai. Its pure water was abundant in fish such as kokopu, eels, inanga, kahawai, kekewai and koura and was a rich source of birds such as kaka, kereru, kakapo, kiwi, kakapo and weka.

The Kawatiri River was part of a complex series of pathways and trails. A number of Ngāti Apa pā, cultivations, mahinga kai, and urupā were located on the river. The tupuna Takapau and Tamahau were born and died here. Takapau was kaitiaki of the gardens at Kawatiri, as stated: 'nona i whakamara nga mahinga kai o te hapū whanau o Ngāti Apa'. Pou-o-te-Rangi and Tureia, descendants of Takapau, lived and died at Kawatiri. Kawatiri place was also a residence of the tupuna Te Rato (also known as Te Kotuku - the White Heron), Te Whare Kiore (who was killed here during the northern invasions), Mahuika, and the high-born woman Mata Nohinohi. Mata Nohinohi was the mother of Kehu, the famous Ngāti Apa / Tumatakokiri guide and kaitiaki of the inland trails and Mahuika. The tupuna Puaha Te Rangi, a participant in the 1860 Arahura purchase, was another rangatira associated with Kawatiri. The tupuna Kuneoterangi is buried there.

A kainga on the river was re-occupied by Ngāti Apa after peace was established in the mid-1840s. Its leader was Mahuika, half brother of Kehu and son of Mata Nohinohi. Ngāti Apa were engaged at that time in trade with sealers who still frequented the coast.

TĀKAKA RIVER AND ITS TRIBUTARIES

Ngāti Apa's relationship with its whenua and wai is integral to its identity as a people. The Tākaka River was named by Ngāti Apa tupuna and is a symbol for Ngāti Apa people of the intense nature of their relationship to their environment, the mauri or life force that is contained in all parts of the natural environment and that binds the spiritual and physical world.

An ancient summer trail follows the course of the Tākaka River from the river mouth to Cobb Valley to the Wangapeka track. This linked the southern end of Golden Bay with West Coast and Kawatiri districts. The Cobb Valley limestone caves were used by Ngāti Apa tupuna as urupā and remain tapu today.

Ngāti Apa lived in a series of ka and kainga along the Tākaka. The tupuna had considerable knowledge of places for gathering kai and other taonga, ways in which to use the resources of the awa and tikanga in a proper and sustainable way. Ngāti Apa valued the Tākaka as an important source of mahinga kai. Its pure water was once abundant in fish such as upokorokoro (grayling or native trout), as well as inanga, kokopu and eels; and birds such as kereru, kiwi, kakapo, weka, korimako (bellbird) and koko (tui). There were also extensive Ngāti Apa cultivations associated with the river.

A series of Ngāti Apa pā, kainga and cultivations are therefore associated with the Tākaka River and its environs.

2: STATEMENTS OF ASSOCIATION

ALPINE TARNS, NELSON LAKES NATIONAL PARK

Ngāti Apa's relationship with its whenua and wai is integral to its identity as a people. The alpine tarns and lakes located within the Nelson Lakes National Park symbolise for Ngāti Apa people the intense nature of their relationship to their environment, and the mauri or life force that is contained in all parts of the natural environment and binds the spiritual and physical world.

The tarns and lakes were discovered and named by Ngāti Apa tupuna. They reflect the importance and purity of water as a taonga that helps link past, present and future generations; in doing so they provide a path to the hereafter. For Ngāti Apa these tarns and lakes are also markers on a series of interwoven trails discovered and used by Ngāti Apa over many centuries as they travelled from one part of their rohe to another. Ngāti Apa tupuna were steeped in knowledge of whakapapa, traditional trails and taonga, and placed great importance on the tapu nature of these tarns and lakes and their role in signifying, asserting and sustaining Ngāti Apa identity.

The four small tarns of Paratītahi and the larger tarn Paraumu were important means of demonstrating identity, authority and mana within Ngāti Apa communities and contributing to social organisation and stability within the iwi. Young ariki were traditionally taken to these tarns in summer months, where they would be ritually cleansed in the waters before being presented to their people.

For Ngāti Apa, traditions and stories such as these reinforce tribal identity and solidarity as well as denoting the continuity that exists across generations of Ngāti Apa. These traditions record places and events that have shaped Ngāti Apa as an iwi over many generations.

Rotomairewhenua / Blue Lake

Ngāti Apa's relationship with its whenua and wai is integral to its identity as a people. The alpine tarns and lakes located within the Nelson Lakes National Park symbolise for Ngāti Apa people the intense nature of their relationship to their environment, and the mauri or life force that is contained in all parts of the natural environment and binds the spiritual and physical world. The tarns and lakes were discovered and named by Ngāti Apa tupuna. They reflect the importance and purity of water as a taonga that helps link past, present and future generations; in doing so they provide a path to the hereafter. For Ngāti Apa these tarns and lakes are also markers on a series of interwoven trails discovered and used by Ngāti Apa over many centuries as they travelled from one part of their rohe to another. Ngāti Apa tupuna were steeped in knowledge of whakapapa, traditional trails and taonga, and placed great importance on the tapu nature of these tarns and lakes and their role in signifying, asserting and sustaining Ngāti Apa identity.

Rotomairewhenua or 'the lake of peaceful lands' was traditionally where hauhanga (bone cleansing) ceremonies were carried by Ngāti Apa for the bones of deceased males. Once washed, the cleansed bones were deposited in the Sabine Valley (Te Kai ki o Maruia). Rotomairewhenua is fed by an underground river from Rotopōhueroa, illustrating for Ngāti Apa the interconnectedness of the natural world. In Ngāti Apa tradition, once the bones had been washed, the spirits were released and they would journey from Rotomairewhenua along the West Coast and Te Tai Tapu (the sacred pathway) to Te One Tahua (Farewell Spit), Te Reinga and ultimately Hawaiki.

For Ngāti Apa, traditions and stories such as these reinforce tribal identity and solidarity as well as denoting the continuity that exists across generations of Ngāti Apa. These traditions record places and events that have shaped Ngāti Apa as an iwi over many generations.

2: STATEMENTS OF ASSOCIATION

Rotomaninitua / Lake Angelus

Ngāti Apa's relationship with its whenua and wai is integral to its identity as a people. The alpine tarns and lakes located within the Nelson Lakes National Park symbolise for Ngāti Apa people the intense nature of their relationship to their environment, and the mauri or life force that is contained in all parts of the natural environment and binds the spiritual and physical world.

The tarns and lakes were discovered and named by Ngāti Apa tupuna. They reflect the importance and purity of water as a taonga that helps link past, present and future generations; in doing so they provide a path to the hereafter. For Ngāti Apa these tarns and lakes are also markers on a series of interwoven trails discovered and used by Ngāti Apa over many centuries as they travelled from one part of their rohe to another. Ngāti Apa tupuna were steeped in knowledge of whakapapa, traditional trails and taonga, and placed great importance on the tapu nature of these tarns and lakes and their role in signifying, asserting and sustaining Ngāti Apa identity.

The maunga Manininaro (Angelus Peak) and Lake Angelus (Rotomaninitua) are markers and resting places on the pathway of deceased Ngāti Apa as they make their journey to the West Coast and Te Tai Tapu to Te One Tahua, Te Reinga and ultimately Hawaiki.

For Ngāti Apa, traditions and stories such as these reinforce tribal identity and solidarity as well as denoting the continuity that exists across generations of Ngāti Apa. These traditions record places and events that have shaped Ngāti Apa as an iwi over many generations.

Rotopōhueroa / Lake Constance

Ngāti Apa's relationship with its whenua and wai is integral to its identity as a people. The alpine tarns and lakes located within the Nelson Lakes National Park symbolise for Ngāti Apa people the intense nature of their relationship to their environment, and the mauri or life force that is contained in all parts of the natural environment and binds the spiritual and physical world.

The tarns and lakes were discovered and named by Ngāti Apa tupuna. They reflect the importance and purity of water as a taonga that helps link past, present and future generations; in doing so they provide a path to the hereafter. For Ngāti Apa these tarns and lakes are also markers on a series of interwoven trails discovered and used by Ngāti Apa over many centuries as they travelled from one part of their rohe to another. Ngāti Apa tupuna were steeped in knowledge of whakapapa, traditional trails and taonga, and placed great importance on the tapu nature of these tarns and lakes and their role in signifying, asserting and sustaining Ngāti Apa identity.

Rotopōhueroa or 'the long calabash' was traditionally used for the hauhunga (bone cleansing) ceremonies involving deceased females. The cleansed bones were later deposited in Te Kai ki o Maruia (the Sabine Valley). Rotopōhueroa drains into adjacent Rotomairewhenua by means of an underground river, and so symbolises the interconnectedness of all things. The name 'Rotopōhueroa' evokes the calabash as a receptacle for the placenta (whenua), giving Rotopōhueroa further significance within Ngāti Apa cosmology and beliefs. In Ngāti Apa tradition, once the bones had been washed, the spirits were released and they would journey from Rotopōhueroa along the West Coast and Te Tai Tapu (the sacred pathway) to Te One Tahua (Farewell Spit), Te Reinga and ultimately Hawaiki.

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

2: STATEMENTS OF ASSOCIATION

For Ngāti Apa, traditions and stories such as these reinforce tribal identity and solidarity as well as denoting the continuity that exists across generations of Ngāti Apa. These traditions record places and events that have shaped Ngāti Apa as an iwi over many generations.

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

2.1 STATEMENT OF COASTAL VALUES

Clause 5.14

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

2.1: STATEMENT OF COASTAL VALUES

Ngāti Apa's association with the coastal marine area is an integral part of their rohe in Te Tau Ihu. Areas of particular cultural significance include Kahurangi, Paturau, the Whanganui Inlet, the area adjoining Te One Tahua, Pūponga, Pakawau, Parapara, Te Matau, Te Tai Aorere Tasman Bay, Whakatū, Waimea, Tarakaipa Island, the area around Ngā Whatu Kai Ponu and Te Anamāhanga.

Occupation of pā, kainga and fishing stations in the outer Sounds, Te Tai Aorere and Whakatū areas were shared with Ngāti Kuia and Rangitane. Coastal fisheries and other resources were controlled and managed by the various Ngāti Apa hapū, who exercised a kaitiaki role. Ngāti Apa iwi have strong and unbroken traditional, historical, cultural and spiritual associations with this long coastline and its rich ecosystems. These associations remain today, and are central to identity and mauri of the iwi.

A large complex of pā, cultivations and fishing areas were located at river mouths all along the coastal margin. Seals, which were once common along much of the coast, formed a valuable resource. Ngāti Apa river-mouth settlements also provided access to inland settlements and mahinga kai areas, including the Nelson Lakes.

Estuarine areas at Paturau and Whanganui were especially prized sources of kaimoana. Whanganui Inlet was a particularly significant site, containing two pā (Te Awaturoto and Taurangahioi). Important Ngāti Apa tupuna who lived at Whanganui were Te Kotuku, Te Whio, Paihora, Matiaha Tumaunga, Matimati, Tumanga, Meihana Kereopa and his mother Kerenapu and Wirihana Maui. Te One Tahua is a very significant wāhi tapu. Ngāti Apa believe that the spirits of their deceased tupuna travel along Te One Tahua on their journey to Hawaiki. Two further pā were located at Puponga. This area was an important shark fishery. Parapara Inlet contained pā, kainga and another important fishing station. This was the home of the celebrated taniwha Kai Whakaruaki. Another pā guarded the important fishing station at Pakawau.

A pā, kainga and fishing complex occupied much of the peninsula at te Matau-a-Maui. This is the burial place of the rangatira Tutepourangi (he rangatira mana nui). It has added significance for Ngāti Apa (and Ngāti Kuia) because it was the western boundary of the tuku of Tutepourangi. Kaiteriteri formed another extensive Ngāti Apa occupation, cultivation and fishing station complex. It included at least eight pā. The cliffs at Ana-waka-u contain burial caves, and a turanga waka was located at the mouth of a stream running beside the cliff known as Wai-atau. The Moutere Inlet was another important source of kaimoana. The hull of Te Awatea, the waka which had brought many Ngāti Apa tupuna to Te Tau Ihu, was stored for many years in a cave at Te Mamaku, on the northern end of the Moutere Bluff near Motueka.

Kohi te Wai (Mackay's Bluff, near Nelson) on the landward end of Te Taero-a-Kereopa (the Boulder Bank) was a large Ngāti Apa population centre and an important fishing station. Te Taero-a-Kereopa is associated with Kupe. When Kupe decided to leave for the North Island two of his crew wished to remain in Te Waipounamu. They stole a waka and set off. Kupe pursued them, but they recited karakia which caused rocks to fall and create a barrier between them and Kupe. This was the origin of the Boulder Bank. Te Taero-a-Kereopa was later visited by the tupuna Tu Ariki, a great grandson of Ruatea, captain of the Kurahaupo waka. He captured a shark near the Boulder Bank and took it home to Whanganui. Here it grew into the famous taniwha Tutaeporoporo.

Whakatu and its environs contained many important fishing stations and turanga waka. Matangi Awhio was one of the most important of these. It consisted of a large pā and kainga complex overlooking a beach where waka could be safely landed. Extensive racks used for net repair and drying fish were a notable feature of this place. Further Ngāti Apa pā, kainga

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

2.1: STATEMENT OF COASTAL VALUES

and fishing stations could be found all along the eastern coast of Te Tai Aorere. Among the most important of these was Waimea, renowned for its kaimoana and extensive gardens.

Tarakaipa Island, one of the largest islands in Tennyson Inlet, was named after the Ngāti Apa tupuna Tarakaipa, great grand-son of Tamahau and son of Rawaru. Tarakaipa is an important tupuna, and was one of the leaders of early Ngāti Apa migrations to Te Tau Ihu. He arrived in the waka Te Awatea, built from the hull of the Kurahaupo canoe. Tarakaipa is also the name of a Ngāti Apa hapū particularly associated with the island. The island contained pā and kainga and an important fishing station. Tawhitnui, just to the north of Tarakaipa Island, was another significant pā, kainga and fishing station. Along with Tarakaipa Island this provided access to important moki and elephant fish breeding grounds.

Nga Whatu-kai-ponu - the Eyes that Stand as Witness to the Deeds of Kupe (the Brothers Islands) - are the eyes of the octopus (wheke) Maturangi, cast into the sea by Kupe after he had killed the creature. The tapu associated with these islands required travellers to recite karakia when crossing Raukawa Moana (Cook Strait) and only the descendants of Kupe, persons of great mana or tohunga could gaze upon them.

Anamāhanga was one of the two tentacles of the great wheke Maturangi, killed by the tupuna Kupe. The other is Anatohia (East Bay). Te Anamāhanga is a landing place of Kupe's waka - Te Matahourua - and indentations made by his footprints are visible at the turanga waka at Te Ope-a-Kupe. This place is central to the identity of Ngāti Apa in Te Tau Ihu. Anamāhanga was also a turanga waka where many important Ngāti Apa tupuna first came ashore in Te Waipounamu, and was the residence of the notable Ngāti Apa tupuna Tu Tonga, Hape, E Kapa and Kaitangata. Anamāhanga was also an important fishing area, providing access to koura, paua, karengo and kokapoko.

(

3. DEEDS OF RECOGNITION

(

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

3: DEED OF RECOGNITION

THIS DEED is made by **THE CROWN** acting by the Minister of Conservation and the Director-General of Conservation, who agrees as follows:

1. INTRODUCTION

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

1.1.1 **Ngāti Apa ki te Rā Tō** (the settling group); and

1.1.2 **Ngāti Apa ki te Rā Tō Trust** (the governance entity).

2. STATEMENTS OF ASSOCIATION

2.1 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):

2.1.1 Lake Rotoiti, Nelson Lakes National Park (as shown on deed plan OTS-099-34);

2.1.2 Lake Rotoroa, Nelson Lakes National Park (as shown on deed plan OTS-099-35);

2.1.3 Te Ope-a-Kupe (Te Anamāhanga / Port Gore) (as shown on deed plan OTS-099-65);

2.1.4 Mt Furneaux (Puhikereru) (as shown on deed plan OTS-099-66);

2.1.5 Kohi te Wai (Boulder Bank Scenic Reserve) (as shown on deed plan OTS-099-39);

2.1.6 Kaiteriteri Scenic Reserve (as shown on deed plan OTS-099-41);

2.1.7 Tarakaipa Island (as shown on deed plan OTS-099-42);

2.1.8 Farewell Spit (as shown on deed plan OTS-099-45);

2.1.9 The Brothers (as shown on deed plan OTS-099-46);

2.1.10 Waimea, Wai-iti, and Wairoa Rivers and their tributaries (as shown on deed plan OTS-099-54);

2.1.11 Anatori River and its tributaries (as shown on deed plan OTS-099-55);

2.1.12 Motupiko River and its tributaries (as shown on deed plan OTS-099-57);

2.1.13 Buller (Kawatiri) River and its tributaries (northern portion) (as shown on deed plan OTS-099-74);

2.1.14 Tākaka River and its tributaries (as shown on deed plan OTS-099-72); and

2.1.15 Alpine Tarns, Nelson Lakes National Park (as shown on deed plan OTS-099-76).

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

3: DEED OF RECOGNITION

- 2.2 Those statements of association are:
- 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 statements of association in the **[name]** Act **[year]**, being the settlement legislation that gives effect to the deed of settlement.

3. CONSULTATION

- 3.1 The Minister of Conservation and the Director-General of Conservation must, if undertaking an activity specified in clause 3.2 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.
- 3.2 Clause 3.1 applies to the following activities (the identified conservation activities):
- 3.2.1 preparing a conservation management strategy, or a conservation management plan, under the Conservation Act 1987 or the Reserves Act 1977; or
 - 3.2.2 preparing a national park management plan under the National Parks Act 1980; or
 - 3.2.3 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; or
 - (b) to eradicate pests, weeds, or introduced species; or
 - (c) to assess current and future visitor activities; or
 - (d) to identify the appropriate number and type of concessions; or
 - 3.2.4 preparing a non-statutory plan, strategy, or programme to protect and manage a statutory area that is a river; or
 - 3.2.5 locating or constructing structures, signs, or tracks.
- 3.3 The Minister and the Director-General of Conservation must, when consulting the governance entity under clause 3.1, provide the governance entity with sufficient information to make informed decisions.

4. LIMITS

- 4.1 This deed:
- 4.1.1 relates only to the part or parts of a statutory area owned and managed by the Crown; and
 - 4.1.2 does not require the Crown to undertake, increase, or resume any identified conservation activity; and

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

3: DEED OF RECOGNITION

4.1.3 does not prevent the Crown from not undertaking, or ceasing to undertake, any identified conservation activity; and

4.1.4 is subject to the settlement legislation.

