

NGĀ MANA WHENUA O TĀMAKI MAKĀURAU

and

THE CROWN

**RECORD OF AGREEMENT IN RELATION TO
TĀMAKI MAKĀURAU COLLECTIVE DEED**



5 November 2011

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RECORD OF AGREEMENT

1: BACKGROUND

1 BACKGROUND

- 1.1 Since July 2009 there have been negotiations towards a collective deed that will:
 - 1.1.1 provide Treaty redress for historical claims to the collective governance entities to be established by Ngā Mana Whenua o Tāmaki Makaurau, and
 - 1.1.2 be conditional on legislation coming into force.
- 1.2 On 12 February 2010 the Crown and Ngā Mana Whenua o Tāmaki Makaurau signed a Framework Agreement that included:
 - 1.2.1 redress with respect to –
 - (a) vesting of maunga and co-governance; and
 - (b) a right of first refusal for 170 years over land held by the Crown in Tāmaki Makaurau; and
 - 1.2.2 a process for resolving Treaty claims relating to motu and harbours.
- 1.3 This record of agreement records agreements reached on Treaty redress in negotiations that is to be provided for in a collective deed. The record of agreement is not legally binding on either Ngā Mana Whenua o Tāmaki Makaurau or the Crown. Rather the record of agreement describes the redress that the Crown intends to provide through a collective deed to Ngā Mana Whenua o Tāmaki Makaurau. Negotiation discussions will continue between the Crown and Ngā Mana Whenua o Tāmaki Makaurau to agree the specific detail of the Treaty redress to be recorded in the collective deed.
- 1.4 The iwi/hapū leaders of Tāmaki Makaurau look forward to concluding the collective Treaty settlement along with the specific iwi/hapū settlements, and hope these will create a platform for the enduring relationships envisaged by Te Tiriti o Waitangi.

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2: NEGOTIATIONS

2 NEGOTIATIONS

- 2.1 Following the signing of this record of agreement, the Crown and Ngā Mana Whenua o Tāmaki Makaurau will continue to negotiate in good faith towards entering into a collective deed providing agreed Treaty redress.
- 2.2 The parties agree that:
- 2.2.1 the Treaty redress will be on the basis set out in this record of agreement; and
 - 2.2.2 the collective deed will be entered into by:
 - (a) Ngā Mana Whenua o Tāmaki Makaurau; and
 - (b) the Crown; and
 - (c) the collective governance entities to receive the redress; and
 - 2.2.3 the Crown must approve the collective governance entities as being suitable to receive the redress;
 - 2.2.4 the content of legislation required to give effect to the collective deed will be agreed and attached to the collective deed; and
 - 2.2.5 the collective deed will be conditional on the legislation coming into force.

RECORD OF AGREEMENT

3: MAUNGA

3 MAUNGA

TŪPUNA MAUNGA O TĀMAKI MAKĀURAU AUTHORITY

- 3.1 The collective deed will provide that the Tāmaki Makaurau collective legislation will on the effective date –
- 3.1.1 provide that the Tūpuna Maunga o Tāmaki Makaurau Authority is established;
 - 3.1.2 provide that the Authority comprises 13 members:
 - (a) 6 of whom are appointed by the specified collective governance entity;
 - (b) 6 by the Auckland Council; and
 - (c) 1 non-voting member by the Minister for Arts, Culture and Heritage for a three year term which can be extended by agreement by the specified collective governance entity, Auckland Council and the Crown;
 - 3.1.3 provide for the appointment of the chair of the Authority and for the development of standing orders;
 - 3.1.4 appoint the Authority as the administering body of the maunga;
 - 3.1.5 provide that the Authority will:
 - (a) have all the powers of an administering body under the Reserves Act 1977 (subject to any necessary and appropriate modification through the settlement legislation); and
 - (b) receive and be empowered to exercise the delegations of all ministerial powers to local authorities under section 10 of the Reserves Act 1977 (subject to any necessary and appropriate modification through the settlement legislation); and
 - 3.1.6 provide that Auckland Council will provide administrative support to the Authority.
- 3.2 Before the collective deed is initialled, the delegations under section 10 of the Reserves Act 1977 will be reviewed to establish that they are appropriate and, accordingly, the provision contemplated by clause 3.1.5(b) may be refined in the initialled version of the collective deed.