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 Minister of Conservation and Director-General of Conservation agree in writing; or

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

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

5.2 If this deed terminates under clause 5.1.3 in relation to an area, 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. NOTICES

6.1 Notices to the governance entity and the Crown are to be given under this deed in accordance with part 5 of the general matters schedule to the deed of settlement, except that the Crown's address where notices are to be given is:

Area Manager
Department of Conservation
Port Marlborough Building
14 Auckland Street
P O Box 161
Picton 7250

Fax 3 520 3003

7. AMENDMENT

7.1 This deed may be amended only by written agreement signed by the governance entity and the Crown.

8. NO ASSIGNMENT

8.1 The governance entity may not assign its rights or obligations under this deed.

9. DEFINITIONS

9.1 In this deed:

concession has the meaning given to it in section 2 of the Conservation Act 1987; and

NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE

3: DEED OF RECOGNITION

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 29 October 2010 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;

governance entity means the Ngāti Apa ki te Rā Tō Trust; and

identified conservation activities means the activities specified in clause 3.2; and

Minister means the Minister of Conservation; and

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

settling group and **Ngāti Apa** have the meaning given to them by clause 8.5 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

statutory area means an area referred to in clause 2.1, 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).

10. INTERPRETATION

10.1 The provisions of this clause 10 apply to this deed's interpretation unless the context requires otherwise.

10.2 Headings do not affect the interpretation.

10.3 Terms defined by:

10.3.1 this deed have those meanings; and

10.3.2 the deed of settlement, or the settlement legislation, but not by this deed, have those meanings where used in this deed.

10.4 All parts of speech and grammatical forms of a defined word or expression have corresponding meanings.

10.5 The singular includes the plural and vice versa.

10.6 One gender includes the other genders.

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

3: DEED OF RECOGNITION

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

10.8 A reference to:

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

10.8.2 legislation is to that legislation as amended, consolidated, or substituted.

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

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:

(**SIGNED** for and on behalf of)
THE CROWN by the)
Director-General of Conservation)
in the presence of:) _____

Signature of Witness

Witness Name:

Occupation:

Address:

NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE

3: DEED OF RECOGNITION

Schedule

Statements of Association

[Name of area] (as shown on deed plan [*number*])

[statement of association]

[Name of area] (as shown on deed plan [*number*])

[statement of association]

(

(

NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE

3: DEED OF RECOGNITION

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 **Ngāti Apa ki te Rā Tō** (the settling group); and

1.1.2 **Ngāti Apa ki te Rā Tō 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 Waimea, Wai-iti, and Wairoa Rivers and their tributaries (as shown on deed plan OTS-099-54);

1.2.2 Anatori River and its tributaries (as shown on deed plan OTS-099-55);

1.2.3 Motupiko River and its tributaries (as shown on deed plan OTS-099-57);

1.2.4 Buller (Kawatiri) River and its tributaries (northern portion) (as shown on deed plan OTS-099-74); and

1.2.5 Tākaka River and its tributaries (as shown on deed plan OTS-099-72).

1.3 Those statements of association are:

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

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

1.4 The Crown has acknowledged the 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 Commissioner of Crown Lands 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 any of the following activities (the identified activities):

2.2.1 considering an application for a right of use or occupation (including renewing such a right);

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

2.2.3 conducting a survey to identify the number and type of users that may be appropriate;

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

3: DEED OF RECOGNITION

2.2.4 preparing a programme to eradicate noxious flora and fauna.

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

2.3.1 provide the governance entity with sufficient information to make informed decisions, and

2.3.2 inform the governance entity of an application referred to in clause 2.2.1, but may withhold commercially sensitive information and material including within, or relating to the application.

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 if it relates to a river or stream (including a tributary) it applies only to the bed of the river or stream, meaning the land that the waters of the river or stream cover at its fullest flow without flowing over its banks, but to avoid doubt does not apply to:

a) a part of the bed of the river or stream that is not owned and managed by the Crown; or

b) the bed of an artificial water course;

3.1.3 does not require the Crown to undertake, increase, or resume any identified activity; and

3.1.4 does not prevent the Crown from not undertaking, or ceasing to undertake, any identified activity; and

3.1.5 is subject to the settlement legislation.

4 TERMINATION

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

4.1.1 the governance entity and the Commissioner of Crown Lands 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 Commissioner of Crown Lands 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 the activities referred to in clause 2.2 in relation to or within the area concerned through

NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE

3: DEED OF RECOGNITION

negotiation with the new person or official within the Crown that is responsible for those activities.

5 **NOTICES**

- 5.1 Notices to the governance entity and the Crown are to be given under this deed in accordance with part 5 of the general matters schedule to the deed of settlement, except that the Crown's address where notices are to be given is:

Commissioner of Crown Lands
C/O Land Information New Zealand
PO Box 5501
Wellington 6145.

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 under this deed.

8 **DEFINITIONS**

- 8.1 In this deed:

Commissioner of Crown Lands 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

deed of settlement means the deed of settlement dated 29 October 2010 between the settling group, the governance entity, and the Crown; and

governance entity means the Ngāti Apa ki te Rā Tō Trust; and

identified activities means the activities specified in clause 2.2; and

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

settling group and **Ngāti Apa** have the meaning given to them by clause 8.5 of the deed of settlement; and

settlement legislation means the Act referred to in clause 1.4; 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

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

3: DEED OF RECOGNITION

statutory area means an area referred to in clause 2.1, 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 9 apply to this deed's interpretation unless the context requires otherwise.

9.2 Headings do not affect the interpretation.

9.3 Terms defined by:

9.3.1 this deed have those meanings; and

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

9.4 All parts of speech and grammatical forms of a defined word or expression 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 is to that legislation as amended, consolidated, or substituted.

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

NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE

3: DEED OF RECOGNITION

SIGNED as a deed on [*date*]

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

Signature of Witness

Witness Name:

Occupation:

Address:

Schedule

Statements of Association

[Name of area] (as shown on deed plan [*number*])

[statement of association]

[Name of area] (as shown on deed plan [*number*])

[statement of association]

NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE

(

4. PROTOCOLS

(

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

4.1 CONSERVATION PROTOCOL

Clause 5.17.1

4.1: CONSERVATION PROTOCOL

**A PROTOCOL ISSUED BY THE CROWN THROUGH THE MINISTER OF CONSERVATION
REGARDING DEPARTMENT OF CONSERVATION/ NGĀTI APA INTERACTION ON
SPECIFIED ISSUES**

1. INTRODUCTION

1.1 Under the Deed of Settlement dated 29 October 2010 between Ngāti Apa 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 how the Department of Conservation (the "Department") will interact with the Ngāti Apa Governance Entity (the "Governance Entity") on matters specified in the Protocol. These matters are:

- 1.1.1 Purpose of the Protocol - Part 2
- 1.1.2 Protocol Area - Part 3
- 1.1.3 Terms of Issue - Part 4
- 1.1.4 Implementation and Communication - Part 5
- 1.1.5 Business Planning - Part 6
- 1.1.6 Management Planning - Part 7
- 1.1.7 Marine Mammal - Part 8
- 1.1.8 Water / Wai - Part 9
- 1.1.9 Cultural Materials - Part 10
- 1.1.10 Historic Resources - Wāhi Tapu - Part 11
- 1.1.11 Natural Heritage - Part 12
- 1.1.12 Pest Control - Part 13
- 1.1.13 Resource Management Act 1991 - Part 14
- 1.1.14 Visitor and Public Information - Part 15
- 1.1.15 Concession Applications - Part 16
- 1.1.16 Appointments to Boards - Part 17
- 1.1.17 Consultation - Part 18.

1.2 Both the Department and Governance Entity are committed to establishing and maintaining 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

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

4.1: CONSERVATION PROTOCOL

outcomes sought by both the Governance Entity and the Department, as set out in this Protocol.

- 1.3 Subject to the Conservation Act 1987, the Department's functions include "to manage for conservation purposes, all land, and all other natural and historic resources" under that Act and to administer the statutes in the First Schedule to the Act (together, the "Conservation Legislation"). The Minister and Director-General, or their delegates, are required to exercise particular functions, powers and duties under that legislation.
- 1.4 Ngāti Apa accept a responsibility as kaitiaki under tikanga Māori to preserve, protect, and manage all land, and all other natural and historic resources within their rohe. Other redress in the Deed of Settlement relevant to Ngāti Apa's kaitiaki role include overlay classifications over the Nelson Lakes Alpine Tarns and Lakes Rotoiti and Rotoroa and redress concerning eels within Nelson Lakes National Park.

2. PURPOSE OF THE PROTOCOL

- 2.1 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 policies, actions and outcomes sought by both.
- 2.2 This Protocol sets out a framework that enables the Department and Ngāti Apa to establish a constructive working relationship that gives effect to section 4 of the Conservation Act. It provides for Ngāti Apa 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 Ngāti Apa Protocol Area.
- 2.3 Ngāti Apa and the Department consider that this Protocol should contribute to achieving the following aspirations of Ngāti Apa:
 - 2.3.1 acknowledgment and recognition by the Department of the customary, traditional, spiritual and historical interests of Ngāti Apa over their entire rohe;
 - 2.3.2 the development by Ngāti Apa of capacity and capability to exercise an effective kaitiaki role and participate in the management of lands and resources of customary, traditional, spiritual and historical significance to Ngāti Apa;
 - 2.3.3 the establishment of lasting relationships between Ngāti Apa and the Department.

3. PROTOCOL AREA

- 3.1 The Protocol applies across the Ngāti Apa Protocol Area which is the area identified in the map included in Attachment A of this Protocol.

4. TERMS OF ISSUE

- 4.1 This Protocol is issued pursuant to section [] of the [] Act [] (The "Settlement Legislation") and clause 5.17.1 of the Deed of Settlement. The provisions of the Settlement Legislation and the Deed of Settlement specifying the terms on which this Protocol is issued are set out in Attachment B of the Protocol.

4.1: CONSERVATION PROTOCOL

5. IMPLEMENTATION AND COMMUNICATION

- 5.1 The Department will seek to establish and maintain effective and efficient communication with Ngāti Apa on a continuing basis by:
- 5.1.1 Maintaining information on the Governance Entity's office holders, and their addresses and contact details;
 - 5.1.2 Providing a primary departmental contact for the Governance Entity who will act as a liaison person with other departmental staff;
 - 5.1.3 Providing reasonable opportunities for the Governance Entity to meet with departmental managers and staff;
 - 5.1.4 Holding alternate meetings hosted by the Department and a Ngāti Apa marae or other venue chosen by the Governance Entity to discuss issues that may have arisen every six months, unless otherwise agreed. The parties may also:
 - (a) annually review implementation of the Protocol; and
 - (b) led by the Governance Entity, arrange for an annual report back to the members of the Governance Entity in relation to any matter associated with the implementation of this Protocol; and
 - 5.1.5 Training relevant staff and briefing Conservation Board members on the content of the Protocol.
- 5.2 The Department will, where relevant, inform conservation stakeholders about this Protocol and the Ngāti Apa settlement, and provide on-going information as required.
- 5.3 The Department will advise the Governance Entity of any departmental policy directions and the receipt of any research reports relating to matters of interest to Ngāti Apa within the Protocol Area, and provide copies or the opportunity for the Governance Entity to study those reports (subject to clause 20.1).

6. BUSINESS PLANNING

- 6.1 The Department's annual business planning process determines the Department's conservation work priorities.
- 6.2 The process for the Governance Entity to identify and/or develop specific projects for consideration by the Department is as follows:
- 6.2.1 The Department and the Governance Entity will on an annual basis identify priorities for undertaking specific projects requested by the Governance Entity. The identified priorities for the upcoming business year will be taken forward by the Department into its business planning process and considered along with other priorities.
 - 6.2.2 The decision on whether any specific projects will be funded in any business year will be made by the Conservator and General Manager Operations, after following the co-operative processes set out above.

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

4.1: CONSERVATION PROTOCOL

6.2.3 If the Department decides to proceed with a specific project request by the Governance Entity, the Governance Entity and the Department may meet again to finalise a work plan and a timetable before implementation of the specific project in that business year, in accordance with the resources which have been allocated in the business plan.

6.2.4 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.

6.3 The Department will consider inviting the Governance Entity to participate in specific projects, including the Department's volunteer and conservation events that may be of interest to Ngāti Apa.

7. MANAGEMENT PLANNING

7.1 The Department will provide opportunities for the Governance Entity to input into any relevant Conservation Management Strategy reviews or Management Plans, if any, within the Protocol Area.

8. MARINE MAMMALS

8.1 The Department administers the Marine Mammals Protection Act 1978 and the Marine Mammals Regulations 1992. These provide for the establishment of marine mammal sanctuaries, for permits in respect of marine mammals, the disposal of sick or dead specimens and the prevention of marine mammal harassment. All species of marine mammal occurring within New Zealand and New Zealand's fisheries waters are absolutely protected under the Marine Mammals Protection Act 1978. Under that Act the Department is responsible 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, as well as the public.

8.2 The Protocol also aims at assisting the conservation of cetacean species by contribution to the collection of specimens and scientific data of national and international importance.

8.3 The Department believes that there are opportunities to meet the cultural interests of Ngāti Apa and to facilitate the gathering of scientific information. This Protocol is intended to meet both needs by way of a co-operative approach to the management of whale strandings and to provide general guidelines for the management of whale strandings in the DOC Protocol Area, and for the recovery by Ngāti Apa of bone and other material for cultural purposes from dead marine mammals.

8.4 There may be circumstances during a stranding in which euthanasia is required, for example if the animal is obviously distressed or if it is clear that a refloating operation is unsuccessful. The decision to euthanase, 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 every effort to inform the Governance Entity before any decision to euthanase.

8.5 Both the Department and Ngāti Apa acknowledge the scientific importance of information gathered at strandings. Decisions concerning the exact nature of the

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

4.1: CONSERVATION PROTOCOL

scientific samples required and the subsequent disposal of any dead animals, including their availability to Ngāti Apa, will depend on the species.

- 8.6 The following species ("category 1 species") are known to strand most frequently on New Zealand shores. In principle these species should be available to the Governance Entity for the recovery of bone once scientific data and samples have been collected. If there are reasons why this principle should not be followed, they must be discussed between the parties to this Protocol. Category 1 species are:

8.6.1 Common dolphins (*Delphinus delphis*)

8.6.2 Long-finned pilot whales (*Globicephala melas*)

8.6.3 Sperm whales (*Physeter macrocephalus*).

- 8.7 The following species ("category 2 species") are either not commonly encountered in New Zealand waters, or may frequently strand here but are rare elsewhere in the world. For these reasons their scientific value has first priority. In most instances, bone from category 2 species will be made available to the Governance Entity after autopsy if requested.

8.7.1 All baleen whales

8.7.2 Short-finned pilot whale (*Globicephala macrorhynchus*)

8.7.3 Beaked whales (all species, family Ziphiidae)

8.7.4 Pygmy sperm whale (*Kogia breviceps*)

8.7.5 Dwarf sperm whale (*Kogia simus*)

8.7.6 Bottlenose dolphin (*Tursiops truncatus*)

8.7.7 Maui's Dolphin (*Cephalorhynchus hectori maui*)

8.7.8 Hector's dolphin (*Cephalorhynchus hectori hectori*)

8.7.9 Dusky dolphin (*Lagenorhynchus obscurus*)

8.7.10 Risso's dolphin (*Grampus griseus*)

8.7.11 Spotted dolphin (*Stenella attenuata*)

8.7.12 Striped dolphin (*Stenella coeruleoalba*)

8.7.13 Rough-toothed dolphin (*Steno bredanensis*)

8.7.14 Southern right whale dolphin (*Lissodelphis peronii*)

8.7.15 Spectacled porpoise (*Australophocoena dioptrica*)

8.7.16 Melon-headed whale (*Peponocephala electra*)

8.7.17 Pygmy killer whale (*Feresa attenuata*)

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

4.1: CONSERVATION PROTOCOL

- 8.7.18 False killer whale (*Pseudorca crassidens*)
- 8.7.19 Killer whale (*Orcinus orca*)
- 8.7.20 Any other species of cetacean previously unknown in New Zealand waters.
- 8.8 If Ngāti Apa does not wish to recover the bone or otherwise participate the Governance Entity will notify the Department whereupon the Department will take responsibility for disposing of the carcass.
- 8.9 Because the in-situ recovery of bones involves issues relating to public health and safety, including the risk of infection from dead and decaying tissue, it needs to be attempted only by the informed and skilled. Ngāti Apa bone recovery teams will also want to ensure that the appropriate cultural tikanga is understood and followed. However, both parties acknowledge that generally burial will be the most practical option.
- 8.10 Subject to the prior agreement of the Conservator, where disposal of a dead stranded marine mammal is carried out by the Governance Entity, the Department will meet the reasonable costs incurred up to the estimated costs which would otherwise have been incurred by the Department to carry out the disposal.
- 8.11 The Department will:
- 8.11.1 Reach agreement with the Governance Entity on authorised key contact people who will be available at short notice to make decisions on the desire of Ngāti Apa to be involved when there is a marine mammal stranding;
- 8.11.2 Promptly notify the key contact people of all stranding events; and
- 8.11.3 Discuss, as part of the disposal process, burial sites and, where practical, agree sites in advance which are to be used for disposing of carcasses in order to meet all the health and safety requirements and to avoid the possible violation of Ngāti Apa tikanga.
- 8.12 In areas of overlapping interest, Ngāti Apa will work with relevant iwi and the Department to agree on a process to be followed when managing marine mammal strandings.
- 9. WATER / WAI**
- 9.1 Water / Wai is significant to Ngāti Apa for its intrinsic value and spiritual reasons, as well as practical reasons as a sustaining source of mahinga kai.
- 9.2 The bodies of fresh water within the Protocol Area are of particular significance to Ngāti Apa and include, but are not limited to, the catchments of the bodies in Appendix A.
- 9.3 The Department is responsible for public conservation waters and for the preservation, as far as is practicable, of all indigenous freshwater fisheries, and for the protection of recreational freshwater fisheries and fresh water fish habitats.

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

4.1: CONSERVATION PROTOCOL

- 9.4 In carrying out its statutory functions relating to public conservation waters and freshwater fisheries the Department will:
- 9.4.1 Seek and facilitate early consultation with the Governance Entity;
 - 9.4.2 Provide the Governance Entity with opportunities to review and assess water and water body plans, programmes and outcomes; and
 - 9.4.3 Provide the Governance Entity with opportunities to participate in the monitoring and management activities of indigenous freshwater fisheries and freshwater fish habitats that the Department undertakes

10. CULTURAL MATERIALS

- 10.1 For the purpose of this Protocol, cultural materials are plants, plant materials, and materials derived from animals, marine mammals or birds for which the Department is responsible within the Protocol Area and which are important to Ngāti Apa in maintaining and expressing its cultural values and practices.
- 10.2 Current legislation means that generally some form of concession or permit is required for any gathering and possession of cultural materials.
- 10.3 In relation to cultural materials, the Minister and/or Director-General will:
- 10.3.1 Consider requests from the Governance Entity for access to and use of cultural materials within the Protocol Area when required for cultural purposes, in accordance with relevant legislation, general policy, and any relevant conservation management strategy or conservation management plan (including any national park management plan);
 - 10.3.2 Consult with the Governance Entity in circumstances where there are competing requests between the Governance Entity and non-Ngāti Apa persons or entities for the use of cultural materials, for example for scientific research purposes; and
 - 10.3.3 Agree, where appropriate and taking into consideration the interest of other representatives of tangata whenua, 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.
- 10.4 Where appropriate, the Department will consult with the Governance Entity on the development of procedures for monitoring levels of use of cultural materials in accordance with the relevant legislation.

11. HISTORIC RESOURCES - WĀHI TAPU

- 11.1 Ngāti Apa consider that their wāhi 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.

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

4.1: CONSERVATION PROTOCOL

- 11.2 Places that are sacred or significant to Ngāti Apa include, but are not limited to, those places listed in Appendix B.
- 11.3 The Department has a statutory role to conserve historic resources in protected areas and will endeavour to do this for sites of significance to Ngāti Apa in association with the Governance Entity and according to Ngāti Apa tikanga.
- 11.4 Ngāti Apa may provide to the Department information on sacred or significant sites not listed in Appendix B that it intends to remain confidential. The Department accepts that non-disclosure of locations and other information about places known to Ngāti Apa may be an option that the Governance Entity chooses to take to preserve the wāhi tapu nature of places. There may be other situations where the Governance Entity will ask the Department to treat information it provides on wāhi tapu sites in a confidential way.
- 11.5 The Department and the Governance Entity will work together to establish processes for dealing with information on wāhi tapu sites in a way that recognises both the management challenges that confidentiality can present and provides for the requirements of Ngāti Apa.
- 11.6 The Department will work with the Governance Entity at the Area Office level to respect Ngāti Apa values attached to identified wāhi tapu and other places of significance on lands administered by the Department by:
- 11.6.1 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 Ngāti Apa can exercise kaitiakitanga over ancestral lands, natural and historic resources and other taonga managed by the Department within the Protocol Area;
- 11.6.2 Managing sites of historic significance to Ngāti Apa 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 Ngāti Apa;
- 11.6.3 Informing the Governance Entity if wheua tangata or kōiwi are found within the Protocol Area; and
- 11.6.4 Assisting in recording and protecting wāhi tapu and other places of cultural significance to Ngāti Apa where appropriate, to seek to ensure that they are not desecrated or damaged.

12. NATURAL HERITAGE

- 12.1 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 indigenous species, in particular those with unique or distinctive values or most at risk of extinction.
- 12.2 In recognition of the cultural, historical and traditional association of Ngāti Apa with indigenous flora and fauna found within the Protocol Area for which the Department has responsibility, the Department will inform the Governance Entity of the national

4.1: CONSERVATION PROTOCOL

sites and species programmes on which the Department will be actively working, and provide opportunities for the Governance Entity to participate in these programmes.

13. PEST CONTROL

13.1 A key objective and function of the Department is to prevent, manage and control threats to natural, historical and cultural heritage values from animal and weed pests. This is to be done in a way that maximises the value from limited resources available to do this work.

13.2 The Department will:

13.2.1 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;

13.2.2 Provide the Governance Entity with opportunities to review and assess programmes and outcomes; and

13.2.3 Where appropriate, consider co-ordinating its pest control programmes with those of the Governance Entity when the Governance Entity is an adjoining landowner.

14. RESOURCE MANAGEMENT ACT 1991

14.1 Ngāti Apa and the Department both have concerns with the effects of activities controlled and managed under the Resource Management Act 1991.

14.2 From time to time, the Governance Entity and the Department will seek to identify particular issues of likely mutual interest for discussion. It is recognised that the Department and the Governance Entity will continue to participate separately in Resource Management processes, including making separate submissions in any Resource Management Act processes.

14.3 In carrying out advocacy under the Resource Management Act 1991, the Department will:

14.3.1 Wherever possible, discuss with the Governance Entity the general approach that Ngāti Apa and the Department may take in respect of advocacy under the Resource Management Act, and seek to identify their respective priorities and issues of mutual concern;

14.3.2 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

14.3.3 Make non-confidential resource information held by the Department available to the Governance Entity to assist in improving their effectiveness in resource management advocacy work.

15. VISITOR AND PUBLIC INFORMATION

15.1 The Department has a role to share knowledge about natural and historic heritage with visitors, to satisfy their requirements for information, increase their enjoyment and

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

4.1: CONSERVATION PROTOCOL

understanding of this heritage, and develop an awareness of the need for its conservation.

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

15.3 The Department will work with the Governance Entity at the Area Office level to encourage respect for Ngāti Apa cultural heritage values by:

15.3.1 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;

15.3.2 Seeking to reflect Ngāti Apa values and associations when developing visitor and public information;

15.3.3 Ensuring that information contained in the Department's publications is accurate and appropriate by:

(a) obtaining the consent of the Governance Entity for disclosure of information from it, and

(b) consulting with the Governance Entity prior to the use of information about Ngāti Apa values for new interpretation panels, signs and visitor publications.

16. CONCESSION APPLICATIONS

16.1 By the end of the second year of this Protocol being issued and on a continuing basis, the Department will work with the Governance Entity to identify categories of concessions that may impact on the cultural, historic or historical values of Ngāti Apa.

16.2 In relation to the concession applications within the categories identified by the Department and Governance Entity under clause 16.1, the Minister will:

16.2.1 Consult with the Governance Entity with regard to any applications or renewals of applications within the Protocol Area and seek the input of the Governance Entity by:

(a) Providing for the Governance Entity to indicate within 10 working days whether applications have any impacts on Ngāti Apa's cultural, spiritual and historic values; and

(b) If the Governance Entity indicates that an application has any such impacts, allowing a reasonable specified timeframe (of at least a further 10 working days) for comment;

16.2.2 When a concession is publicly notified, the Department will at the same time provide separate written notification to the Governance Entity;

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

4.1: CONSERVATION PROTOCOL

16.2.3 Prior to issuing concessions to carry out activities on land managed by the Department within the Protocol Area, and following consultation with the Governance Entity, the Minister will advise the concessionaire of Ngāti Apa tikanga and values and encourage communication between the concessionaire and the Governance Entity if appropriate; and

16.2.4 Ensure when issuing and renewing concessions that give authority for other parties to manage land administered by the Department, that those parties:

- (a) Be required to manage the land according to the standards of conservation practice mentioned in clause 11.6.2; and
- (b) Be encouraged to consult with the Governance Entity before using cultural information of Ngāti Apa.

17. APPOINTMENTS TO BOARDS

17.1 The Department will advise the Governance Entity in the event that any vacancies occur on boards or committees within the Protocol Area where the Minister or Department is responsible for making appointments, and where public nominations are sought.

18. CONSULTATION

18.1 Where the Department is required to consult Ngāti Apa under this Protocol, the basic principles that will be followed by the Department in consulting with the Governance Entity in each case are:

18.1.1 Ensuring that the Governance Entity is consulted as soon as reasonably practicable following the identification and determination by the Department of the proposal or issues to be the subject of the consultation;

18.1.2 Providing the Governance Entity with sufficient information to make informed discussions and submissions in relation to any of the matters that are subject of the consultation;

18.1.3 Ensuring that sufficient time is given for the effective participation of the Governance Entity, including the preparation of submissions by the Governance Entity, in relation to any of the matters that are the subject of the consultation; and

18.1.4 Ensuring that the Department will 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.

18.2 Where the Department has consulted with the Governance Entity as specified in clause 18.1, the Department will report back to the Governance Entity on the decision made as a result of any such consultation.

4.1: CONSERVATION PROTOCOL

19. DEFINITIONS

19.1 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 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;

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 Ngāti Apa ki te Rā Tō Trust;

Ngāti Apa has the meaning set out in clause 8.5 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 Ngāti Apa Governance Entity under the Settlement Legislation and the Deed of Settlement and includes this Protocol;

Tikanga Māori refers to Māori traditional customs.

20. PROVISION OF INFORMATION

20.1 Where the Department is to provide information to the Governance Entity under this Protocol, this information will be provided subject to the provisions of the Official Information Act 1981.

NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE

4.1: CONSERVATION PROTOCOL

ISSUED on []]

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

Signature of Witness

Witness Name:

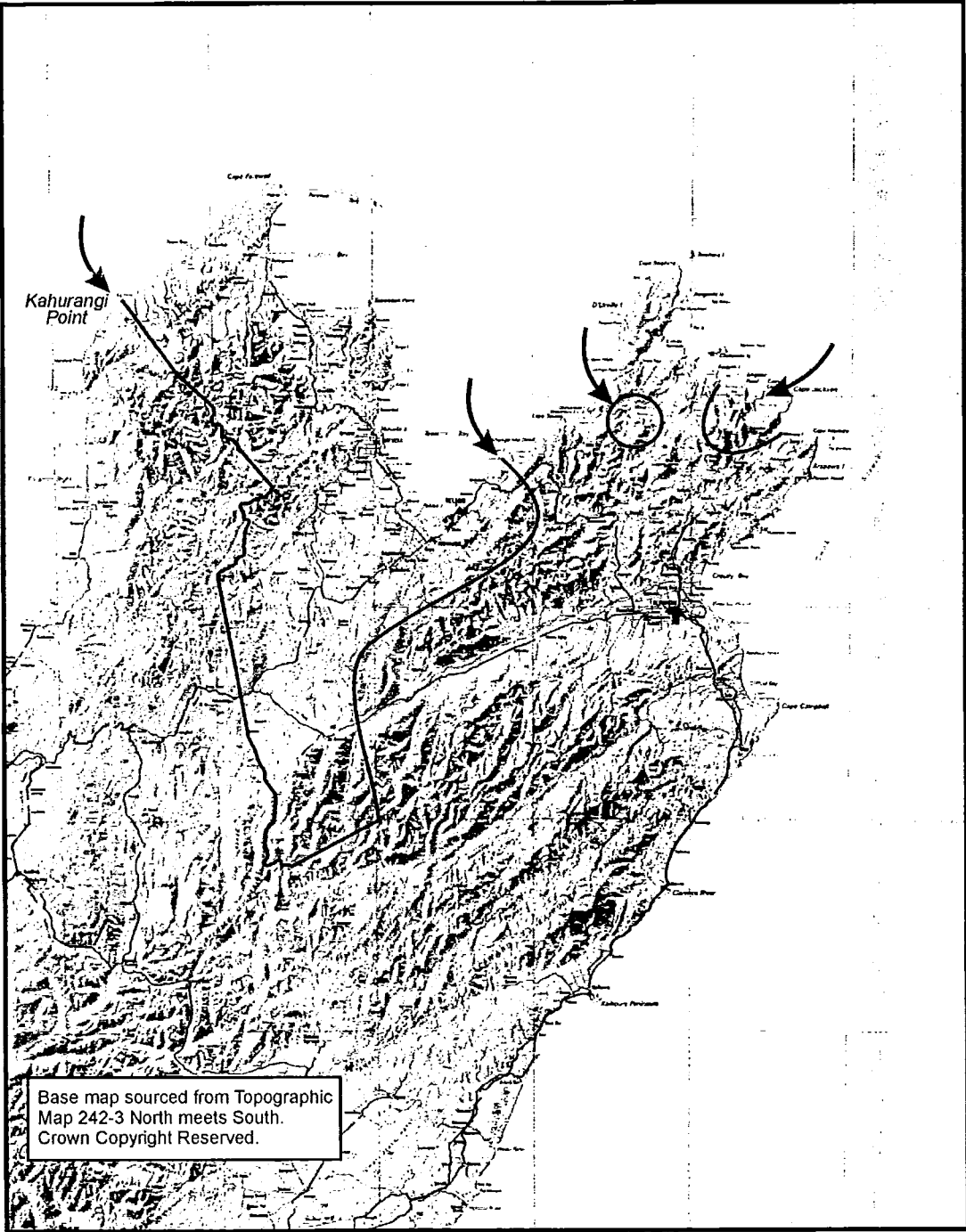
Occupation:

Address:

NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE

4.1: CONSERVATION PROTOCOL

ATTACHMENT A
NGĀTI APA CONSERVATION PROTOCOL AREA



NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE

4.1: CONSERVATION PROTOCOL

ATTACHMENT B
SUMMARY OF THE TERMS OF ISSUE

This Protocol is subject to the provisions of the deed of settlement and the settlement legislation. These provisions are set out below.

1. Provisions of the deed of settlement relating to this Protocol

1.1 The deed of settlement provides that a failure by the Crown to comply with a protocol is not a breach of the deed of settlement (clause 5.20).

[to insert terms of issue from the settlement legislation]

NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE

4.1: CONSERVATION PROTOCOL

APPENDIX A - FRESH WATER BODIES OF SIGNIFICANCE

Rivers

Anatori	Kakapo	Saxton
Anaweka	Karamea	Skeet
Aorere	Lee	Slate
Arnst	Leslie	Spey
Awaroa	Motueka	Stanley
Baton	Motueka	Tadmor
Big	Motupiko	Taipo
Buller	Moutere	Tākaka
Clark	Owen	Travers
Clarke	Parapara	Turimawivi
Cobb	Paturau	Wai-iti
Dart	Pearse	Waimea
Dove	Pokororo	Waingaro
Ellis	Rainy	Wainui
Fyfe	Riwaka (including the Source)	Wairoa
Hope	Roading	Wangapeka
Howard	Rolling	
Huia	Sabine	

**Lakes and Other Water
Bodies**

Adelaide Tarn	Cobb Reservoir	Lake Constance
Lake Angelus	Island Lake	Lake Rotoroa
Arnst Tarns	Lake Locekett	Lake Stanley
Blue Lake	Moonstone Lake	Lake Sylvester
Boulder Lake	Lake Otuhie	Waikoropupu Springs
Cobb Lake	Lake Rotoiti	

NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE

4.1: CONSERVATION PROTOCOL

APPENDIX B - WĀHI TAPU PLACES

Cobb Valley (especially the Cobb Reservoir)

Wainui Bay

Sabine Valley

Well Sources of the Motueka River

Limestone Caves across Te Tai Tapu and Te Tai Aorere

Lake Constance

Lake Angelus

Blue Lake

Lake Arnst Tarns

Ana-waka-u

Kaka Island

Tarakaipa Island Urupā

Birthing Stone, Lake Rotoiti / State Highway 63

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

4.2 FISHERIES PROTOCOL

Clause 5.17.2

4.2: FISHERIES PROTOCOL

**A PROTOCOL ISSUED BY THE CROWN THROUGH THE MINISTER OF FISHERIES AND
AQUACULTURE REGARDING INTERACTION WITH NGĀTI APA KI TE RĀ TŌ ON
FISHERIES ISSUES**

1 INTRODUCTION

- 1.1 The Crown, through the Minister of Fisheries and Aquaculture (the "**Minister**") and Chief Executive of the Ministry of Fisheries (the "**Chief Executive**"), recognises that Ngāti Apa ki te Rā Tō as tangata whenua are entitled to have input and participation in fisheries planning processes that affect fish stocks in the Ngāti Apa ki te Rā Tō Fisheries Protocol Area (the "**Fisheries Protocol Area**") and that are managed by the Ministry of Fisheries (the "**Ministry**") under the Fisheries Act 1996. Ngāti Apa ki te Rā Tō 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 29 October 2010 between Ngāti Apa ki te Rā Tō 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 Ngāti Apa ki te Rā Tō Trust (the "**Governance Entity**") in relation to matters specified in the Protocol. These matters are:
- 1.2.1 recognition of the interests of Ngāti Apa ki te Rā Tō 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 customary non-commercial fisheries management;
 - 1.2.5 contracting for services;
 - 1.2.6 employment of Ministry staff with customary non-commercial fisheries responsibilities;
 - 1.2.7 information exchange;
 - 1.2.8 rāhui; and
 - 1.2.9 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 the whānau, hapū and iwi of Ngāti Apa ki te Rā Tō who have an interest in the sustainable utilisation of fish, aquatic life and seaweed that exist within the Fisheries Protocol Area. Ngāti Apa ki te Rā Tō have a responsibility in relation to the preservation, protection and management of their customary non-commercial fisheries within the Fisheries Protocol Area. This is inextricably linked to whakapapa and has important cultural and spiritual dimensions.

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

4.2: FISHERIES PROTOCOL

- 1.4 The obligations of the Ministry in respect of fisheries are to provide for the utilisation of fisheries resources, while ensuring sustainability, to meet Te Tiriti o Waitangi/Treaty of Waitangi and international obligations, and to ensure the integrity of fisheries management systems.
- 1.5 The Ministry and Ngāti Apa ki te Rā Tō 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 Chief Executive have certain functions, powers and duties in terms of the Fisheries Legislation and the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992. With the intention of creating a relationship that achieves, over time, the fisheries policies and outcomes sought by both Ngāti Apa ki te Rā Tō and the Ministry consistent with the Ministry's obligations as set out in clause 1.4, this Protocol sets out how the Ministry, the Minister and the Chief Executive 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 meaningful 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 hapū or iwi of Ngāti Apa ki te Rā Tō or with another iwi or hapū with interests inside the Fisheries Protocol Area on matters that could affect the interests of Ngāti Apa ki te Rā Tō.

2 NGĀTI APA KI TE RĀ TŌ FISHERIES PROTOCOL AREA

- 2.1 This Fisheries Protocol applies across the Ngāti Apa ki te Rā Tō 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 [] of the [*insert the name of the Settlement Legislation*] (the "**Settlement Legislation**") that implements clause 5.17.2 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 IMPLEMENTATION AND COMMUNICATION

- 4.1 The Ministry will meet with the Governance Entity to agree a strategy to implement this Fisheries Protocol as soon as practicable after this Protocol is issued. The strategy may include:
 - 4.1.1 any matters raised in this Protocol;
 - 4.1.2 reporting processes to be put in place, including an annual report to be provided by the Ministry to the Governance Entity;

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

4.2: FISHERIES PROTOCOL

- 4.1.3 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
- 4.1.4 meetings between Ngāti Apa ki te Rā Tō and the Ministry to review the operation of the Protocol, when required (as agreed in the implementation plan).
- 4.2 The implementation strategy described in clause 4.1 of this Protocol will have effect from the date specified in the strategy.
- 4.3 The Ministry will establish and maintain effective consultation processes and communication networks with the Governance Entity by:
 - 4.3.1 maintaining, at national and regional levels, information provided by the Governance Entity on the office holders of the Governance Entity, addresses and contact details; and
 - 4.3.2 providing reasonable opportunities for the Governance Entity to meet with Ministry managers and staff.
- 4.4 The Ministry will:
 - 4.4.1 consult and involve the Governance Entity in the training of relevant staff on this Protocol and provide on-going training as required; and
 - 4.4.2 as far as reasonably practicable, inform fisheries stakeholders about this Protocol and the Deed of Settlement, and provide on-going information as required.

5 REGIONAL IWI FORUMS

- 5.1 The Ministry will continue to work with iwi in the operation and development of the Te Tau Ihu regional iwi forum, to enable iwi to have input into and to participate in processes to address fisheries plans.

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

- 6.1 Ngāti Apa ki te Rā Tō are entitled to input into and participation in the Ministry's national fisheries plans, where these are being developed and 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 catch limits, research and compliance services) required to meet these objectives.
- 6.2 Ngāti Apa ki te Rā Tō input and participation will be recognised and provided for through the iwi fisheries plan referred to in clause 7, which the Ministry must have particular regard to when developing national fisheries plans that relate to the Fisheries Protocol Area.

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

4.2: FISHERIES PROTOCOL

- 6.3 Where it is intended that any sustainability measures will be set or varied that are not addressed in any Ministry national fisheries plan, the Ministry will ensure that the input and participation of Ngāti Apa ki te Rā Tō is provided for.