MAUNGA

- 3.3 The collective deed will provide that the Tāmaki Makaurau collective legislation will vest in the specified collective governance entity on the effective date the fee simple estate

RECORD OF AGREEMENT

3: MAUNGA

in each of the following maunga as a reserve under the Reserves Act 1977 with the classification appearing next to the name of the maunga and with the Tūpuna Maunga o Tāmaki Makaurau Authority as the administering body as at that date:

	Maunga	Reserve Classification
3.3.1	Maungawhau / Mount Eden	Historic, Recreation
3.3.2	Maungakiekie / One Tree Hill	Recreation
3.3.3	Maungarei / Mount Wellington	Recreation
3.3.4	Mount Albert	Recreation
3.3.5	Mount Roskill	Recreation
3.3.6	Mount St John	Recreation
3.3.7	Ōhinerau / Mount Hobson	Recreation
3.3.8	Ōhūiarangi / Pigeon Mountain	Recreation, Historic
3.3.9	Ōtāhuhu / Mount Richmond	Recreation
3.3.10	Rarotonga / Mount Smart	Recreation
3.3.11	Takarunga / Mount Victoria	Recreation, Local purpose (community buildings)
3.3.12	Te Tātua-a-Riukiuta (Big King Recreation Reserve) Recreation	
3.4	The identification of boundaries in attachment 1 is preliminary and will be confirmed before the collective deed is entered into.	
3.5	It is the intention of the Crown and Ngā Mana Whenua o Tāmaki Makaurau that Maungauika (North Head Historic Reserve), subject to a right for the Department of Conservation Auckland Area Office to occupy Crown owned improvements at nil cost, and Matukutūruru (Wiri Historic Reserve) will be vested in the specified collective governance entity. The Crown's agreement is subject to Auckland Council agreeing to the inclusion of Maungauika and Matukutūruru in the maunga co-governance arrangement of the Authority. This will be confirmed before the collective deed is initialled.	
3.6	The Crown also offers to transfer Mount Māngere subject to the agreement of the entity that has the statutory right of first refusal over that land under the Waikato Raupatu Claims Settlement Act 1995. If agreement from the entity cannot be obtained for transfer to the specified collective governance entity then options for including Mount Māngere in the maunga co-governance arrangement will be explored.	

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3: MAUNGA

- 3.7 The collective deed will provide that the Tāmaki Makaurau collective legislation will provide –
- 3.7.1 that the maunga are held in trust and managed for the common benefit of Tāmaki Makaurau iwi/hapū and the people of Auckland; and
 - 3.7.2 for notations to be recorded on computer registers for maunga recording the names of iwi/hapū who wish for their association with that maunga to be recorded in this way; and
 - 3.7.3 the Auckland Council will, unless it agrees other arrangements provided for under local government legislation –
 - (a) undertake the day to day management of the maunga; and
 - (b) exercise authority over all expenditure which will be provided from existing dedicated maunga funding, long term plan/annual plan processes and other sources; and
 - (c) subject to clause 3.8, receive all current and future income from third parties.
- 3.8 It is the expectation of Ngā Mana Whenua o Tāmaki Makaurau and the Crown that the income generated from the maunga will be spent on the maunga and its governance. This will be discussed further between the parties and the Auckland Council and resolved by the initialling of the deed of settlement.
- 3.9 Ngā Mana Whenua o Tāmaki Makaurau consider that a review of the reserve classification of each maunga is necessary. The parties, for the avoidance of doubt, record that the reserves classification of each maunga can be changed under the Reserves Act 1977.
- 3.10 Each maunga will be –
- 3.10.1 described in a schedule to the Tāmaki Makaurau collective legislation; and
 - 3.10.2 vested on terms to be agreed and set out in the Tāmaki Makaurau collective legislation including that:
 - (a) the title to the maunga will be inalienable except as part of a land swap under section 15 of the Reserves Act 1977; and
 - (b) improvements are vested except to the extent detailed in attachment 2 to this record of agreement; and
 - (c) the status of the maunga as reserves is irrevocable.

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3: MAUNGA

- 3.11 Ngā Mana Whenua o Tāmaki Makaurau record that they do not consider any landswap should occur other than with unanimous agreement of all the iwi/hapū of Ngā Mana Whenua o Tāmaki Makaurau.
- 3.12 Subject to part 5, the maunga are described in attachments 1 and 2 to this record of agreement and will be subject to all encumbrances described in attachment 2.
- 3.13 Without limiting part 5, the parties record the importance of reaching agreement on, and addressing in the collective deed, provisions addressing existing rights and interests in respect of –
- 3.13.1 Mount Smart stadium:
 - 3.13.2 obelisk and grave site on summit of Maungakiekie / One Tree Hill:
 - 3.13.3 planetarium and observatory at base of Maungakiekie / One Tree Hill: water reservoirs and other Watercare Services Limited infrastructure located on the maunga:
 - 3.13.4 property and infrastructure owned by the Auckland Council.
- 3.14 If the Crown agrees with the relevant iwi/hapū of Ngā Mana Whenua o Tāmaki Makaurau to the vesting of the following properties in governance entities of those iwi/hapū through their individual comprehensive Treaty settlements, it will do so on the understanding that vesting would be conditional on them being subject to co-governance of the Authority:
- 3.14.1 Mutukaroa / Hamlin Hill:
 - 3.14.2 Matukutūreia / McLaughlins Mountain:
 - 3.14.3 Wiri Lava Cave Scientific Reserve.
- 3.15 For the avoidance of doubt, rating and taxation laws, including exceptions and exemptions, apply to maunga and activities carried out on them.

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4: MOTU

4 MOTU

BACKGROUND

- 4.1 The motu of the Hauraki Gulf / Tīkapa Moana are of extremely high cultural, spiritual and historical significance to the iwi/hapū of Ngā Mana Whenua o Tāmaki Makaurau. They are also of high importance to the people of New Zealand generally because of their biodiversity, landscape, heritage, cultural and recreational values. Through extensive negotiations between Ngā Mana Whenua o Tāmaki Makaurau in which several redress options were considered, the parties have agreed in respect of Rangitoto, Motutapu, Motuihe and Tiritiri Matangi Islands that they will be vested in Ngā Mana Whenua o Tāmaki Makaurau, and that Ngā Mana Whenua o Tāmaki Makaurau will then vest them in the Crown on behalf of Ngā Mana Whenua o Tāmaki Makaurau and the rest of the people of New Zealand.
- 4.2 The Crown acknowledges and is sincerely grateful for the mana and rangatiratanga of Ngā Mana Whenua o Tāmaki Makaurau in agreeing to vest these motu back in the Crown. The Crown collective deed will therefore provide that the deed and the Tāmaki Makaurau legislation will ensure there is a permanent record of the vestings.
- 4.3 In addition, the Crown proposes to vest three properties on Rangitoto Island permanently in Ngā Mana Whenua o Tāmaki Makaurau.

PERMANENTLY VESTED PROPERTIES

- 4.4 The collective deed will provide that the Tāmaki Makaurau collective legislation will permanently vest in the specified collective governance entity on the effective date –

As a scenic reserve with the Minister of Conservation administering

- 4.4.1 the fee simple estate in Rangitoto tihi / summit site as a scenic reserve, with the Minister of Conservation continuing to administer the property under the Reserves Act 1977; and

As scenic reserves with the specified collective governance entity as administering body

- 4.4.2 the fee simple estate in the following permanently vested properties as scenic reserves, with the specified collective governance entity as the administering body:
- (a) the Historic Community Hall and Tennis Court Area excluding those improvements; and
 - (b) Rangitoto Bach 80 property.

- 4.5 The permanently vested properties will be –

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4: MOTU

- 4.5.1 described in a schedule to the Tāmaki Makaurau collective legislation; and
- 4.5.2 vested on terms to be agreed and set out in the collective deed and the Tāmaki Makaurau collective legislation as required including that:
- (a) the titles to the properties will be inalienable; and
 - (b) in relation to the property vested under clause 4.4.2(a) (“Community Hall and Tennis Court”), -
 - (i) the existing improvements remain owned and managed by the Crown and may remain in place at nil cost to the Crown and without the need for a lease, licence or any other right to occupy the property; and
 - (ii) the specified collective governance entity to have a right to use the improvements free of charge on the same basis as members of the bach community would be permitted to use it; and
 - (iii) prior approval under the Reserves Act 1977 is provided so that the specified collective governance entity may place temporary and movable structures on the historic tennis court area during spiritual or cultural events, and permanent symbolic structures around the court area; and
 - (c) in relation to the property vested under clause 4.4.2(b) (“Bach 80”), -
 - (i) prior approval under the Reserves Act 1977 is provided so that the specified collective governance entity may erect any code compliant ancillary building or structure solely required to make Bach 80 code compliant for use as a spiritual or cultural wānanga centre; and
 - (ii) prior approval under the Reserves Act 1977 so that a 200m² “footprint” will be set aside in existing open space for the purpose of a new single storey building(s) for use as part of the spiritual or cultural wānanga facilities, with the Department of Conservation to be consulted on the building design; and
 - (iii) the specified collective governance entity will have exclusive use of Bach 80 and all buildings and structures on the property for spiritual or cultural purposes, whether or not those purposes are consistent with public enjoyment of the reserve.
- 4.6 The identification of boundaries in attachment 3 is preliminary and will be confirmed before the collective deed is entered into.

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4: MOTU

- 4.7 Subject to part 5, the permanently vested properties are described in attachments 3 and 4 to this record of agreement and will be subject to any encumbrances described in attachment 4.
- 4.8 The Tāmaki Makaurau collective legislation and the collective deed will include the detail on the terms of vesting the tihi of Rangitoto, and on management and use of improvements on the community hall and tennis court area.