7 IWI FISHERIES PLAN

- 7.1 The Governance Entity will develop an iwi fisheries plan that relates to the Fisheries Protocol Area.

- 7.2 The Ministry 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 fisheries plan will address:

7.3.1 the objectives of the Governance Entity for the management of their customary, commercial, recreational and environmental interests in fisheries resources within the Fisheries Protocol Area;

7.3.2 Ngāti Apa ki te Rā Tō's view on what constitutes their exercise of kaitiakitanga within the 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.

- 7.4 The Ministry and the Governance Entity agree to meet, as soon as reasonably practicable, to discuss:

7.4.1 the content of the iwi fisheries plan, including how the plan will legally protect and recognise the mana of Ngāti Apa ki te Rā Tō; and

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

8 MANAGEMENT OF CUSTOMARY NON-COMMERCIAL FISHERIES

- 8.1 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 (South Island Customary Fishing) Regulations 1999. This information and assistance may include, but is not limited to:

8.1.1 discussions with the Ministry on the implementation of the Fisheries (South Island Customary Fishing) Regulations 1999 within the Fisheries Protocol Area;

8.1.2 provision of existing information, if any, relating to the sustainability, biology, fishing activity and fisheries management within the Fisheries Protocol Area; and

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

4.2: FISHERIES PROTOCOL

- 8.1.3 training the appropriate representatives of Ngāti Apa ki te Rā Tō to enable them to administer and implement the Fisheries (South Island Customary Fishing) Regulations 1999.

9 CONTRACTING FOR SERVICES

- 9.1 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.
- 9.2 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 Ngāti Apa ki te Rā Tō, and may be achieved by one or more of the following:
- 9.2.1 the Ministry may notify the Governance Entity of a contract for fisheries services;
- 9.2.2 the Ministry may notify the Governance Entity of an invitation to tender for fisheries services; and
- 9.2.3 the Ministry may direct a successful contractor to engage with the Governance Entity as appropriate, in undertaking the relevant fisheries services.
- 9.3 If the Governance Entity is contracted for fisheries services then clause 9.2.3 will not apply in relation to those fisheries services.

10 EMPLOYMENT OF STAFF WITH CUSTOMARY FISHERIES RESPONSIBILITIES

- 10.1 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 Ngāti Apa ki te Rā Tō in relation to the Fisheries Protocol Area.
- 10.2 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 Ngāti Apa ki te Rā Tō, and may be achieved by one or more of the following:
- 10.2.1 consultation on the job description and work programme;
- 10.2.2 direct notification of the vacancy;
- 10.2.3 consultation on the location of the position; and
- 10.2.4 input into the selection of the interview panel.

4.2: FISHERIES PROTOCOL

11 CONSULTATION

- 11.1 Where the Ministry is required to consult in relation to this Protocol, the basic principles that will be followed by the Ministry in consulting with the Governance Entity in each case are:
- 11.1.1 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;
 - 11.1.2 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;
 - 11.1.3 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
 - 11.1.4 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.
- 11.2 Where the Ministry has consulted with the Governance Entity as specified in clause 11.1, 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.

12 RĀHUI

- 12.1 The Ministry recognises that rāhui is a traditional use and management practice of Ngāti Apa ki te Rā Tō and supports their rights to place traditional rāhui over their customary fisheries.
- 12.2 The Ministry and the Governance Entity acknowledge that a traditional rāhui placed by the Governance Entity over their customary fisheries has no force in law and cannot be enforced by the Ministry, and that adherence to any rāhui is a matter of voluntary choice. Ngāti Apa ki te Rā Tō undertakes to inform the Ministry of the placing and the lifting of a rāhui by Ngāti Apa ki te Rā Tō over their customary fisheries, and also the reasons for the rāhui.
- 12.3 The Ministry undertakes to inform a representative of any fishery stakeholder groups that fish in the area to which the rāhui has been applied, to the extent that such groups exist, of the placing and the lifting of a rāhui by Ngāti Apa ki te Rā Tō over their customary fisheries, in a manner consistent with the understandings outlined in clause 12.2 above.
- 12.4 As far as reasonably practicable, the Ministry undertakes to consider the application of section 186B of the Fisheries Act 1996 to support a rāhui proposed by Ngāti Apa ki te Rā Tō over their customary fisheries for purposes consistent with the legislative requirements for the application of section 186B of the Fisheries Act 1996, noting these requirements preclude the use of section 186B to support rāhui placed in the event of a drowning.

4.2: FISHERIES PROTOCOL

13 INFORMATION EXCHANGE

- 13.1 Ngāti Apa ki te Rā Tō and the Ministry recognise the benefit of mutual information exchange. To this end, the Ministry and Ngāti Apa ki te Rā Tō will as far as possible exchange any information that is relevant to the management of the Fisheries Protocol Area.
- 13.2 The Ministry will make available to Ngāti Apa ki te Rā Tō all existing information held by, or reasonably accessible to, the Ministry where that information is requested by Ngāti Apa ki te Rā Tō for the purposes of assisting them to exercise their rights under this Fisheries Protocol.
- 13.3 The Ministry will provide to the Governance Entity any reasonably available information concerning the management of species or stocks that are of significance to Ngāti Apa ki te Rā Tō.

14 DISPUTE RESOLUTION

- 14.1 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:
- 14.1.1 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;
- 14.1.2 If the dispute has not been resolved within 30 working days of receipt of the notice referred to in clause 14.1, the Chief Executive of the Ministry and representative of the Governance Entity will meet to work in good faith to resolve the issue;
- 14.1.3 If the dispute has not been resolved within 45 working days of receipt of the notice referred to in clause 14.1 despite the process outlined in clauses 14.1.1 and 14.1.2 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.
- 14.2 In the context of any dispute that has been initiated under clause 14.1, the Ministry and the Governance Entity will place utmost importance on the fact that the Ministry and Ngāti Apa ki te Rā Tō are, in accordance with clause 1.5 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.

4.2: FISHERIES PROTOCOL

15 CHANGES TO POLICY AND LEGISLATION AFFECTING THIS PROTOCOL

- 15.1 If the Ministry consults with iwi on policy development or any proposed legislative amendment to the Fisheries Act 1996 which impacts upon this Protocol, the Ministry shall:
- 15.1.1 notify the Governance Entity of the proposed policy development or proposed legislative amendment upon which iwi will be consulted; and
 - 15.1.2 make available to the Governance Entity the information provided to iwi as part of the consultation process referred to in this clause; and
 - 15.1.3 report back to the Governance Entity on the outcome of any such consultation, either in writing or in person.

16 DEFINITIONS

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

Governance Entity means the Ngāti Apa ki te Rā Tō 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 [].

NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE

4.2: FISHERIES PROTOCOL

ISSUED on []

SIGNED for and on behalf of)
THE CROWN by the Minister of)
Fisheries in the presence of:)
)

Signature of Witness

Witness Name:

Occupation:

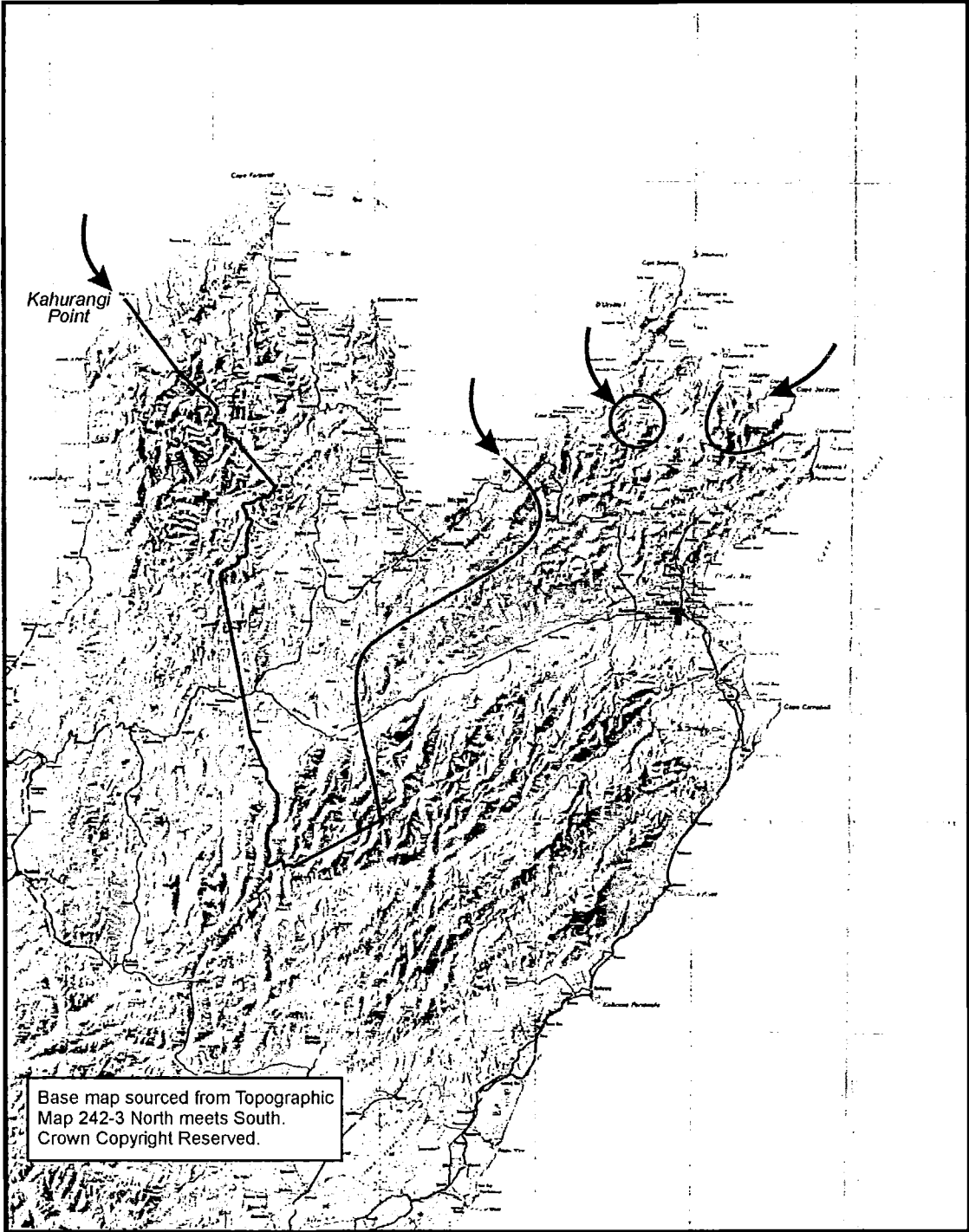
Address:

NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE

4.2: FISHERIES PROTOCOL

ATTACHMENT A

FISHERIES PROTOCOL AREA



4.2: FISHERIES PROTOCOL

**ATTACHMENT B
TERMS OF ISSUE**

This Protocol is subject to the provisions of the deed of settlement and the settlement legislation. These provisions are set out below.

1. Provisions of the deed of settlement relating to this Protocol

- 1.1 The deed of settlement provides that a failure by the Crown to comply with a protocol is not a breach of the deed of settlement (clause 5.20).

[to insert terms of issue from the settlement legislation]

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

4.3 TAONGA TŪTURUJ PROTOCOL

Clause 5.17.3

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

4.3: TAONGA TŪTURU PROTOCOL

A PROTOCOL ISSUED BY THE CROWN THROUGH THE MINISTER FOR ARTS, CULTURE AND HERITAGE REGARDING INTERACTION WITH NGĀTI APA KI TE RĀ TŌ ON SPECIFIED ISSUES
--

1 INTRODUCTION

- 1.1 Under the Deed of Settlement dated 29 October 2010 between Ngāti Apa ki te Rā Tō 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 the Ministry for Culture and Heritage (the “Chief Executive”) will interact with the governance entity on matters specified in the Protocol. These matters are:
- 1.1.1 Protocol Area - Part 2;
 - 1.1.2 Terms of issue - Part 3
 - 1.1.3 Implementation and communication - Part 4
 - 1.1.4 The role of the Chief Executive under the Protected Objects Act 1975 - Part 5
 - 1.1.5 The role of the Minister under the Protected Objects Act 1975 - Part 6
 - 1.1.6 Ngāti Apa ki te Rā Tō, Te Papa Tongarewa and other museums- Part 7
 - 1.1.7 Registration as a collector of Ngā Taonga Tūturu - Part 8
 - 1.1.8 Board Appointments - Part 9
 - 1.1.9 National Monuments, War Graves and Historical Graves - Part 10
 - 1.1.10 Historical publications Ngāti Apa ki te Rā Tō - Part 11
 - 1.1.11 Cultural and/or Spiritual Practices - Part 12
 - 1.1.12 Consultation - Part 13
 - 1.1.13 Changes to policy and legislation - Part 14
 - 1.1.14 Definitions - Part 15.
- 1.2 For the purposes of this Protocol the governance entity is the body representative of the whānau and iwi of Ngāti Apa ki te Rā Tō who have an interest in the matters covered under this Protocol deriving from their status as tangata whenua in the Protocol Area.
- 1.3 The Ministry and the governance entity are seeking a relationship consistent with Te Tiriti o Waitangi / the Treaty of Waitangi and its principles. The principles of Te Tiriti o Waitangi / the Treaty of Waitangi provides the basis for the relationship between the parties to this Protocol, as set out in this Protocol.
- 1.4 The purpose of the Protected Objects Act 1975 is to provide for the better protection of certain objects by, among other things, regulating the export of Taonga Tūturu and by

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

4.3: TAONGA TŪTURU PROTOCOL

establishing and recording the ownership of Ngā Taonga Tūturu found after the commencement of the Act, namely 1 April 1976.

- 1.5 The Minister and Chief Executive have certain roles in terms of the matters mentioned in Clause 1.1. In exercising these roles, the Minister and Chief Executive will provide the governance entity with the opportunity for input into the matters set out in Clause 1.1.
- 1.6 Ngāti Apa ki te Rā Tō and the Chief Executive intend that this Protocol should contribute to achieving the following objectives:
- 1.6.1 acknowledgement and recognition by the Ministry of the customary, traditional, spiritual and historical interests of Ngāti Apa ki te Rā Tō over their entire rohe;
 - 1.6.2 the development by Ngāti Apa ki te Rā Tō of the capacity and capability to exercise an effective kaitiaki and management role over ngā Taonga Tūturu;
 - 1.6.3 the establishment of a positive, constructive and durable relationship between Ngāti Apa ki te Rā Tō and the Ministry.

2 PROTOCOL AREA

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

3 TERMS OF ISSUE

- 3.1 This Protocol is issued pursuant to section [] of the ("*to be completed*") [Claims Settlement Act 2010] (the "Settlement Legislation") that implements the (*to be completed*) Deed of Settlement and is subject to the Settlement Legislation and the Deed of Settlement.
- 3.2 This Protocol must be read subject to the terms of issue set out in Attachment B.

4 IMPLEMENTATION AND COMMUNICATION

- 4.1 The Chief Executive will maintain effective communication with the governance entity by:
- 4.1.1 maintaining information provided by the governance entity on the office holders of the governance entity and their addresses and contact details;
 - 4.1.2 discussing with the governance entity concerns and issues notified by the governance entity about this Protocol;
 - 4.1.3 as far as reasonably practicable, providing opportunities for the governance entity to meet with relevant Ministry Managers and staff;
 - 4.1.4 meeting with the governance entity to review the implementation of this Protocol at least once a year, if requested by either party;
 - 4.1.5 as far as reasonably practicable, training relevant employees within the Ministry on this Protocol to ensure that they are aware of the purpose, content and implications of this Protocol;

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

4.3: TAONGA TŪTURU PROTOCOL

- 4.1.6 as far as reasonably practicable, informing other organisations with whom it works, central government agencies and stakeholders about this Protocol and provide ongoing information; and
- 4.1.7 including a copy of the Protocol with the governance entity on the Ministry's website.

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 Tūturu found within the Protocol Area or identified as being of Ngāti Apa ki te Rā Tō origin found anywhere else in New Zealand;
 - 5.1.2 provide for the care, recording and custody of any Taonga Tūturu found within the Protocol Area or identified as being of Ngāti Apa ki te Rā Tō origin found anywhere else in New Zealand;
 - 5.1.3 notify the governance entity in writing of its right to lodge a claim with the Chief Executive for ownership of any Taonga Tūturu found within the Protocol Area or identified as being of Ngāti Apa ki te Rā Tō origin found anywhere else in New Zealand;
 - 5.1.4 notify the governance entity in writing of its right to apply directly to the Māori Land Court for determination of the actual or traditional ownership, rightful possession or custody of any Taonga Tūturu found within the Protocol Area or identified as being of Ngāti Apa ki te Rā Tō origin found anywhere else in New Zealand, or for any right, title, estate, or interest in any such Taonga Tūturu; and
 - 5.1.5 notify the governance entity in writing of any application to the Māori Land Court from any other person for determination of the actual or traditional ownership, rightful possession or custody of any Taonga Tūturu found within the Protocol Area or identified as being of Ngāti Apa ki te Rā Tō origin found anywhere else in New Zealand, or for any right, title, estate, or interest in any such Taonga Tūturu.

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 Tūturu found within the Protocol Area or identified as being of Ngāti Apa ki te Rā Tō origin found anywhere else in New Zealand, the Chief Executive will, if satisfied that the claim is valid, apply to the Registrar of the Māori Land Court for an order confirming ownership of the Taonga Tūturu.
- 5.3 If there is a competing claim or claims lodged in conjunction with the governance entity's claim of ownership, the Chief Executive will consult with the governance entity

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

4.3: TAONGA TŪTURU PROTOCOL

for the purpose of resolving the competing claims, and if satisfied that a resolution has been agreed to, and is valid, apply to the Registrar of the Māori Land Court for an order confirming ownership of the Taonga Tūturu.

- 5.4 If the competing claims for ownership of any Taonga Tūturu found within the Protocol Area or identified as being of Ngāti Apa ki te Rā Tō origin found anywhere else in New Zealand, cannot be resolved, the Chief Executive at the request of the governance entity may facilitate an application to the Māori Land Court for determination of ownership of the Taonga Tūturu.

Applications for Custody

- 5.5 If no ownership application is made to the Māori Land Court for any Taonga Tūturu found within the Protocol Area or identified as being of Ngāti Apa ki te Rā Tō origin found elsewhere in New Zealand by the governance entity or any other person, the Chief Executive will:

5.5.1 consult the governance entity where there is any request from any other person for the custody of the Taonga Tūturu;

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

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

Export Applications

- 5.6 For the purpose of seeking an expert opinion from the governance entity on any export applications to remove any Taonga Tūturu of Ngāti Apa ki te Rā Tō origin from New Zealand, the Chief Executive will register the governance entity on the Ministry for Culture and Heritage's Register of Expert Examiners.

- 5.7 Where the Chief Executive receives an export application to remove any Taonga Tūturu of Ngāti Apa ki te Rā Tō 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 his or her decision.