VESTING AND VEST BACK

- 4.9 The collective deed will provide that the Tāmaki Makaurau collective legislation will –
- 4.9.1 vest in the specified collective governance entity, on a date to be determined by the specified collective governance entity as notified to the Minister of Conservation after an agreed minimum period prior to the vesting date, but within 12 months of the effective date, the fee simple estate in each of the following motu:
- (a) Motutapu Island Recreation Reserve:
 - (b) Rangitoto Island Scenic Reserve less the permanently vested properties:
 - (c) Motuihe Island Recreation Reserve: and
 - (d) Tiritiri Matangi Island Scientific Reserve; and
- 4.9.2 on the day that is one month after the date of vesting under clause 4.9.1, the fee simple estate in each motu vests in the Crown; and
- 4.9.3 provide that the Minister of Conservation must publish a notice in the Gazette specifying the vesting date and that the motu vest in the specified collective governance entity on that date; and
- 4.9.4 provide for a permanent public record of the cultural and historical association of specified iwi/hapū with each of the motu; and
- 4.9.5 provide that notwithstanding the vestings in clauses 4.9.1 and 4.9.2, at all times -
- (a) each motu remains a reserve with its existing classification and subject to, as the case may be, sections 17, 19 or 21 of the Reserves Act 1977, and that Act continues to apply to it; and
 - (b) any other enactment or any instrument that applied to the motu immediately before the effective date continues to apply to it; and

RECORD OF AGREEMENT

4: MOTU

(c) any encumbrance that affected the motu immediately before the effective date continues to affect it; and

(d) the Crown retains all liability for the motu; and

4.9.6 provide that the vestings are not affected by Part 4A of the Conservation Act 1987, section 11 and Part 10 of the Resource Management Act 1991, or any other enactment.

4.10 Each motu will be –

4.10.1 as described in a schedule to the Tāmaki Makaurau collective legislation;

4.10.2 vested and re-vested on terms that will be set out in the Tāmaki Makaurau collective legislation.

4.11 The motu are described in attachment 5 to this record of agreement.

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5: THIRD PARTY RIGHTS AND IMPROVEMENTS

5 THIRD PARTY RIGHTS AND IMPROVEMENTS

- 5.1 The collective deed and the Tāmaki Makaurau collective legislation will, in respect of each maunga and permanently vested property and through new legal instruments if necessary, ensure protection of –
- 5.1.1 all agreed existing third party rights and interests, including in privately owned improvements;
 - 5.1.2 interests in specified Crown improvements, including the Department of Conservation Auckland Area Office on North Head and the community hall and tennis court area on Rangitoto Island.
- 5.2 Attachments 2 and 4 contain preliminary lists prepared by the Crown of existing third party rights and interests on the maunga and permanently vested properties, and improvements not to vest with the land. The Crown will continue to work with Ngā Mana Whenua o Tāmaki Makaurau and, where relevant the Auckland Council and the Department of Conservation, to complete the identification process, agree arrangements for protecting all agreed existing third party rights on the maunga and permanently vested properties and improvements not to vest with the land before the deed is entered into.
- 5.3 The Crown will explore the request of the iwi/hapū of Ngā Mana Whenua o Tāmaki Makaurau that the Tāmaki Makaurau legislation will exempt the specified collective governance entity from liability as owner for:
- 5.3.1 any actions or omissions before vesting relating to the maunga and permanently vested properties; and
 - 5.3.2 after vesting, actions or omissions of persons other than the specified collective governance entity.

6: CO-GOVERNANCE ARRANGEMENTS FOR PUBLIC CONSERVATION LAND

6 CO-GOVERNANCE ARRANGEMENTS FOR PUBLIC CONSERVATION LAND

RELATIONSHIP DOCUMENT WITH THE MINISTER OF CONSERVATION

- 6.1 The Crown and Ngā Mana Whenua o Tāmaki Makaurau will continue to discuss the form and content of a relationship document between the Minister of Conservation and Ngā Mana Whenua o Tāmaki Makaurau. The agreed relationship document will be attached to the final collective deed.

CONSERVATION MANAGEMENT PLAN

- 6.2 The collective deed will provide that the Tāmaki Makaurau collective legislation will provide for a new Conservation Management Plan to cover Rangitoto (including the scenic reserve sites vested under clauses 4.4.1 and 4.4.2), Motutapu, Motukorea and Motuihe Islands, with the specified collective governance entity having the statutory role of, jointly with the relevant Conservation Board, reviewing drafts, hearing submissions and finally approving the plan, generally in accordance with processes set out in the Conservation Act 1987.

AUCKLAND CONSERVATION BOARD

- 6.3 The collective deed will provide that the Tāmaki Makaurau collective legislation will provide for a statutory right for the specified collective governance entity and other iwi/hapū within the Auckland Conservancy to recommend to the Minister of Conservation three nominees, to the Auckland Conservation Board each term.

ANNUAL MEETINGS

- 6.4 The collective deed will include provisions requiring the Department of Conservation to meet annually with the Tūpuna Maunga o Tāmaki Makaurau Authority to discuss strategic governance issues relating to Crown conservation lands within the Auckland Volcanic Field.

HAURAKI GULF FORUM

- 6.5 The collective deed will not address the representation of the iwi/hapū of the Tāmaki collective on the Hauraki Gulf Forum which will continue to be negotiated between the Crown and the relevant iwi and hapū.

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7: GEOGRAPHIC NAMES

7 GEOGRAPHIC NAMES

Assigned geographic names

- 7.1 The collective deed will provide that the Tāmaki Makaurau collective legislation will, from the effective date, assign the following geographic names to the location set opposite it:-

Assigned official name	Location (NZTopo50 map and grid references)	Feature type
Maungataketake	BB31 555043	Hill
Puke o Tara	BB32 689089	Hill
Maungauika	BA32 616227	Hill

Altered geographic names

- 7.2 The collective deed will provide that the Tāmaki Makaurau collective legislation will, from the effective date, alter each of the following existing geographic names to the altered geographic name set opposite it:

Existing recorded or official name	Altered geographic name	Location (NZTopo50 map, unless otherwise specified, and grid references)	Geographic feature type
Big King	Te Tātua-a-Riukiuta	BA32 563145	Hill
Hamlin Hill	Mutukaroa / Hamlin Hill	BA32 633121	Hill
Hauraki Gulf	Hauraki Gulf / Tīkapa Moana	NZTopo 250-3 788 975; 250-5	Gulf
McLaughlins Mountain	Matukutūreia / McLaughlins Mountain	BB32 642021	Hill
Motuihe Island	Motuihe Island / Te Motu-a-Ihenga	BA32 737243	Island
Mount Eden	Maungawhau /	BA32 572172	Hill

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7: GEOGRAPHIC NAMES

	Mount Eden		
Mount Richmond	Ōtāhuhu / Mount Richmond	BA32 637109	Hill
Mount Hobson	Ōhinerau / Mount Hobson	BA32 593171	Hill
Mount Smart	Rarotonga / Mount Smart	BA32 616128	Hill
Mount Victoria	Takarunga / Mount Victoria	BA32 604229	Hill
Mount Wellington	Maungarei / Mount Wellington	BA32 645154	Hill
One Tree Hill	Maungakiekie / One Tree Hill	BA32 588147	Hill
Pigeon Mountain	Ōhūiarangi / Pigeon Mountain	BA32 696157	Hill
Red Hill	Pukekiwiriki	BB32 778961	Hill
Taylor Hill	Taurere / Taylor Hill	BA32 667185	Hill
The Domain	Pukekawa	BA32 582195	Hill
Wiri Mountain	Matukutūruru	BB32 653027	Hill

7.3 Subject to Ngā Mana Whenua o Tāmaki Makaurau nominating one original Māori name to receive official recognition before the collective deed is initialled, the collective deed will provide that -

7.3.1 the Tāmaki Makaurau collective legislation will, from the effective date, alter the following geographic names to the location set opposite it; and

7.3.2 whichever of these two does not become the official assigned name, will be included in the letter to be given under clause 7.5:

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7: GEOGRAPHIC NAMES

Existing geographic name (gazetted, recorded or local)	Choice of one altered geographic name	Location (NZTopo50 map and grid references)	Geographic feature type
Motutapu Island	Te Motu-tapu-o-Tinirau Island OR Te Motu-tapu-a-Taiehu Island	BA32 710295	Island
Mount Albert	Ōwairaka / Mount Albert OR Te Ahi-kā-a-Rakataura / Mount Albert	BA31 533158	Hill
Mount Mangere	Te Pane-o-Mataoho / Mount Mangere OR Te Ara Pueru / Mount Mangere	BB32 587093	Hill
Mount Roskill	Pukewīwī / Mount Roskill OR Puketāpapa / Mount Roskill	BA31 547134	Hill
Mount St John	Te Kōpuke / Mount St John OR Tītīkōpuke / Mount St John	BA32 586165	Hill

Collective legislation

- 7.4 The collective deed will provide that the Tāmaki Makaurau collective legislation will assign the geographic names, and alter the existing geographic names, on terms to be agreed and set out in the Tāmaki Makaurau collective legislation.

Requested original Māori names

- 7.5 The collective deed will provide that, by or on the effective date, the Minister for Treaty of Waitangi Negotiations must write a letter to the New Zealand Geographic Board Ngā Pou Taunaha o Aotearoa requesting the Board to record in the Gazetteer whichever of

RECORD OF AGREEMENT

7: GEOGRAPHIC NAMES

the following alternative names is selected by Ngā Mana Whenua o Tāmaki Makaurau as the original Māori name for the existing name:

Existing name	Requested original Māori name	Location (NZTopo50 map and grid references)	Geographic feature type
Mount Roskill	Pukewīwī OR Puketāpapa	BA31 547134	Hill
Mount St John	Te Kōpuke OR Tītīkōpuke	BA32 586165	Hill
Mount Mangere	Te Pane-o-Mataoho OR Te Ara Pueru	BB32 587093	Hill
Mount Albert	Ōwairaka OR Te Ahi-kā-a-Rakataura	BA31 533158	Hill
unnamed summit on North Head	Takapuna	BA32 616227	Hill
Rangitoto Island	Te Rangi-i-Totongia-a-Tamatekapua and Ngā Tuaitara-a-Taiehu	BA32 663273	Island
Motutapu Island	Te Motu-tapu-o-Tinirau OR Te Motu-tapu-a-Taiehu	BA32 710295	Island

- 7.6 It is the expectation of Ngā Mana Whenua o Tāmaki Makaurau that the New Zealand Geographic Board Ngā Pou Taunaha o Aotearoa will meet the Minister's request.