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

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

6.1.1 refuse permission to export any Taonga Tūturu, or Ngā Taonga Tūturu, from New Zealand; or

6.1.2 impose conditions on the approval to export any Taonga Tūturu, or Ngā Taonga Tūturu, from New Zealand;

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

4.3: TAONGA TŪTURU PROTOCOL

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

7. NGĀTI APA KI TE RĀ TŌ, TE PAPA TONGAREWA AND OTHER MUSEUMS

- 7.1 The Chief Executive will write to Te Papa Tongarewa and invite it to enter into a relationship with the governance entity, for the purposes of Te Papa Tongarewa compiling a full inventory of Taonga Tūturu held by Te Papa Tongarewa, which are of cultural, spiritual and historical importance to Ngāti Apa ki te Rā Tō.

- 7.2 The Chief Executive will also write to Canterbury Museum, Otago Museum and Nelson Provincial Museum inviting them to enter into a relationship with Ngāti Apa ki te Rā Tō.

8. REGISTRATION AS A COLLECTOR OF NGĀ TAONGA TŪTURU

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

9. BOARD APPOINTMENTS

- 9.1 The Chief Executive shall:

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

9.1.2 include governance entity nominees in the Ministry for Culture and Heritage's Nomination Register for Boards, which the Minister for Arts, Culture and Heritage appoints to; and

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

10. NATIONAL MONUMENTS, WAR GRAVES AND HISTORIC GRAVES

- 10.1 The Chief Executive shall seek and consider the views of the governance entity on any national monument, war grave, historical grave or urupā, managed or administered by the Ministry, which specifically relates to Ngāti Apa ki te Rā Tō interests.

11. HISTORICAL PUBLICATIONS

- 11.1 The Chief Executive shall:

11.1.1 provide the governance entity with a list of all history publications commissioned or undertaken by the Ministry that relate to Ngāti Apa ki te Rā Tō and Te Tau Ihu, and will supply these on request; and

11.1.2 discuss with the governance entity any historical work the Ministry commissions or undertakes that deals specifically or substantially with Ngāti Apa ki te Rā Tō and Te Tau Ihu.

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

4.3: TAONGA TŪTURU PROTOCOL

12. PROVISION OF CULTURAL AND/OR SPIRITUAL PRACTICES AND PROFESSIONAL SERVICES

- 12.1 When the Chief Executive requests cultural and/or spiritual practices to be undertaken by Ngāti Apa ki te Rā Tō within the Protocol Area, the Chief Executive will make a contribution, subject to prior mutual agreement, to the costs of undertaking such practices.
- 12.2 Where appropriate, the Chief Executive will consider using the governance entity as a provider of professional services.
- 12.3 The procurement by the Chief Executive of any such services set out in clauses 14.1 and 14.2 is subject to the Government's Mandatory Rules for Procurement by Departments, all government good practice policies and guidelines, and the Ministry's purchasing policy.

13. CONSULTATION

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

14. CHANGES TO POLICY AND LEGISLATION

- 14.1 If the Chief Executive consults with Māori generally on policy development or any proposed legislative amendment to the Act that impacts upon this Protocol, the Chief Executive shall:
 - 14.1.1 notify the governance entity of the proposed policy development or proposed legislative amendment upon which Māori generally will be consulted;
 - 14.1.2 make available to the governance entity the information provided to Māori as part of the consultation process referred to in this clause; and

NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE

4.3: TAONGA TŪTURU PROTOCOL

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

14.2 If any other policy or legislative development specifically affects Ngāti Apa ki te Rā Tō, the Chief Executive shall:

14.1.1 notify the governance entity of the proposed policy development or proposed legislative amendment;

14.1.2 make available to the governance entity any information requested by the governance entity subject to the requirements of the Official Information Act; and

14.1.3 report back to the governance entity on the decisions arising from the development.

15. DEFINITIONS

15.1 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 Tūturū, means discovered or obtained in circumstances which do not indicate with reasonable certainty the lawful ownership of the Taonga Tūturū and which suggest that the Taonga Tūturū 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 the trustees for the time being of the Ngāti Apa ki te Rā Tō Trust

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

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

an object that:

(a) relates to Māori culture, history, or society; and

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

4.3: TAONGA TŪTURU PROTOCOL

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

Ngāti Apa ki te Rā Tō has the meaning set out in clause 8.5 of the Deed of Settlement.

ISSUED on

SIGNED for and on behalf of)
THE CROWN)
by the Minister for Arts, Culture and)
Heritage in the presence of:) _____

Signature of Witness

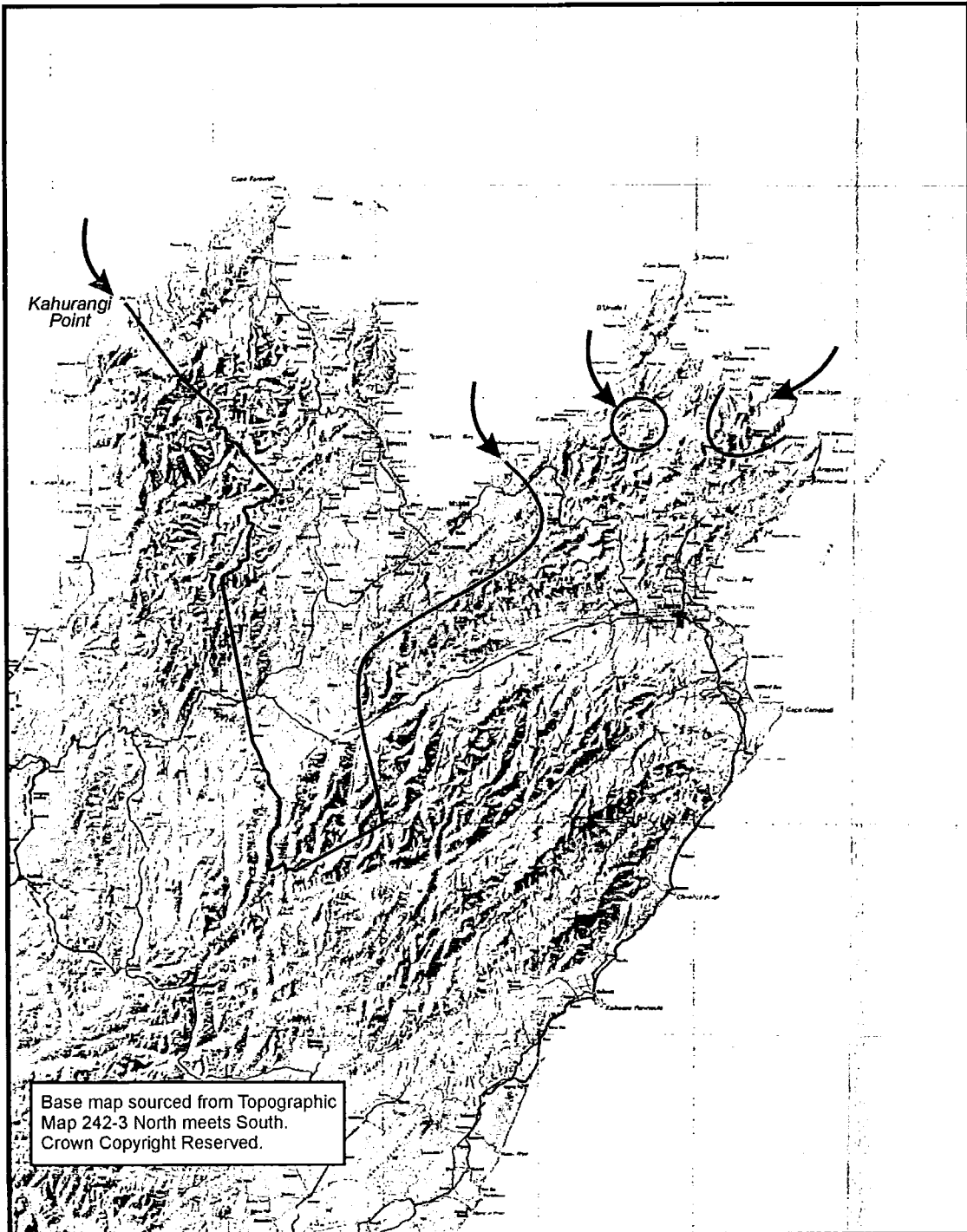
Witness Name:

Occupation:

Address:

ATTACHMENT A

THE MINISTRY FOR CULTURE AND HERITAGE PROTOCOL AREA



NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE

4.3: TAONGA TŪTURU PROTOCOL

<p>ATTACHMENT B</p> <p>TERMS OF ISSUE</p>

This Protocol is subject to the provisions of the deed of settlement and the settlement legislation. These provisions are set out below.

1. Provisions of the deed of settlement relating to this Protocol

- 1.1 The deed of settlement provides that a failure by the Crown to comply with a protocol is not a breach of the deed of settlement (clause 5.20).

[to insert terms of issue from the settlement legislation]

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

4.4 MINERALS PROTOCOL

Clause 5.17.4

NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE

4.4: MINERALS PROTOCOL

**PROTOCOL ISSUED BY THE CROWN THROUGH THE MINISTER OF ENERGY AND
RESOURCES REGARDING CONSULTATION WITH NGĀTI APA KI TE RĀ TO BY
THE MINISTRY OF ECONOMIC DEVELOPMENT ON CROWN OWNED MINERALS**

1. INTRODUCTION

- 1.1 Under the Deed of Settlement dated 29 October 2010 between Ngāti Apa and the Crown (the "**Deed of Settlement**"), the Crown agreed that the Minister of Energy and Resources (the "**Minister**") would issue a Protocol (the "**Crown Minerals Protocol**") setting out how the Ministry of Economic Development (the "**Ministry**") will consult with the Ngāti Apa ki te Rā Tō Trust (the "**Governance Entity**") on matters specified in the Crown Minerals Protocol.
- 1.2 For the purposes of this Protocol the Ngāti Apa ki te Rā Tō Trust is the body representative of the whānau and iwi of Ngāti Apa who have interests and responsibilities in relation to the Protocol Area. These interests and responsibilities are inextricably linked to whakapapa and have important cultural and spiritual dimensions.
- 1.3 The Ministry and Ngāti Apa are seeking a relationship based on the principles of Te Tiriti o Waitangi/the Treaty of Waitangi.
- 1.4 The purpose of the Crown Minerals Act 1991 (the "**Act**") is to restate and reform the law relating to the management of Crown owned minerals. Section 4 of the Act requires all persons exercising functions and powers under the Act to have regard to the principles of Te Tiriti o Waitangi / the Treaty of Waitangi.
- 1.5 The Minister is responsible under the Act for the preparation of mineral programmes, the grant of minerals permits and monitoring the effect and implementation of minerals programmes and minerals permits. The Ministry administers the Act on behalf of the Minister.
- 1.6 This Crown Minerals Protocol will affect the Ministry's administration of Crown owned minerals under the Act in the Crown Minerals Protocol Area.

2. PURPOSE OF THIS PROTOCOL

- 2.1 This Crown Minerals Protocol sets out how the Ministry will have regard to the rights and interests of Ngāti Apa while exercising its functions, powers, and duties in relation to the matters set out in this Crown Minerals Protocol.
- 2.2 The Ngāti Apa ki te Rā Tō Trust will have the opportunity for input into the policy, planning, and decision-making processes relating to the matters set out in this Crown Minerals Protocol in accordance with the Act and the relevant minerals programmes issued under the Act.

3. PROTOCOL AREA

- 3.1 This Crown Minerals Protocol applies across the Crown Minerals Protocol Area which means the area identified in the map included in Attachment A of this Crown Minerals Protocol together with the adjacent waters.

4.4: MINERALS PROTOCOL

4. TERMS OF ISSUE

- 4.1 This Crown Minerals Protocol is issued pursuant to section [] of [insert the name of the Settlement Legislation] (the "**Settlement Legislation**") that implements clause 5.17.4 of the Deed of Settlement, and is subject to the Settlement Legislation and the Deed of Settlement.
- 4.2 This Crown Minerals Protocol must be read subject to the terms of issue set out in Attachment B.

5. CONSULTATION

- 5.1 The Minister will ensure that the Ngāti Apa ki te Rā Tō Trust is consulted by the Ministry:

New minerals programmes in respect of petroleum

- 5.1.1 on the preparation of new minerals programmes in respect of Petroleum which relate, whether wholly or in part, to the Crown Minerals Protocol Area;

Petroleum exploration permit block offers

- 5.1.2 on the planning of a competitive tender allocation of a permit block for Petroleum exploration (being a specific area with defined boundaries available for allocation as a permit in accordance with section 24 of the Act and the relevant minerals programme), which relates, whether wholly or in part, to the Crown Minerals Protocol Area;

Other petroleum exploration permit applications

- 5.1.3 when any application for a petroleum exploration permit is considered, which relates, whether wholly or in part, to the Crown Minerals Protocol Area, except where the application relates to a block offer over which consultation has already taken place under clause 5.1.2;

Amendments to petroleum exploration permits

- 5.1.4 when any application to amend a petroleum exploration permit, by extending the land or minerals to which the permit relates, is considered, where the application relates, wholly or in part, to the Crown Minerals Protocol Area;

New minerals programme in respect of Crown owned minerals other than petroleum

- 5.1.5 on the preparation of new minerals programmes in respect of Crown owned minerals other than petroleum, which relate, whether wholly or in part, to the Crown Minerals Protocol Area;

Permit block offers for Crown owned minerals other than petroleum

- 5.1.6 on the planning of a competitive tender allocation of a permit block for Crown owned minerals other than Petroleum (being a specific area with defined boundaries available for allocation as a permit in accordance with section 24 of

4.4: MINERALS PROTOCOL

the Act and any relevant minerals programme) which relates, whether wholly or in part, to the Crown Minerals Protocol Area;

Other permit applications for Crown owned minerals other than petroleum

5.1.7 when any application for a permit in respect of Crown owned minerals other than petroleum is considered, which relates, whether wholly or in part, to the Crown Minerals Protocol Area, except where the application relates to a competitive tender allocation of a permit block offer over which consultation has already taken place under clause 5.1.6;

Amendments to permits for Crown owned minerals other than petroleum

5.1.8 when any application to amend a permit in respect of Crown owned minerals other than petroleum, by extending the land or minerals covered by an existing permit is considered; and

5.1.9 where the application relates, wholly or in part, to the Crown Minerals Protocol Area.

5.2 Each decision on a proposal referred to in clause 5.1 will be made having regard to any matters raised as a result of consultation with the Ngāti Apa ki te Rā Tō Trust, and having regard to the principles of Te Tiriti o Waitangi/the Treaty of Waitangi, particularly as those principles are set out in the relevant minerals programme from time to time, and taking into account the circumstances of each case.

5.3 Where the Ngāti Apa ki te Rā Tō Trust requests that the Minister exclude land from a permit or competitive tender referred to in clause 5.1, the Minister will ordinarily consider the following matters:

- (a) the particular importance of the land to Ngāti Apa;
- (b) whether the land is a known wāhi tapu site;
- (c) the uniqueness of the land (for example, whether the land is mahinga kai (food gathering area) or waka tauranga (a landing place of the ancestral canoes));
- (d) whether the importance of the land to Ngāti Apa has already been demonstrated (for example, by Treaty claims or Treaty settlements resulting in a statutory acknowledgment or other redress instrument under settlement legislation);
- (e) any relevant Treaty claims or settlements;
- (f) whether granting a permit over the land or the particular minerals would impede the progress of redress of any Treaty claims;
- (g) any Ngāti Apa management plans that specifically exclude the land from certain activities;
- (h) the ownership of the land;

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

4.4: MINERALS PROTOCOL

- (i) whether the area is already protected under an enactment (for example, the Resource Management Act 1991, the Conservation Act 1987, or the Historic Places Act 1993);
- (j) the size of the land and the value or potential value of the relevant mineral resources if the land is excluded.

6. IMPLEMENTATION AND COMMUNICATION

- 6.1 The Crown has an obligation under the Act (as provided for in minerals programmes) to consult with parties whose interests may be affected by matters described in clause 5.1 of this Crown Minerals Protocol. The Ministry will consult with the Ngāti Apa ki te Rā Tō Trust in accordance with this Crown Minerals Protocol and in accordance with the relevant minerals programme if matters described in clause 5.1 and clause 6 of this Crown Minerals Protocol Area may affect the interests of Ngāti Apa.
- 6.2 The basic principles that will be followed by the Ministry in consulting with the Ngāti Apa ki te Rā Tō Trust in each case are:
 - 6.2.1 ensuring that the Ngāti Apa ki te Rā Tō Trust is consulted as soon as reasonably practicable following the identification and determination by the Ministry of the proposal or issues in relation to any matters under clause 5 of this Crown Minerals Protocol;
 - 6.2.2 providing the Ngāti Apa ki te Rā Tō Trust with sufficient information to make informed decisions and submissions in relation to any of the matters described in clause 5 of this Crown Minerals Protocol;
 - 6.2.3 ensuring that sufficient time is given for the participation of the Ngāti Apa ki te Rā Tō Trust in the decision making process and the consideration by the Ngāti Apa ki te Rā Tō Trust of its submissions in relation to any of the matters described in clause 5 of this Crown Minerals Protocol; and
 - 6.2.4 ensuring that the Ministry will approach the consultation with the Ngāti Apa ki te Rā Tō Trust with an open mind, and will genuinely consider the submissions of the Ngāti Apa ki te Rā Tō Trust in relation to any of the matters described in clause 5 of this Crown Minerals Protocol.
- 6.3 Where the Ministry is required to consult the Ngāti Apa ki te Rā Tō Trust as specified in clause 6.1, the Ministry will report back in writing to the Ngāti Apa ki te Rā Tō Trust on the decision made as a result of such consultation.
- 6.4 The Ministry will seek to fulfil its obligations under this Crown Minerals Protocol by:
 - 6.4.1 maintaining information on the Ngāti Apa ki te Rā Tō Trust address and contact details as provided from time to time by the Ngāti Apa ki te Rā Tō Trust;
 - 6.4.2 as far as reasonably practicable, ensuring relevant employees within the Ministry are aware of the purpose, content and implications of this Crown Minerals Protocol;
 - 6.4.3 nominating relevant employees to act as contacts with the Ngāti Apa ki te Rā Tō Trust in relation to issues concerning this Crown Minerals Protocol; and

NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE

4.4: MINERALS PROTOCOL

6.4.4 providing the Ngāti Apa ki te Rā Tō Trust with the names of the relevant employees who will act as contacts with the Ngāti Apa ki te Rā Tō Trust in relation to issues concerning this Crown Minerals Protocol;

7. CHANGES TO POLICY AND LEGISLATION

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

7.1.1 notify the Ngāti Apa ki te Rā Tō Trust of the proposed policy development or proposed legislative amendment;

7.1.2 make available to the Ngāti Apa ki te Rā Tō Trust the information provided to Māori as part of the consultation process referred to in this clause; and

7.1.3 report back to the Ngāti Apa ki te Rā Tō Trust on the outcome of any such consultation.