8 RIGHT OF FIRST REFUSAL

CROWN LAND

- 8.1 The collective deed will provide that the specified collective governance entity is to have a right of first refusal in relation to a disposal by the Crown or a Crown body of RFR land, being all the land owned by, or vested in, the Crown on the effective date in the area shown in attachment 6. The definition of RFR land may be amended to exclude certain Crown land, and include certain land owned by other entities, depending on the outcome of discussions with the entities referred to in clause 8.6.
- 8.2 The right of first refusal is to be on terms to be agreed and set out in the Tāmaki Makaurau collective legislation and, in particular, will apply –
- 8.2.1 for a term of 170 years from the effective date; and
- 8.2.2 only if the RFR land –
- (a) is vested in, or the fee simple estate in it is held by, the Crown on the effective date; and
- (b) is not being disposed of in the circumstances to be agreed and set out in the Tāmaki Makaurau collective legislation.
- 8.3 The process of the right of first refusal will be conducted on the same basis in general terms as in other rights of first refusals offered by the Crown in recent Treaty settlements.
- 8.4 Some of the other features of the right of first refusal are:
- 8.4.1 the offer to sell must be:
- (a) made to the specified collective governance entity which may nominate itself or a rūpu entity as purchaser:
- (b) capable of acceptance for 40 business days, or 20 business days if there has been a previous offer:
- 8.4.2 if an offer is not accepted, the owner may, for a specified period, sell the property to any other person but not on more favourable terms than those offered to the specified governance entity:
- 8.4.3 the right of first refusal will not apply to a disposal to the Crown or Crown bodies but, in those circumstances, the right of first refusal continues to apply to the RFR land in question:

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8: RIGHT OF FIRST REFUSAL

- 8.4.4 one of the circumstances referred to in clause 8.2.2(b) is a disposal under section 40 of the Public Works Act 1981, or equivalent legislation:
 - 8.4.5 another of the circumstances referred to in clause 8.2.2(b) is a disposal for state housing purposes or for social housing:
 - 8.4.6 RFR land that is to be included in an individual comprehensive settlement of an iwi/hapū of Ngā Mana Whenua o Tāmaki Makaurau must be removed from the statutory right of first refusal:
 - 8.4.7 the fact that RFR land is subject to the right of first refusal will be noted on any title to RFR land.
- 8.5 The Crown and the iwi/hapū of Ngā Mana Whenua o Tāmaki Makaurau will explore:
- 8.5.1 what opportunities may exist for the specified collective governance entity to receive preferential rights ahead of any tender process to develop, in accordance with the conditions of the tender, land held for state housing purposes and/or social housing which is exempted under clause 8.4.5; and
 - 8.5.2 whether there are circumstances in which land held for state housing purposes and/or social housing may be subject to the right of first refusal (either with conditions that it be developed for state housing purposes and/or social housing, or for disposal free from any reservation).

OTHER LAND

- 8.6 The Crown continues to explore with the following entities the possibility of land held or administered by them being subject to the right of first refusal:
- 8.6.1 Auckland, Waitematā and Counties Manukau District Health Boards:
 - 8.6.2 Auckland University, Auckland University of Technology, Unitec Institute of Technology and the Manukau Institute of Technology.
- 8.7 The terms of any right of first refusal will be independently agreed with each Crown entity.

9 SECOND PURCHASE OPTION

- 9.1 The collective deed and the Tāmaki Makaurau legislation will provide for an option in favour of the specified collective governance entity to –
- 9.1.1 acquire properties (whether or not subject to a leaseback to the Crown) included in deferred selection processes in the comprehensive settlement of each iwi/hapū of Ngā Mana Whenua o Tāmaki Makaurau not ultimately selected or acquired by the iwi/hapū; and
 - 9.1.2 acquire landbank properties that are not included as settlement properties in the comprehensive settlement of each iwi/hapū of Ngā Mana Whenua o Tāmaki Makaurau after all such settlements have been entered into.
- 9.2 One of the terms of the option will be that where terms and conditions have been agreed under a deferred selection process in a comprehensive settlement (such as the terms of a leaseback and the valuation of the land or rental) those terms and conditions apply to the option under the collective deed.

RECORD OF AGREEMENT

10: TĀMAKI MAKĀURAU COLLECTIVE LEGISLATION, CONDITIONS, AND TERMINATION

10 TĀMAKI MAKĀURAU COLLECTIVE LEGISLATION, CONDITIONS, AND TERMINATION

TĀMAKI MAKĀURAU COLLECTIVE LEGISLATION

- 10.1 The collective deed will provide that the Crown must propose a bill for introduction to the House of Representatives before the later of:
- 10.1.1 the date which is 12 months after the date of the collective deed; and
 - 10.1.2 the date which is 2 months after the date the condition in clause 10.2 is satisfied.
- 10.2 The condition in clause 10.1.2 is that three rūpu entities have been established on terms to be agreed and set out in the collective deed.
- 10.3 The bill proposed for introduction will be agreed and attached to the collective deed but may include changes:
- 10.3.1 of a minor or technical nature; or
 - 10.3.2 where clause 10.3.1 does not apply, those changes that have been agreed in writing by the specified collective governance entity and the Crown.
- 10.4 The Crown has provided draft legislation to Ngā Mana Whenua o Tāmaki Makaurau before the date of this record of agreement and this is still the subject of negotiation to be completed along with the deed of settlement.
- 10.5 The collective deed will provide that Ngā Mana Whenua o Tāmaki Makaurau and the specified governance entities must support the passage through parliament of the Tāmaki Makaurau collective legislation.

DEED CONDITIONAL

- 10.6 The collective deed will be conditional on the Tāmaki Makaurau collective legislation coming into force.

TERMINATION

- 10.7 The collective deed will provide that the Crown, or the governance entities, may terminate the deed, by notice to the other, if –
- 10.7.1 the Tāmaki Makaurau collective legislation has not come into force within 30 months after the date of the deed; and

RECORD OF AGREEMENT

10: TĀMAKI MAKĀURAU COLLECTIVE LEGISLATION, CONDITIONS, AND TERMINATION

10.7.2 the terminating party has given the other party at least 20 business days notice of an intention to terminate.

11 EFFECT OF THE COLLECTIVE DEED

- 11.1 The collective deed will state that it does not settle any of the historical Treaty claims of the iwi/hapū of Ngā Mana Whenua o Tāmaki Makaurau.
- 11.2 The collective deed will state that it provides collective Treaty redress for historical claims in respect of the shared interests of each participating iwi/hapū and the collective governance entities, on behalf of each participating iwi/hapū, will acknowledge that the redress under the deed will be part of each iwi/hapū settlement.

RECORD OF AGREEMENT

12: WAITEMATĀ AND MANUKAU HARBOURS

12 WAITEMATĀ AND MANUKAU HARBOURS

- 12.1 The collective deed will state that it does not implement redress in relation to the Waitematā Harbour and Manukau Harbour which continues to be negotiated between the Crown and Ngā Mana Whenua o Tāmaki Makaurau. For these purposes the Harbours do not extend beyond the area shown in attachment 7.

RECORD OF AGREEMENT

13: GENERAL, DEFINITIONS, AND INTERPRETATION

13 GENERAL, DEFINITIONS, AND INTERPRETATION

GENERAL

- 13.1 The collective deed will include a general matters schedule which will include provisions in relation to –
- 13.1.1 the effect of the collective deed; and
 - 13.1.2 the taxation of redress, including indemnities from the Crown in relation to taxation; and
 - 13.1.3 the giving of notice under the collective deed; and
 - 13.1.4 amending the collective deed.
- 13.2 The general matters schedule will also include definitions and rules of interpretation.

IMPLEMENTATION

- 13.3 The collective deed will provide that the Tāmaki Makaurau collective legislation will, on terms to be agreed and set out in the Tāmaki Makaurau collective legislation, –
- 13.3.1 provide that the rule against perpetuities and the Perpetuities Act 1964 does not prescribe or restrict the period during which –
 - (a) the trustees for the time being of any trust that is the governance entity, may hold or deal with property; and
 - (b) a trust that is a governance entity may exist; and
 - 13.3.2 require the Secretary for Justice to make copies of this deed publicly available.

NGĀ MANA WHENUA O TĀMAKI MAKĀURAU

- 13.4 In this record of agreement, **Ngā Mana Whenua o Tāmaki Makaurau** means –
- 13.4.1 the collective group composed of individuals who are members of one or more of the following iwi/hapū:
 - (a) Ngāi Tai ki Tāmaki;
 - (b) Ngāti Maru;
 - (c) Ngāti Paoa;

RECORD OF AGREEMENT

13: GENERAL, DEFINITIONS, AND INTERPRETATION

- (d) Ngāti Tamaoho;
- (e) Ngāti Tamaterā;
- (f) Ngāti Te Ata;
- (g) Ngāti Whanaunga;
- (h) Ngāti Whātua o Kaipara;
- (i) Ngāti Whātua Ōrakei;
- (j) Te Ākitai Waiohū;
- (k) Te Kawerau ā Maki;
- (l) Te Patukirikiri; and
- (m) Te Rūnanga o Ngāti Whātua representing all other hāpu of Ngāti Whātua;

13.4.2 every individual referred to in clause 13.4.1.