8. DEFINITIONS

8.1 In this Crown Minerals Protocol:

Act means the Crown Minerals Act 1991 as amended, consolidated or substituted;

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;

Crown owned minerals means any mineral (as defined below) that is the property of the Crown in accordance with sections 10 and 11 of the Act or over which the Crown has jurisdiction in accordance with the Continental Shelf Act 1964;

Deed of Settlement means the Deed of Settlement dated 29 October 2010 between the Crown and Ngāti Apa;

governance entity means the trustees for the time being of the Ngāti Apa ki te Rā Tō Trust;

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 Economic Development;

Ngāti Apa has the meaning set out in clause 8.5 of the Deed of Settlement;

NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE

4.4: MINERALS PROTOCOL

Petroleum means:

- (a) any naturally occurring hydrocarbon (other than coal) whether in a gaseous, liquid, or solid state; or
- (b) any naturally occurring mixture of hydrocarbons (other than coal) whether in a gaseous, liquid, or solid state; or
- (c) any naturally occurring mixture of hydrocarbons (other than coal) whether in a gaseous, liquid, or solid state, and one or more of the following, namely hydrogen sulphide, nitrogen, helium, or carbon dioxide;

and, except in sections 10 and 11 of the Act, includes any petroleum as so defined which has been mined or otherwise recovered from its natural condition, or which has been so mined or otherwise recovered, but which has been returned to a natural reservoir for storage purposes in the same or an adjacent area; and

Protocol means a statement in writing, issued by the Crown through the Minister to the Ngāti Apa ki te Rā Tō Trust under the Settlement Legislation and the Deed of Settlement and includes this Crown Minerals Protocol.

ISSUED ON []

SIGNED for and on behalf of)
THE CROWN)
by the Minister of Energy and Resources [or)
the Associate Minister of Energy and)
Resources under delegated authority)
from the Minister of Energy and Resources] in)
the presence of: _____

Signature of Witness

Witness Name:

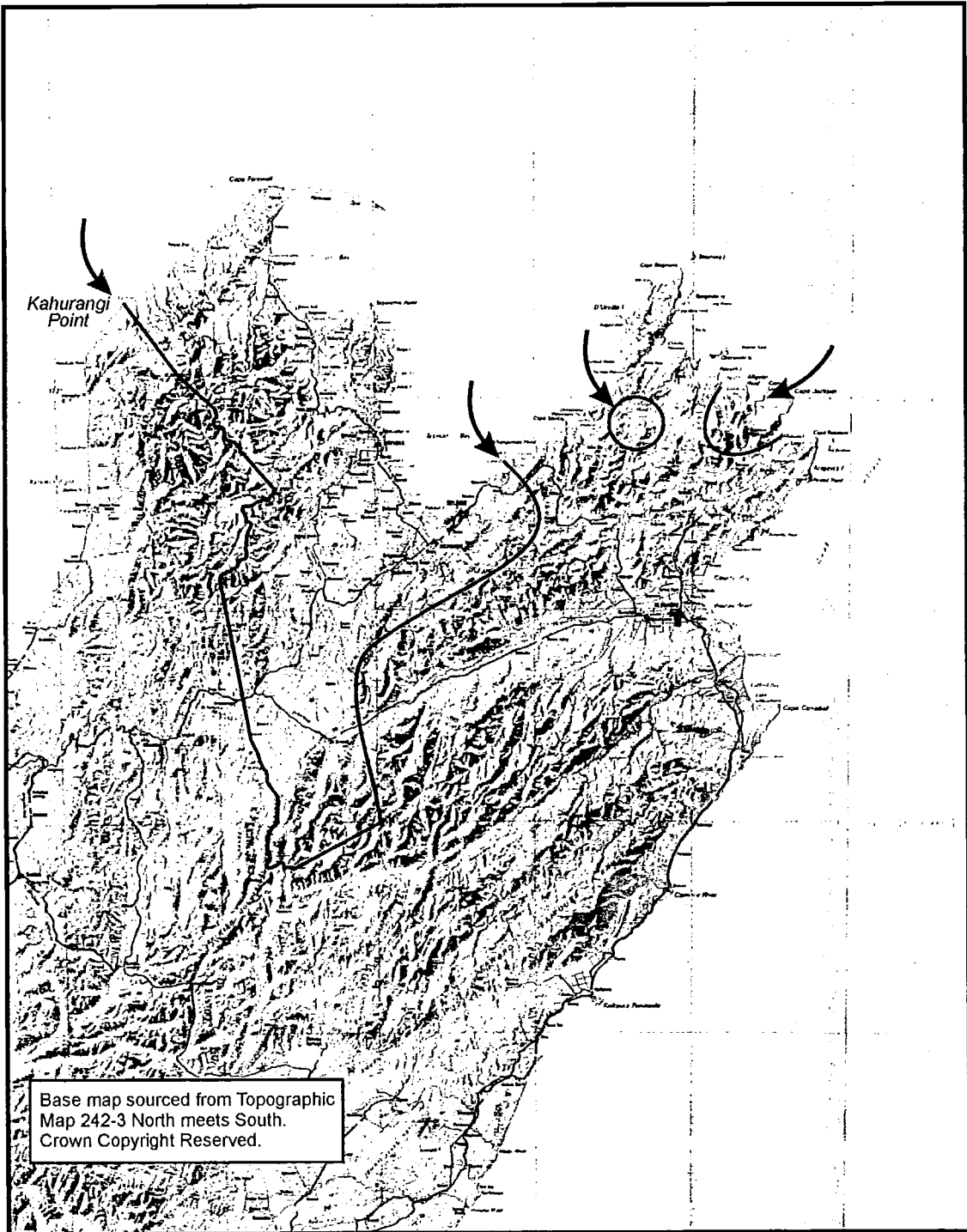
Occupation:

Address:

NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE

4.4: MINERALS PROTOCOL

ATTACHMENT A
CROWN MINERALS PROTOCOL AREA



NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE

4.4: MINERALS PROTOCOL

<p>ATTACHMENT B TERMS OF ISSUE</p>
--

This Protocol is subject to the provisions of the deed of settlement and the settlement legislation. These provisions are set out below.

1. Provisions of the deed of settlement relating to this Protocol

- 1.1 The deed of settlement provides that a failure by the Crown to comply with a protocol is not a breach of the deed of settlement (clause 5.20).

[to insert terms of issue from the settlement legislation]

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

5. ENCUMBRANCES

5.1 LEASES FOR LEASEBACK PROPERTIES - NELSON COURTHOUSE

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

NELSON COURTHOUSE

NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE

5.1: LEASES FOR LEASEBACK PROPERTIES - NELSON COURTHOUSE

LESSOR:

[]

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

NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE

5.1: LEASES FOR LEASEBACK PROPERTIES - NELSON COURTHOUSE

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

(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 [] ([]Registry), in that piece of land situated in Nelson Land District containing [] square metres more or less, being Section [] 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 _____ (__) years at the yearly rental of \$[] plus GST payable annually in advance on the [] day of [] 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 _____ 20_____

SIGNED by _____)
_____)
[GOVERNANCE ENTITY] as Lessor)
in the presence of: _____)

Signature of Witness
Witness Name: _____
Occupation:
Address:

SIGNED for and on behalf of _____)
HER MAJESTY THE QUEEN)
as Lessee by [])
(acting by and through the Chief Executive of)
the Ministry of Justice) in the presence of: _____)

Signature of Witness
Witness Name:
Occupation:
Address:

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

5.1: LEASES FOR LEASEBACK PROPERTIES - NELSON COURTHOUSE

SCHEDULE A

ITEM 1 THE LAND

All that parcel of land being the Land previously specified, classified as Historic Reserve pursuant to the Reserves Act 1977.

ITEM 2 THE COMMENCEMENT DATE

The commencement date of this Lease shall be the day of 20 .

ITEM 3 ANNUAL RENTAL

(Value in words) (\$[].00) per annum plus GST payable annually in advance on the first day of each year during the continuance of this lease with a first payment due on the day of 20 .

ITEM 4 TERM OF LEASE

4.1 Initial term

[] years from the Commencement Date, to determination on the day of 20 .

4.2 Subsequent terms

Rights of renewal for terms of [] years each forever from the day of 20 and each 20th anniversary after that date, subject to clause 4.02(v)

ITEM 5 LESSEE OUTGOINGS

- 5.1 Rates, levies, charges, assessments, duties or fees payable to any local, territorial, governmental and any other statutory authority (subject to Item 5.5).
- 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.
- 5.5 The amount by which the land tax of the Lessor (if any) has been increased by virtue of its ownership of the Land, but excluding any other taxes levied against the Lessor in respect of its interest in the Land and excluding any income tax assessed in respect of the Lessor's income from the Land.

ITEM 6 PERMITTED USE

- (a) For the purposes of the administration of justice by the Crown, including use as a courthouse and related facilities which can include cells for overnight prisoner accommodation; and/or
- (b) any other commercial use permitted as of right by the operative District Plan from time to time of the territorial authority having jurisdiction in respect of the Land provided that no such use will be inconsistent with the purpose or purposes for which the land is classified pursuant to the Reserves Act 1977.

ITEM 7 RIGHTS OF RENEWAL

Renewable as provided in Item 4.2 above.

ITEM 8 RENT REVIEW DATES

[] yearly from the Commencement Date of this Lease.

NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE

5.1: LEASES FOR LEASEBACK PROPERTIES - NELSON COURTHOUSE

ITEM 9 LESSOR'S PROPERTY

Nil.

ITEM 10 LESSEE'S IMPROVEMENTS

As defined in clause 1.07.

ITEM 11 CLAUSE 4.01(e) 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 4.01(e) and (f) 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)

/ / 20[]

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

5.1: LEASES FOR LEASEBACK PROPERTIES - NELSON COURTHOUSE

ITEM 12 CLAUSE 4.01(f) 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 4.01(f) 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:

Lessee: Chief Executive
 Ministry of Justice
 Vogel Centre (Ground Floor)
 Kate Sheppard Place
 WELLINGTON (PO Box 180, WELLINGTON)

Facsimile: (04) 918 8820

NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE

5.1: LEASES FOR LEASEBACK PROPERTIES - NELSON COURTHOUSE

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) Words importing the singular or plural number shall include the plural or singular number respectively.

1.02 "**District Plan**" means a district plan within the meaning of the Resource Management Act 1991

1.03 "**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.

1.04 "**Government Agency**" includes any department or instrument of the Executive Government of New Zealand; and, includes:

- (a) a body corporate or corporation sole (whether called a corporation sole, a corporation, commission, council, board, authority, or by any name that has been established or constituted by a public Act of Parliament and that is named in that Act;
- (b) a body corporate or organisation that is controlled wholly by the Crown or by any department, instrument, corporate, corporation sole, or organisation;
- (c) a Crown Entity within the meaning of the Crown Entities Act 2004 or as otherwise established or constituted by an Act of Parliament;
- (d) a State enterprise within the meaning of the State-Owned Enterprises Act 1985;

1.05 "**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.

1.06 "**Lease**" means, unless the context otherwise requires, this lease and any further renewal term thereof.

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

5.1: LEASES FOR LEASEBACK PROPERTIES - NELSON COURTHOUSE

- 1.07** "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".
- 1.08** "Lessee's Outgoings" means all outgoings the Lessee is obliged to pay under the provisions of this Lease.
- 1.09** "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.
- 1.10** "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 or the Anniversary Day celebrated in the locality of the Premises; and
 - (b) 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 9:00 am and finish at 5:00 pm.
- 1.11** "The Land", "The Commencement Date", "Annual Rental", "Term of the Lease" and "Permitted Use" shall have the meanings ascribed to them in Schedule A.
- 1.12** 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.
- 1.13** 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.
- 1.14** A covenant not to do anything shall be deemed to include an obligation not to suffer, permit or cause that thing to be done.
- 1.15** 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

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.

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

5.1: LEASES FOR LEASEBACK PROPERTIES - NELSON COURTHOUSE

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

- (a) 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.
- (b) Without limiting the generality of the foregoing the Lessee will take all reasonable steps to maintain a current warrant of fitness in respect of any building on the Land where such warrant of fitness is required in terms of the Building Act 2004.
- (c) Notwithstanding the provisions of clause 2.04(a), while the Lessee is **HER MAJESTY THE QUEEN**, the Lessee is bound only by those statutes, ordinances, regulations, bylaws, codes, requisitions or notices which bind the Crown.

2.05 AVOIDANCE OF DANGER

The Lessee shall:

- (a) Take all reasonable precautions to minimise any danger or hazard arising from the 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 LESSEE'S MAINTENANCE AND REPAIR OBLIGATION IN RESPECT OF THE LAND

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.

2.07 SIGNAGE

The Lessee shall have the right to affix names, signs, nameplates, signboards and advertisements relating to 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, such approval not to be unreasonably or arbitrarily withheld. 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.

2.08 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

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

5.1: LEASES FOR LEASEBACK PROPERTIES - NELSON COURTHOUSE

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 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 clause 2.08(a) shall be of no application whilst the Lessee is **HER MAJESTY THE QUEEN**.

2.09 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.

2.10 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.

2.11 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 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.

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

5.1: LEASES FOR LEASEBACK PROPERTIES - NELSON COURTHOUSE

3.03 LESSOR CONSENT TO GROUND WORKS

- (a) Notwithstanding anything to the contrary in this Lease, 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 removal;
 - (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, save that no ground works, excavation or sub-soil installation shall conflict with the purpose or purposes for which the Land is classified pursuant to the Reserves Act 1977. 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 full by the Lessee, unless the engineer otherwise so determines.
- (c) Should the Lessee determine that ground works are necessitated by an emergency situation for which the twenty (20) working days period of notice can not reasonably be given, notice shall be given to the Lessor as soon as is practicable. In such circumstances, ground works must be limited to addressing the nature of the emergency only. Additional, non-emergency ground works arising from the incident must comply with clause 3.03(a) of this lease.

3.04 DESIGNATION

The Lessor covenants that it consents to the Lessee maintaining a designation for courthouse purposes or any other Government Work 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, the Lessee shall promptly uplift any designation.

3.05 PROVISION OF CERTAIN NOTICES TO THE LESSEE

Whenever the Lessor receives any notice from any local or governmental authority concerning the payment of local authority rates or the rating 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 make any submission as seen fit by the Lessee to the local authority or the relevant governmental authority, as the case may be.

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

5.1: LEASES FOR LEASEBACK PROPERTIES - NELSON COURTHOUSE

PART IV - MUTUAL COVENANTS

4.00 MUTUAL COVENANTS

4.01 LESSEE'S IMPROVEMENTS

Maintenance

- (a) 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, and in respect of buildings on the Land, will keep such buildings water tight throughout the term of the Lease.
- (b) The Lessee acknowledges that the Lessor shall have no repair or maintenance obligations for any of the Lessee's Improvements on the Land.

Construction or Alterations to Lessee's Improvements

- (c) 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 obliged to seek the prior written consent of the Lessor to the construction of any Lessee's Improvements which are not necessary or incidental to the Permitted Use of the Land, and such consent shall not be unreasonably or arbitrarily withheld save that no alterations or additions shall be inconsistent with the purpose or purposes for which the Land is classified pursuant to the Reserves Act 1977.

Lessor's Acknowledgements as to Lessee's Improvements

- (d) 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) the 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.

Acknowledgments from Mortgagees or Chargeholders

- (e) 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 in the form 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;
- (f) 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 in the form 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;

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

5.1: LEASES FOR LEASEBACK PROPERTIES - NELSON COURTHOUSE

Removal of Lessee's Improvements

- (g) The Lessee may at its option remove all or any of the Lessee's Improvements from the Land at any time during the continuance of this Lease, and also during the period of 6 months from the expiration or sooner determination of this Lease. It is acknowledged and agreed by the parties that property in all Lessee's Improvements remains with the Lessee until the expiration of the 6 month period in the absence of any agreement between the parties to the contrary. No prior written consent or any other consent of the Lessor shall be required in respect of any such removal effected 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 up to six (6) months subsequent to the expiration of this Lease to remove Lessee's Improvements, and the Lessee shall give no less than 12 months notice as to whether it requires the full 6 months licence period or a lesser period. This provision shall enure 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;
- (h) In the event that the Lessee removes its Lessee's Improvements from the Land as aforesaid, it shall make good any damage to the Land and will leave the Land in a neat, tidy and safe condition subsequent to any such removal;
- (i) 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 date of expiration or sooner determination of the Lease or within six months after such date, notwithstanding any rule of law or equity to the contrary;
- (j) 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;
- (k) The provisions of this clause shall not merge upon the expiration or sooner determination of this Lease but shall enure for the benefit of the party entitled until completely performed;
- (l) Subject to subclause (m) the Lessee shall not be required by the Lessor to remove any Lessee's Improvements as at the expiration of the term of the Lease or at any time subsequent to such expiration, and all Lessee's Improvements remaining upon the Land at the option of the Lessee after the expiration of the six month period provided in subclause 4.01(g) 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, and the Lessor shall have no claim upon the Lessee in respect of any such Lessee's Improvements.
- (m) If the Lessee is not a Government Agency as at the expiry of the term of this Lease, the Lessee will if required by the Lessor in writing demolish or remove all 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 will leave the Land in a neat, tidy and safe condition.

4.02 ASSIGNMENT AND SUBLETTING

- (a) Subject to clauses 4.02(c) and (d) and 4.03, the Lessee must not assign or otherwise part with the possession of the Land or any part of the Land without first obtaining the written consent of the Lessor which the Lessor will give if the following conditions are fulfilled:
 - (i) The Lessee proves to the satisfaction of the Lessor that the proposed assignee is (or in the case of a company the shareholders of the company of the proposed

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

5.1: LEASES FOR LEASEBACK PROPERTIES - NELSON COURTHOUSE

- assignee are) respectable, responsible and has the financial resources to meet the commitments under this lease.
- (ii) All rent and other moneys payable under this Lease have been paid and there is no subsisting (in the case of a Government Agency a material, willful and deliberate) breach of any of the Lessee's covenants.
 - (iii) The Lessee pays the proper costs and disbursements in respect of the approval or preparation of any deed of covenant or guarantee and (if appropriate) all fees and charges payable in respect of any reasonable enquiries made by or on behalf of the Lessor concerning any proposed assignee.
 - (iv) The Lessee will, at the Lessee's own expense, procure the execution by an assignee of a deed of covenant with the Lessor that the assignee will, at all times pay the rent at the times and in the manner provided in this Lease and will observe and perform all the covenants and conditions contained in this Lease.
 - (v) Where the assignee is a party which is not a Government Agency, the Lessee will at the Lessee's own expense procure the execution by the assignee of a variation of this Lease whereby the Lease will cease to be perpetually renewable and the number of further terms will be reduced to 4 (of 20 years each) so that the Lease will have a final expiry date (if all rights of renewal are exercised) at the date of expiration of a period of 80 years following the expiration of the term of the Lease during which the assignment is effected.
 - (vi) Where the assignee is a company not listed on the main board of a public stock exchange, the Lessor may require the deed of covenant referred to in paragraph (iv) above to be executed by that company and also by such other shareholders of that company as the case may be, as the Lessor reasonably requires, as joint and several guarantors, upon the terms set out in the then current edition of the Auckland District Law Society form of Standard Lease for Commercial Premises or if such lease is no longer published, then upon such terms as are commonly used in leases of commercial premises.
- (b) For the purposes of clause 4.02(a) any change in the shareholding of the Lessee (where the Lessee not being a Government Agency is a company which is not listed on the main board of a public stock exchange) 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 clauses 4.02(c) and 4.02(d).
- (c) If, by any statutory provision or regulation enacted during the Term of this Lease, the Lessee is obliged to transfer or assign management of the Land or any aspect of such management to a third party, the provisions of clause 4.01(a) will not apply to such a transfer or assignment and the Lessee will be entitled to transfer or assign its interest as Lessee under this Lease, or any aspect of management of the Land, to such a third party without further reference to the Lessor, who will be deemed to have approved such a transfer or assignment and will immediately sign any document necessary to give effect to such a transfer or assignment, if so requested by the Lessee.
- (d) Despite clause 4.02(a), the Lessee may at any time and from time to time:
- (i) transfer or assign its interest as Lessee under this Lease, or grant a sublease or licence of the whole or any part(s) of the Land, to any Government Agency; and/or
 - (ii) grant a sublease or licence of the whole or any part(s) of the Land to any other person,

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

5.1: LEASES FOR LEASEBACK PROPERTIES - NELSON COURTHOUSE

in either case without further reference to the Lessor, who will be deemed to have approved such a transfer, assignment or sublease and will immediately sign any document necessary to give effect to such a transfer, assignment or sublease, if so requested by the Lessee.