OTHER DEFINITIONS AND INTERPRETATION

13.5 In this record of agreement –

administering body has the meaning given to it by section 2(1) of the Reserves Act 1977; and

attachments means the attachments to this record of agreement; and

business day means a day that is not -

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

RECORD OF AGREEMENT

13: GENERAL, DEFINITIONS, AND INTERPRETATION

(ii) Auckland; and

collective deed means the deed to be entered into pursuant to this record of agreement; and

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

date of this record of agreement means the date this document is signed by the parties; and

effective date means the date that is 20 business days after the date on which the Tāmaki Makaurau collective legislation comes into force; and

encumbrance, in relation to a property, means a lease, tenancy, licence, easement, covenant, or other right or obligation affecting that property; and

governance entity means the entity or entities established to receive the redress in this record of agreement; and

maunga means each property described in attachment 1; and

member of Ngā Mana Whenua o Tāmaki Makaurau means an individual referred to in clause 13.4.1; and

Minister means a Minister of the Crown; and

month means a calendar month; and

motu means each property described in attachment 5; and

Ngā Mana Whenua o Tāmaki Makaurau has the meaning given to it by clause 13.4.1; and

party means each of the following:

(a) Ngā Mana Whenua o Tāmaki Makaurau:

(b) the Crown; and

permanently vested property means each property described in attachment 3; and

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

representative entity means -

(a) each collective governance entity; and

RECORD OF AGREEMENT

13: GENERAL, DEFINITIONS, AND INTERPRETATION

- (b) a person (including any trustee or trustees) acting for or on behalf of:
 - (i) the collective group, referred to in clause 13.4.1; or
 - (ii) any one or more members of Ngā Mana Whenua o Tāmaki Makaurau; or
 - (iii) any one or more of the individuals referred to in clause 13.4.2; and

RFR area means the area described in attachment 6; and

RFR land means the land in the RFR area that is vested in or the fee simple estate in it is held by, the Crown under any Act; and

right of first refusal means the right referred to in part 8; and

Tāmaki Makaurau collective legislation means, the bill to be proposed for introduction to the House of Representatives under clause 10.1 and the resulting Act; and

Treaty of Waitangi / Te Tiriti o Waitangi means the Treaty of Waitangi as set out in schedule 1 to the Treaty of Waitangi Act 1975, the copies of which were signed by various iwi/hapū of Ngā Mana Whenua o Tāmaki Makaurau are set out in attachment 8; and

Tūpuna Maunga o Tāmaki Makaurau Authority or **Authority** means the authority to be established under clause 3.1; and

Waitangi Tribunal has the meaning given to it by section 4 of the Treaty of Waitangi Act 1975; and

vesting, in relation to a cultural redress property, means its vesting under the Tāmaki Makaurau collective legislation.

- 13.6 Clause 4.4.1 applies as if the words “as if the land remained vested in the Crown” were added at the end.
- 13.7 Each of clauses 4.9.5(a), (b), (c) and (d) apply as if the words “as if the vestings had not occurred” were added at the end.

RECORD OF AGREEMENT

SIGNED on 5 November 2011

SIGNED for and on behalf of **THE CROWN** by

the Minister for Treaty of Waitangi
Negotiations

Hon Christopher Finlayson

the Minister of Māori Affairs

Hon Dr Pita Sharples

SIGNED for and on behalf
of **Ngā Mana Whenua o Tāmaki Makaurau** by:

SIGNED for and on behalf
of **Ngāi Tai Ki Tāmaki** by

James Brown

Carmen Kirkwood

Lucy Steel

Laurie Beamish

SIGNED for and on behalf
of **Ngāti Maru** by

Ngakoma Ngamane

Paul F Majurey

RECORD OF AGREEMENT

SIGNED for and on behalf
of **Ngāti Paoa** by

Hauāuru Eugene Rawiri

Morehu Anthony Wilson

Gary Thompson

SIGNED for and on behalf
of **Ngāti Tamaoho** by

Warahi Paki

Ted Ngataki

Dennis Raniera Kirkwood

SIGNED for and on behalf
of **Ngāti Tamaterā** by

Terrence John McEnteer

Debra Liane Ngamane

SIGNED for and on behalf
of **Ngāti Te Ata** by

Tahuna Minhinnick

Berenize Peita

Kapiera Peita

Josie Smith

SIGNED for and on behalf
of **Ngāti Whanaunga** by

Rodney Rangimoana Renata

Tipa S Compain

RECORD OF AGREEMENT

SIGNED for and on behalf
of **Ngāti Whātua o Kaipara** by

Waata Herewini Richards

Margaret Kawharu

SIGNED for and on behalf
of **Ngāti Whātua Ōrakei** by

Grant Hawke

David Phillip Davis

Ngarimu Blair

SIGNED for and on behalf
of **Te Ākitai Waiohū** by

Karen Wilson

David Wilson

Leaha A Clark

SIGNED for and on behalf
of **Te Kawerau ā Maki** by

Te Warena Taua MNZM

SIGNED for and on behalf
of **Te Patukirikiri** by

Williams Peters

David Williams

SIGNED for and on behalf
of **Te Rūnanga o Ngāti Whātua** by

Rangimārie Naida Glavish

Tame Te Rangi

RECORD OF AGREEMENT

Other iwi/hapū representatives of Ngā Mana Whenua o Tāmaki Makaurau

RECORD OF AGREEMENT