- (e) Where the Lessee grants a sublease or licence of the whole or any part(s) of the Land to any other person, the Lessee will 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.
- (f) Notwithstanding any rule of law or anything expressed or implied in this Lease to the contrary, where a Government Agency is Lessee, assigns its interest in this Lease under the provisions of this clause 4.02, all the liabilities of the Government Agency as Lessee expressed or implied under this Lease, whether contingent or otherwise for the payment of future rents or other money or the future observance 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 assignment, but without releasing the Lessee from liability for any antecedent breach of this Lease.

4.03 RIGHT OF FIRST REFUSAL FOR LESSOR IF LESSEE TO ASSIGN

- (a) The following subclauses of this clause 4.03 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 Government Agency. 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 Government Agency.
- (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 sell the Lessee's 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 4.02 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 4.03(b), (c), and (d) (inclusive) shall apply. If the 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.

4.04 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

NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE

5.1: LEASES FOR LEASEBACK PROPERTIES - NELSON COURTHOUSE

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 4.04(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.

4.05 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 or 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 or any subsequent term as follows:
- (i) the Annual Rent will be agreed upon or failing agreement will be determined in accordance with clause 4.06 as though the commencement date of the renewed term were a Rent Review Date; and
 - (ii) the renewed lease will otherwise be on and subject to the covenants and agreements expressed or implied in this Lease including this covenant for renewal.
- (b) No earlier than 24 months prior to the expiration of 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 4.05(a) within 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 4.05(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 4.05(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.

4.06 RENT REVIEW

- (a) The Annual Rental payable as from each review date shall be determined as follows:
- (i) Either party may not earlier than 3 months prior to a review date and not later than one 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 market rent as at the relevant review date.
 - (ii) If the party receiving the notice ("**the Recipient**") gives written notice to the party giving the notice ("**the Initiator**") within 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 market rent, then the new rent shall be determined in accordance with clause 4.06(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

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

5.1: LEASES FOR LEASEBACK PROPERTIES - NELSON COURTHOUSE

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 clause (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 market rent of the Land, but if agreement is not reached within 20 working days then the same may be determined either:
 - (i) By one party giving written notice to the other requiring the current market rent of 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 20 working days of the parties agreeing to so determine the new rent;
 - (ab) If the party receiving a notice fails to appoint a valuer within the 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;
 - (ac) The valuers appointed before commencing their determination shall appoint a third expert who need not be a registered valuer;
 - (ad) The valuers appointed by the parties shall determine the current market rent of the Land but if they fail to agree then the rent shall be determined by the third expert;
 - (ae) 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.

In ascertaining the new annual rental to apply from a review date:

- (af) the value of any building or improvements then existing upon the Land shall not be taken into consideration; and
- (ag) for so long as the Lessee is a Government Agency, the parties and their valuers shall have regard only to the actual use the land is put to by the Lessee (which in the case of the Ministry of Justice or its successor is recorded in Item 6(a) of Schedule A), and shall disregard the use specified in Item 6(b) of Schedule A.

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.

- (c) 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

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

5.1: LEASES FOR LEASEBACK PROPERTIES - NELSON COURTHOUSE

- (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.
- (d) For the avoidance of doubt, where a rent review date coincides with the commencement of a renewed or subsequent term, the annual rent shall be the current market rent of the Land agreed or determined as at that date in accordance with the foregoing provisions, and no minimum rent shall apply.
- (e) Pending determination of the current market rent of the Land, the Lessee if it is a Government Agency 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 market rent of the Land, pay an interim rent equivalent to that prior to the review date, however if the Lessee is not a Government Agency 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.
- (f) 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.

4.07 RE-ENTRY

- (a) Subject to clause 4.07(b) the Lessor may re-enter the Land where:
 - (i) rental is in arrears for a period exceeding twenty (20) 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;
 - (iv) the Lessee becomes insolvent, bankrupt or goes into liquidation.
- (b) Whilst **HER MAJESTY THE QUEEN** is the Lessee under this Lease and should **HER MAJESTY THE QUEEN** either default in the payment of any rental for a period exceeding twenty 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) Where there is a breach of covenant to pay rent, the **Default Notice** shall specify:
 - (i) the nature and extent of the breach complained about;
 - (ii) the amount that must be paid to remedy the breach;

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

5.1: LEASES FOR LEASEBACK PROPERTIES - NELSON COURTHOUSE

- (iii) that the Lessee must within 30 days of receipt of such notice remedy the default specified;
 - (iv) 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; and
 - (v) that the Lessee has the right to apply to a court for relief against cancellation of the lease, and the advisability of seeking legal advice on the exercise of that right.
- (d) Where there is a breach of a covenant or condition of the lease (except the covenant to pay rent), the default notice shall specify:
- (i) the nature and extent of the breach complained about;
 - (ii) if the Lessor considers that the breach is capable of being remedied by the lessee doing or stopping from doing a particular thing, or by the lessee paying reasonable compensation, or both; the thing that the lessee must do or stop doing or the amount of compensation that the Lessor considers reasonable;
 - (iii) the consequence that, if the breach is not remedied at the expiry of a specified period of time, that is reasonable in the circumstances, the Lessor may seek to cancel the lease;
 - (iv) that the Lessee has the right to apply to a court for relief against cancellation of the lease, and the advisability of seeking legal advice on the exercise of that right
- (e) 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.
- (f) Should the Lessor exercise its rights under this clause 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.

4.08 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 12 months' notice in writing to that effect PROVIDED THAT:
- (i) no such notice may be given during the initial 20 year term of this Lease; and
 - (ii) no such notice may be given so as to effect termination of this lease within the first 10 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.

4.09 INSURANCE

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

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

5.1: LEASES FOR LEASEBACK PROPERTIES - NELSON COURTHOUSE

- (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.
- (d) In the event of any building comprising a Lessee's Improvement being destroyed or so damaged as to render the Land untenable for the purpose specified in Item 6(a) of Schedule A in the reasonable opinion of the Lessee, then the Lessee may at its discretion terminate this Lease by giving 3 months notice in writing to that effect to the Lessor. At the expiration of such period this lease will come to an end and neither party will have any claim upon the other except in respect of any antecedent breach by either party. The Lessee will demolish any remaining Lessee's Improvements and will clear the Land of all improvements, structures, rubbish and debris.

4.10 RATING ASSESSMENTS

The parties agree that the Lessee may at any time make application to the Territorial Authority 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.

4.11 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.

4.12 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 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 under this Lease.
- (d) The provisions of this clause shall be of no application to any review of rental under the provisions of clause 4.06(b)(ii).

4.13 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

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

5.1: LEASES FOR LEASEBACK PROPERTIES - NELSON COURTHOUSE

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.

4.14 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.

4.15 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.

4.16 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.

4.17 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 and Sub Leasing:**
The provisions dealing with assignment and sub leasing; or
- (c) **Use of Land:**
The provisions restricting the use of the Land.

4.18 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.

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

5.1: LEASES FOR LEASEBACK PROPERTIES - NELSON COURTHOUSE

4.19 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.

4.20 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.

PART IV - CLASSIFICATION OF THE LAND

5.00 LAND SUBJECT TO THE RESERVES ACT 1977

5.01 PURPOSE FOR WHICH THE LAND IS CLASSIFIED

The Lessor and Lessee acknowledge that;

- (a) the Land subject to this lease, identified at Item 1 of Schedule A, is classified as an Historic Reserve pursuant to the Reserves Act 1977; and
- (b) that the Permitted Use of the Land, identified at Item 6 of Schedule A, is consistent with the classification of the Land.

5.02 CONSENT OF MINISTER OF CONSERVATION

- (a) The Lessor and Lessee acknowledge that any proposal to;
 - (i) change the Permitted Use of the Land as identified at Item 6 of Schedule A;
 - (ii) alter the Land or buildings pursuant to clauses 3.03 or 4.01 of this lease; or
 - (iii) assign, sub-lease, transfer or otherwise dispose of the Lessee's interest, or any part of it, pursuant to clause 4.02 of this lease;

will require the prior consent, in writing, of the Minister of Conservation who will consider only whether the proposal is consistent with the purposes of the Reserves Act 1977 including the classification of the Land.

- (b) The party seeking the Minister's consent will pay all processing costs in respect of a request under this clause.

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

**5.2 LEASEBACK PROPERTIES WITH THE MINISTRY OF EDUCATION AS THE
LAND HOLDING AGENCY**

[SUBJECT TO NEGOTIATION]

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

5.2: LEASEBACK PROPERTIES WITH THE MINISTRY OF EDUCATION AS THE LANDHOLDING AGENCY

**[MINISTRY OF EDUCATION
TREATY SETTLEMENT LEASE**

MEMORANDUM OF LEASE dated

2011

LESSOR

("the Lessor")

LESSEE

HER MAJESTY THE QUEEN acting by and through the Secretary for Education ("the Lessee")

- A. The Lessor owns the Land described in Item 1 of Schedule A ("the Land").
- B. The Lessor has agreed to lease the Land to the Lessee on the terms and conditions in this Memorandum.
- C. The Lessor leases to the Lessee the Land from the Start Date, at the Annual Rent, for the Term, with the Rights of Renewal and for the Permitted Use all as described in Schedule A.
- D. The Lessor and the Lessee agree to the conditions in Schedule B.
- E. The Lessee accepts this Lease of the Land to be held by the Lessee as tenant and subject to the conditions, restrictions and covenants in Schedules A and B.

SIGNED for _____

as Lessor by two of its trustees:

Trustee's Signature

Trustee's Full Name (please print)

Trustee's Signature

Trustee's Full Name (please print)

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

5.2: LEASEBACK PROPERTIES WITH THE MINISTRY OF EDUCATION AS THE LANDHOLDING AGENCY

SIGNED for and on behalf)

of HER MAJESTY THE QUEEN as Lessee by)

)

)

In the presence of:

(

(

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

5.2: LEASEBACK PROPERTIES WITH THE MINISTRY OF EDUCATION AS THE LANDHOLDING AGENCY

SCHEDULE A

ITEM 1 THE LAND

[Insert full legal description. Note that improvements are excluded].

ITEM 2 START DATE

[Insert start date].

ITEM 3 ANNUAL RENT

[\$] plus GST per annum payable monthly in advance on the first day of each month with a first payment due on the [Date] day of [Month & Year].

ITEM 4 TERM OF LEASE

21 Years.

ITEM 5 LESSEE OUTGOINGS

5.1 Rates and levies payable to any local or territorial authority, excluding only taxes levied against the Lessor in respect of its interest in the Land

5.2 All charges relating to the maintenance of any Lessee Improvements (whether of a structural nature or not)

5.3 The cost of ground maintenance, including the maintenance of playing fields, gardens and planted and paved areas

5.4 Maintenance of car parking areas

5.5 All costs associated with the maintenance or replacement of any fencing on the Land.

ITEM 6 PERMITTED USE

The Permitted Use referred to in clause 9.

ITEM 7 RIGHT OF RENEWAL

Perpetual rights of renewal of 21 years each from [Date], and each 21st yearly anniversary after that date.

ITEM 8 RENT REVIEW DATES

[Date] and 7 yearly after that Date.

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

5.2: LEASEBACK PROPERTIES WITH THE MINISTRY OF EDUCATION AS THE LANDHOLDING AGENCY

ITEM 9 LESSEE'S IMPROVEMENTS

As defined in clause 1.8 and including the following existing improvements: [List all existing buildings and improvements on the Land together with all playing fields and sub soil works (including stormwater and sewerage drains) built or installed by the Lessee or any agent or sublessee or licensee of the Lessee on the Land].

ITEM 10 CLAUSE 17 (d) Notice

To: [Name of Governance Entity] ("the Lessor")

And to: The Secretary, Ministry of Education, National Office, Private Box 1666, WELLINGTON ("the Lessee")

From: [Name of Mortgagee/ Chargeholder] ("the Lender")

The Lender acknowledges that 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:

- (i) It has notice of the provision of clause 17 of the Lease; and
- (ii) It agrees that that any Lessee's Improvements placed on the Land by the Lessee at any time before or during the Lease shall remain the property of the Lessee at all times which the Lease continues and for a reasonable period after the Lease expires or is terminated (collectively "the relevant period");
- (iii) It will not claim any interest in any Lessee's Improvements under the security of its loan during the relevant period no matter how any Lessee's Improvement may be fixed to the Land and regardless 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

[]

[Form of execution by Lender]

[Date dd/mm/yy]

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

5.2: LEASEBACK PROPERTIES WITH THE MINISTRY OF EDUCATION AS THE LANDHOLDING AGENCY

SCHEDULE B

1 Definitions

1.1 The expression "the Lessor" includes and binds:

- (a) the persons executing this Lease as Lessor; and
- (b) any Lessor for the time being under it; and
- (c) all the respective executors, administrators, successors, assigns and successors in the title of each Lessor and if more than one jointly and severally.

1.2 The expression "the Lessee" includes and binds:

- (a) the person executing this Lease as Lessee; and
- (b) all the Lessees for the time being under it; and
- (c) all the respective executors, administrators, successors, assigns and successors in the title of each Lessor and if more than one jointly and severally.

1.3 "Crown" has the meaning given to it in section 2(1) of the Public Finance Act 1989 and includes:

- (a) Her Majesty the Queen in right of New Zealand; and
- (b) all Ministers of the Crown and all Departments.

1.4 "Crown Body" means:

- (a) the Crown (whether acting through a Minister or otherwise);
- (b) a Crown entity (as defined in section 7(1) of the Crown Entities Act 2004);
- (c) a state enterprise (as defined in section 2 of the State-Owned Enterprises Act 1986); or
- (d) any company or body which is wholly owned or controlled by any one or more of the following;
 - i the Crown;
 - ii. a Crown entity; or
 - iii. a state enterprise;and includes
 - iv. a subsidiary of, or related company to, a company or body referred to it in clause 1.4 (d); and
 - v. the New Zealand Railways Corporation.

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

5.2: LEASEBACK PROPERTIES WITH THE MINISTRY OF EDUCATION AS THE LANDHOLDING AGENCY

- 1.5 "Department" has the meaning given to it in section 2 of the Public Finance Act 1989.
- 1.6 "Education Purposes" means any or all lawful activities necessary for, or reasonably related to, the provision of education.
- 1.7 "The Land", "The Start Date", "Annual Rental", "Term of Lease", "Lessee's Outgoings" and "Permitted Use" have the meanings set out in Schedule A.
- 1.8 "Lessee's Improvements" means all improvements on the Land of any kind including buildings, sealed yards, paths, lawns, gardens, fences, playing fields, subsoil works (including stormwater and sewerage drains) and other property of any kind built or placed on the Land by the Lessee or any agent or sub-lessee or licensee of the Lessee whether before or after the Start Date of this Lease and includes those listed in Item 9 of Schedule A.
- 1.9 "Lessee's Outgoings" means all outgoings the Lessee is obliged to pay under this Lease.
- 1.10 "Maintenance" includes repair.
- 1.11 "Sublet" and "sublease" include the granting of a licence to occupy the Land or part of it.
- 1.12 References to a statute include regulations, orders, rules or notices made under that statute and include all amendments to or replacements of that statute.

2 Payment of Annual Rent

The Lessee will pay the Annual Rent as provided in Item 3 of Schedule A.

3 Rent Review

- 3.1 The Annual Rent will be reviewed as provided below on the basis of an annual rent of []% of the lesser of:
- (a) the current market value of the Land Exclusive of Improvements assessed on the current use as a school site; or
 - (b) the nominal value being an assessed value based on 4 % growth per annum of the transfer price for the property.
- 3.2 The current market value of the land in 3.1(a) above is equivalent to the market value of the land on the basis of highest and best use less 20%.
- 3.3 The nominal value will be reset to the midpoint between the values set out in 3.1 (a) and (b) above at:
- (a) the commencement date of the new Term; and

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

5.2: LEASEBACK PROPERTIES WITH THE MINISTRY OF EDUCATION AS THE LANDHOLDING AGENCY

- (b) at any rent review date where the nominal value has been consistently either higher or lower than the market value for the three consecutive rent review or lease renewal dates

The new nominal value will be used to set the Annual Rent from the date it is reset.

3.4 The rent review process will be as follows:

- (a) At any time during the period which starts three months before any Rent Review Date and ends one year after any Rent Review Date (time being of the essence) either party may give written notice to the other specifying a new Annual Rent which the notifying party considers should be charged from that Rent Review Date.
- (b) If the notified party accepts the notifying party's assessment in writing the Annual Rent will be the rent specified in the notifying party's notice which will be payable in accordance with step (l) below.
- (c) If the notified party does not agree with the notifying party's assessment it has 30 working days after it receives the notice to issue a notice disputing the proposed new rent, in which case the steps set out in (d) to (k) below must be followed.
- (d) Until the new rent has been determined, the Lessee will continue to pay the Annual Rent at the existing amount which had been payable up to the Rent Review Date.
- (e) The parties must try to agree on a new Annual Rent.
- (f) If a new Annual Rent has not been agreed within 28 days then the new rent may be determined either:
 - i. by one party giving written notice to the other requiring the new rent to be determined by arbitration; or
 - ii. if the parties agree, by registered valuers acting as experts and not as arbitrators as set out in steps (g) to (k) below.
- (g) Within 28 days each party will appoint a valuer and give written notice of the appointment to the other party.
- (h) The two valuers must appoint an umpire who must be a registered valuer. If the valuers cannot agree on an umpire, they must ask the president of the Property Institute of New Zealand Incorporated to appoint an umpire.
- (i) Once the umpire has been appointed the valuers must try to determine the new rent by agreement. If they fail to agree within 56 days the rent will be determined by the umpire.

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

5.2: LEASEBACK PROPERTIES WITH THE MINISTRY OF EDUCATION AS THE LANDHOLDING AGENCY

- (j) Each party will have the opportunity to make written or verbal representations to the valuers or umpire within the period, and on the conditions, set by the valuers or umpire. Each party must consider any representations but is not bound by them.
- (k) When the rent has been determined, the umpire or valuers must give written notice of it to the parties. Notice given by an umpire must provide how the costs of the determination are to be divided and the parties must pay their share accordingly. If the rent is determined by the parties' valuers and not the umpire, the parties will pay their own costs.
- (l) Once the new rent has been agreed or determined it will be the Annual Rent from the Rent Review Date or the date of the Lessor's notice if such notice is given later than three months after the Rent Review Date.
- (m) The rent review may at the option of either party be recorded in a variation of this Lease, at the cost of the party requesting that variation].

4 Payment of Lessee Outgoings

During the Term of this Lease the Lessee must pay the Lessee Outgoings specified in Item 5 of Schedule A directly to the creditors concerned.

5 Valuation Roll

Where this lease is registered under section 115 of the Land Transfer Act 1952 and is for a term of not less than 10 years (including renewals):

- 5.1 the Lessee will be entered in the rating information database and the district valuation roll as the ratepayer for the Land; and
- 5.2 the Lessee will be responsible for payment of any rates.

6 Utility Charges

- 6.1 The Lessee must promptly pay to the relevant authority or supplier all utility charges including water, sewerage, drainage, electricity, gas, telephone and rubbish collection which are separately metered or charged in respect of the Land.
- 6.2 If any utility or service is not separately charged in respect of the Land then the Lessee will pay a fair and reasonable proportion of the charges.
- 6.3 If required to do so by the Lessor or any territorial or local authority the Lessee must at its own expense install any meter necessary to assess the charges for any utility or other service supplied to the Land.

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

5.2: LEASEBACK PROPERTIES WITH THE MINISTRY OF EDUCATION AS THE LANDHOLDING AGENCY

7 Goods and Services Tax

The Lessee will pay the Lessor on demand the goods and services tax (GST) payable by the Lessor in respect of the rental and other payments payable by the Lessee under this lease.

8 Interest

If the Lessee fails to pay within 14 days any amount payable to the Lessor under this Lease (including rent) the Lessor may charge the Lessee 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% accruing on a daily basis from the due date for payment until the Lessee has paid the overdue amount. The Lessor is entitled to recover this interest as if it were rent in arrears.

9 Permitted Use of Land

The Land may be used for any Education Purposes, and any lawful ancillary or incidental use and/or any other Public Work as defined in s2 Public Works Act 1981.

10 Designation

The Lessor consents to the Lessee seeking a designation or designations under the Resource Management Act 1991 for the purposes of the Permitted Use and maintaining that designation or those designations for the Term of this Lease, provided that the Lessee agrees to notify the Lessor of any material change in designation.

11 Compliance with Law

The Lessee must at its own cost comply with the provisions of all relevant legislation.

12 Hazards

12.1 The Lessee must:

(a) take all reasonable steps to minimise any hazard arising from the Lessee's use of the Land and ensure that any hazardous goods are stored or used on the Land in accordance with all relevant Legislation; and

(b) promptly remedy any hazard that may arise on the Land.

12.2 The Lessor agrees to remedy promptly and at its own cost any hazard arising from any altered state of the Land caused by any natural event including flood, earthquake, slip and erosion.

13 Contamination

13.1 When this Lease ends the Lessee agrees to remedy any Contamination which has been caused by the Lessee's use of the Land during the Term of the Lease by restoring the Land to a standard reasonably fit for human habitation.

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

5.2: LEASEBACK PROPERTIES WITH THE MINISTRY OF EDUCATION AS THE LANDHOLDING AGENCY

- 13.2 Under no circumstances will the Lessee be liable for any Contamination on or about the Land which is caused by the acts or omissions of any other party, including the owner or occupier of any adjoining land.
- 13.3 In this provision "Contamination" means any change to the physical, biological, or chemical condition of the Land by a Contaminant and "Contaminant" has the meaning set out in section 2 of the Resource Management Act 1991.

14 Maintenance of Lessee's Improvements

The Lessee must at its expense keep any Lessee's Improvements in good condition during the Term of this Lease.

15 Construction of or Alterations to Lessee's Improvements

- 15.1 The Lessee or its agent or sub-lessee or licensee may build or alter Lessee's Improvements without the Lessor's consent where necessary for, or incidental to, the Permitted Use. For the avoidance of doubt, this clause extends to Lessee's Improvements owned (wholly or partly) or occupied by third parties provided that all necessary consents are obtained.
- 15.2 The Lessee may without the Lessor's consent conclude all easements or other rights and interests over or for the benefit of the Land which are necessary for, or incidental to, either the Permitted Use or to any permitted alterations or additions to the Lessee's Improvements and the Lessor agrees that it will execute any documentation reasonably required to give legal effect to those rights.
- 15.3 The Lessee agrees to take all steps necessary to remove at the Lessor's request at the end of the Lease any easement or other burden on the title which may have been granted after the Start Date of the Lease.

16 No Lessor Maintenance

The Lessee acknowledges that the Lessor has no maintenance obligations for any of the Lessee's Improvements on the Land.

17 Lessor's Acknowledgments as to Lessee's Improvements

The Lessor acknowledges that:

- (a) Despite any rule of law or equity to the contrary, the Lessee will own all Lessee's Improvements whether or not attached to the land throughout the period of this Lease and any improvements owned by third parties shall continue to be owned by those third parties.
- (b) The Lessee must insure the Lessee's Improvements in its own name or self insure.

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

5.2: LEASEBACK PROPERTIES WITH THE MINISTRY OF EDUCATION AS THE LANDHOLDING AGENCY

- (c) If any Lessee's Improvements are destroyed or damaged, the Lessee may decide whether or not to reinstate without consulting the Lessor and the Lessee will own any insurance proceeds.
- (d) If the Land is subject to any mortgage or other charge at the Start Date, the Lessor will give the Lessee written acknowledgment of all existing mortgagees or chargeholders in the form prescribed in Schedule A Item 10 and executed by the mortgagees or chargeholders. The Lessor acknowledges that the Lessee is not required to execute this Lease until the provisions of this subclause have been fully satisfied.
- (e) If the Lessor proposes to grant any mortgage or charge after the Start Date it must first have required any proposed mortgagee or chargeholder to execute the written acknowledgment prescribed in Schedule A Item 11. The Lessor agrees not to grant any mortgage or charge until the provisions of this clause have been satisfied and to deliver executed originals of those acknowledgments to the Lessee within 3 working days from the date of their receipt by the Lessor.
- (f) The Lessee may demolish or remove any Lessee's Improvements at any time during the Lease Period without the consent of the Lessor provided that the Lessee reinstates the Land to a tidy and safe condition which is free from contamination in accordance with clause 13.

18 Removal of Lessee's Improvements

- 18.1 When this Lease ends the Lessee may remove any Lessee's Improvements from the Land without being obliged to pay the Lessor any compensation for their removal if they are removed by the expiry date. The Lessor's consent is not required to any removal.
- 18.2 The Lessee agrees that it has no claim of any kind against the Lessor in respect of any Lessee's Improvement or other Lessee's property left on the Land after this Lease ends and that any such Lessee's property shall at that point be deemed to have become the property of the Lessor.
- 18.3 The Lessor must not impede the removal of any Lessee's Improvements from the Land at any time during the Term of the Lease.
- 18.4 Improvements are to be left in a clean, tidy and safe state.

19 Rubbish Removal

The Lessee agrees to remove at its own cost all rubbish from the Land and to keep any rubbish bins tidy.

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

5.2: LEASEBACK PROPERTIES WITH THE MINISTRY OF EDUCATION AS THE LANDHOLDING AGENCY

20 Signs

The Lessee may display any signs which relate to the Permitted Use without the Lessor's consent. The Lessor's consent is needed for other signs. The Lessee must remove all signs at the end of the Lease.

21 Insurance

21.1 The Lessee is responsible for insuring or self insuring any Lessee's Improvements on the Land.

21.2 Each party has the right (subject to the rights of any of its mortgagees) to decide whether or not to reinstate any property insured by it, and the other party must abide by that decision.

21.3 The Lessee shall ensure that any third party permitted to occupy part of the Land which is not a Crown Body must have adequate insurance at its own cost against all public liability.

22 Fencing

22.1 The Lessee acknowledges that the Lessor is not obliged to build or maintain, or contribute towards the cost of, any boundary fence between the Land and any adjoining land owned by the Lessor.

22.2 If the Lessee considers it reasonably necessary for the purposes of the Permitted Use it may at its own cost fence the boundaries of the Land.

23 Quiet Enjoyment

23.1 If the Lessee pays the rent and complies with all its obligations under this Lease, it may quietly enjoy the Land during the Lease Period without any interruption by the Lessor or any person claiming by, through or under the Lessor.

23.2 The Lessor may not build on the Land or put any improvements on the Land without the prior written consent of the Lessee.

24 Benefits to Land Not to be Restricted or Cancelled

The Lessor must not cancel, surrender or modify any easements or other similar rights or interests (whether registered or not) which are for the benefit of or appurtenant to the Land without the prior written consent of the Lessee.

25 Assignment

25.1 Provided that the Land continues to be used for Education Purposes, the Lessee has the right to assign its interest under the lease without the Lessor's consent to:

- (a) any Crown Body; or

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

5.2: LEASEBACK PROPERTIES WITH THE MINISTRY OF EDUCATION AS THE LANDHOLDING AGENCY

- (b) any other party provided that the sublease or licence complies with the Education Act 1989 and the Public Works Act 1981.

- 25.2 If the Lessee wishes to assign the lease to any party for any Permitted Use which is not an Education Purpose it must first seek the Lessor's consent (which will not be unreasonably withheld).
- 25.3 Without limiting clause 25.1, the Lessor agrees that the Lessee has the right to nominate any Department to exercise for Education Purposes the rights and obligations in respect of the Lessee's interest under this Lease and that this will not be an assignment for the purposes of clause 25 or a subletting for the purposes of clause 26.
- 25.4 The Lessee has the right to dispose of or transfer all or part of its interest in the Land under section 40, 41, 42, 50 or 52 of the Public Works Act 1981 and this will not be deemed to be an assignment for the purposes of clause 25 or a subletting for the purposes of clause 26.

26 Subletting

- 26.1 Provided that the Land continues to be used for the Education Purposes, the Lessee has the right to sublet or grant a licence without the Lessor's consent to:
 - (a) any Crown Body; or
 - (b) any other party provided that the sublease or licence complies with the Education Act 1989 and the Public Works Act 1981.

- 26.2 If the Lessee wishes to sublet to any party for any Permitted Use which is not an Education Purpose it must first seek the Lessor's consent (which will not be unreasonably withheld).

27 Occupancy by School Board of Trustees

- 27.1 The Lessee has the absolute right to sublet to or otherwise permit a school board of trustees to occupy the Land on the terms and conditions set by the Lessee in accordance with the Education Act 1989 and otherwise consistent with this Lease and with the lawful functions of a board of trustees.
- 27.2 The Lessor agrees that the covenant for quiet enjoyment contained in clause 26 extends to any board of trustees occupying the Land.
- 27.3 A board of trustees occupying the Land has the right to sublet or license any part of the Land or the Lessee's Improvements to any third party in accordance with the Education Act 1989 and any licence or lease to any third party existing at the Start Date of this Lease shall continue in effect until that licence or lease ends.
- 27.4 For the avoidance of doubt, the board of trustees is responsible for complying with all health and safety requirements in accordance with the Property Occupancy Document notified to the board by the Secretary for Education.

NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE

5.2: LEASEBACK PROPERTIES WITH THE MINISTRY OF EDUCATION AS THE LANDHOLDING AGENCY

28 Lessee Break Option

28.1 The Lessee may at any time end this Lease by giving not less than six months' notice in writing to the Lessor. At the end of the notice period the Lease will end and the Lessee will pay a further twelve months' rent to the Lessor, who agrees to accept that sum in full and final satisfaction of all claims, loss and damage which the Lessor could otherwise claim because the Lease has ended early but without prejudice to any breach of this Lease by the Lessee which occurred before the Lease ended.

28.2 In the event of any review of a school or network of schools which may result in a decision under section 154 of the Education Act 1989 to close a school situated on the Land, the Lessee agrees to notify the Lessor in writing that a review is underway which may result in closure of a school situated on the Land.

29 Breach

Despite anything else in this Lease, the Lessor agrees that, if the Lessee breaches any terms or conditions of this Lease, the Lessor must not in any circumstances cancel this Lease or re-enter into possession but may seek such other remedies which are lawfully available to it.

30 Notice of Breach

30.1 Despite anything expressed or implied in this Lease, the Lessor will not exercise its rights under clause 29 unless the Lessor has first given the Lessee written notice of the breach on which the Lessor relies and given the Lessee an opportunity to remedy the breach as provided below:

- (a) by paying the Lessor all money necessary to remedy the breach within one month of the notice; or
- (b) by undertaking in writing to the Lessor within one month of the notice to remedy the breach and then remedying it within a reasonable time having regard to the nature and extent of it; or
- (c) by paying to the Lessor within three months of the notice compensation of an amount that is to the reasonable satisfaction of the Lessor in respect of the breach having regard to the nature and extent of it.

30.2 If the Lessee remedies the breach in one of the ways set out above the Lessor will not be entitled to rely on the breach set out in the notice to the Lessee and this Lease will continue as if no such breach had occurred.

31 Renewal

31.1 If the Lessee has performed its obligations under this Lease and given written notice to renew the Lease at least twelve months before the end of the initial term of 21 years then the Lessor

5.2: LEASEBACK PROPERTIES WITH THE MINISTRY OF EDUCATION AS THE LANDHOLDING AGENCY

will renew the Lease for the next further term from the renewal date and each party will meet its own costs relating to the renewal.

- 31.2 The Annual Rent must be agreed or determined in accordance with clause 3.
- 31.3 The renewed lease will otherwise be on the terms and conditions expressed or implied in this Lease, including this right of renewal.

32 Right of First Refusal for Lessor's Interest

32.1 If at any time before the expiry or earlier termination of the Term, the Lessor:

- (a) decides to sell or transfer the Lessor's interest in the Land; or
- (b) receives an offer to purchase the Lessor's interest in the Land and wishes to accept that offer;

the Lessor must immediately give written notice (Lessor's Notice) to the Lessee setting out the terms on which the Lessor wishes to sell the Land, or the terms of the offer received (as the case may be). In the case of the Lessor's desire to sell, the offer must comprise the agreement for sale and purchase in the then most recent form approved by the Real Estate Institute of New Zealand and by the Auckland District Law Society.

- 32.2 The Lessee will have 60 working days after and excluding the date of receipt of the Lessor's Notice (time being of the essence) in which to exercise the Lessee's right to purchase the Land, by serving written notice on the Lessor (Lessee's Notice) accepting the offer contained in the Lessor's Notice.
- 32.3 If the Lessee does not serve the Lessee's Notice on the Lessor in accordance with clause 32.2, then the Lessor may sell or transfer the Lessor's interest in the Land to any other person on no more favourable terms than those previously offered to the Lessee.
- 32.4 If the Lessor wishes, or agrees, to offer more favourable terms for selling or transfer of the Lessor's interest in the Land than the terms contained in the Lessor's Notice, the Lessor must first re-offer its interest in the Land to the Lessee on those terms, by written notice to the Lessee and clauses 32.1 – 32.4 (inclusive) shall apply and if the re-offer is made within six months of the Lessor's Notice the 60 working day period shall be reduced to 30 working days.

33 Right of First Refusal for Lessee's Improvements

- 33.1 If at any time during the term or any extension of the term the Lessee desires to sell any Lessee's Improvements which are no longer required for Education Purposes and on the basis that the Improvements are to be removed from the Land, the Lessee shall first deliver written notice ("The Lessee's Notice") specifying the price, terms and conditions upon which the Lessee is prepared to sell the Lessee's Improvements.

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

5.2: LEASEBACK PROPERTIES WITH THE MINISTRY OF EDUCATION AS THE LANDHOLDING AGENCY

33.2 The Lessor shall have sixty working days from the receipt of the Lessee's Notice to advise the Lessee by written notice ("the Lessor's Notice") whether the Lessor wishes to acquire the Lessee's Improvements on the terms and conditions specified in the Lessee's Notice. If the Lessor's Notice contains advice that the Lessor wishes to acquire the Lessee's Improvements on those terms and conditions, then from receipt by the Lessee of the Lessor's Notice a binding agreement will exist for the sale and purchase of the Lessee's Improvements, at a price and on the terms and conditions specified in the Lessee's Notice.

33.3 If the Lessor either does not respond to the Lessee's Notice within the period as provided in clause 33.2 (time being strictly of the essence) or the Lessor Notice contains advice the Lessor does not wish to purchase the Lessee's Improvements on the terms and conditions stipulated in the Lessee's Notice, then at any time within the twelve months from the date of the Lessee's Notice the Lessee may sell the Lessee's Improvements to another party on terms and conditions no more favourable to the purchaser than those provided for in the Lessee's Notice. If within such period the Lessee wishes to offer more favourable terms and conditions of sale it must first re-offer the Lessee's Improvements to the Lessor under clause 33.1 but the Lessor shall have thirty working days in which to respond.

34 Entire Agreement

This Lease sets out the entire agreement between the parties in relation to the lease of the Land and any variation must be recorded in writing and executed in the same way as this Lease.

35 Disputes

35.1 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.

35.2 If the parties cannot resolve a dispute or difference within fifteen working 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).

35.3 If the parties cannot agree on any dispute resolution technique within a further fifteen working days of any dispute or difference being considered for referral by both parties to any informal dispute resolution technique under Clause 33.2 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.

**NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE**

5.2: LEASEBACK PROPERTIES WITH THE MINISTRY OF EDUCATION AS THE LANDHOLDING AGENCY

35.4 The parties will co-operate to ensure the efficient 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.

36 Service of Notices

36.1 Notices given under this Lease must be in writing and served by one of these means (unless otherwise required by sections 352 to 361 Property Law Act 2007):

- (1) as authorised by sections 354 to 361 of that Act; or
- (2) by personal delivery, registered or ordinary mail, fax, or email.

36.2 Notices delivered by personal delivery, mail, fax or email are deemed to have been served:

- (a) by personal delivery, when received by the addressee
- (b) by registered or ordinary mail, on the second working day after the date of posting to the addressee's last known address
- (c) by fax, when sent to the addressee's fax number
- (d) or email, when acknowledged by the addressee by return email or otherwise in writing.

The Lessor's contact details at the Start Date are:

The Secretary for Education
Ministry of Education
45-47 Pipitea Street
Private Bag 1666
WELLINGTON.

The Lessor's contact details at the Start Date are:

[INSERT CONTACT DETAILS]

37 Registration of Lease

The parties acknowledge their agreement that the Lessee may at its expense register this Lease under the Land Transfer Act 1952. The Lessor agrees to make title available for that purpose and consents to the Lessee caveating title to protect its interest in the Lease before registration.

38 Costs

The parties will pay their own costs relating to the negotiation, preparation and execution of this Lease and any renewal, variation or surrender of the lease.

NGĀTI APA DEED OF SETTLEMENT
DOCUMENTS SCHEDULE

5.2: LEASEBACK PROPERTIES WITH THE MINISTRY OF EDUCATION AS THE LANDHOLDING AGENCY

LESSOR:

LESSEE:

HER MAJESTY THE QUEEN

acting by and through the Secretary

for Education

MEMORANDUM OF LEASE

THE SECRETARY FOR EDUCATION
MINISTRY OF EDUCATION
NATIONAL OFFICE
WELLINGTON]