

Community Agreement

Habitat Tuatēawa Incorporated





COMMUNITY AGREEMENT

(pursuant to section 53(2)(i) Conservation Act 1987)

AGREEMENT NAME:

This Agreement is made this 1st day of July, 2020

PARTIES:

1.[Habitat Tuatēawa] ('the Organisation')
2. DIRECTOR-GENERAL OF CONSERVATION ('DOC')

PREAMBLE

- A. The Department of Conservation Te Papa Atawhai ('the Department') is responsible for managing and promoting conservation of the natural and historic heritage of New Zealand on behalf of, and for the benefit of, present and future New Zealanders. It also has a responsibility under section 4 of the Conservation Act 1987 to interpret and administer the conservation legislation to give effect to the principles of the Treaty of Waitangi to the extent that it applies to this conservation activity.
- B. To perform its functions, the Department wants to work with others, recognising that New Zealanders want to connect with, and contribute their expertise to restore and protect their unique natural environment, historic and cultural heritage.
- C. *Community-led conservation action was initiated in 1994 by the 'Tuatēawa Kiwicare' Group, a small group of landowners and local residents concerned about the decline in the condition of the bush and reduced numbers of kiwi and other native birds in the area. This was probably one of the earliest community-led conservation initiatives on the Coromandel Peninsula. Trapping and baiting activities targeted rats and possums and were initially focused on infrastructure (tracks and bait stations) inserted by DOC. Building on this earlier initiative Habitat Tuatēawa was created and registered as an Incorporated Society in 2012. A committee was established and formal governance procedures put in place. A strategic plan (2016 – 2020) was prepared which included the following vision (visit <http://tuatēawa.com> to see the existing plan):*

'As guardians of the Tuatēawa environment we acknowledge the interdependence of the people with this inspiring place. The bush, the streams, wetlands, coast and sea are maintained and enhanced as habitats for native plants and animals and are sustained so that future generations may use and enjoy them.'

'We are united in being inspired by our vision. We are enthusiastic about the possibilities of restoring natural habitats and recovering native species that were previously abundant here. We hope to secure additional funds and resources from a range of sources, including government agencies and local members and benefactors. We are excited by the social dimensions of Habitat Tuatēawa; we will continue to value our relationships with local people,

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and with mana whenua, as well as with existing and new partners and other like-minded groups.'

Guided by the strategic plan operational plans have subsequently been prepared to guide pest control and other activities, and to support funding applications. Reports on activities and progress towards objectives have been prepared to meet DOC and other institutional and donor requirements, and to guide our future activities. A new strategic plan is about to be prepared (2020) involving consultation with members, donors, management agencies and other stakeholders.

- D. The parties are entering this Agreement in a spirit of collaboration to make a difference for conservation. Under section 53(2)(i) of the Conservation Act 1987, DOC has the power to enter into agreements with individuals/groups/organisations.

THE PARTIES AGREE to work together as follows.

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Schedule 1

SPECIFICS OF AGREEMENT

Section A: What does the Organisation aim to achieve?

Ecological restoration of the site, including animal and plant pest control and planting. Aligned with the kaupapa "50% of NZ's natural ecosystems are benefiting from pest management". The site the Organisation undertakes work on is predominantly privately-owned land, with the exception of the area of PCL outlined in the map appendices. These areas are surrounded by the Coromandel Forest Park – Kennedy Bay Block. The area has significant cultural, historic, and biodiversity value.

Refer to **Appendix E** for further historical group context.

SCOPE OF THE AGREEMENT:

It is important to note this management agreement only authorises the work undertaken on PCL and does not give the organisation authorisation to operate on other land tenures. This should be obtained independently. The information of these other tenures is included in this agreement only for the purposes of understanding the entire operation that the organisation undertakes.

Section B: Where is the Organisation undertaking the Activity?

The Site:

Public Conservation Land – Appendix A

Name and Location: Coromandel Forest Park – Kennedy Bay Block

Land status: Conservation Park

Area: 71899.1032 ha

Conservation Unit Number: T11001

Map reference: X - 1,829,752 Y - 5,943,331 (NZTM)

Entire Operational Area (For context purposes only) - See Appendix B

Name and Location: Tuatēawa Private residence

Land status: Different land tenures

Area: 178 ha (Approx)

Legal description: N/A

Map reference: X - 1,829,763 Y - 5,942,031 (NZTM)

Section C: How long is this Agreement for?

This Agreement starts on: **1st July, 2020**

and ends on: **30th June, 2025**

Right of renewal (subject to fully complying with this Agreement): **YES**

Final End Date: **30th June, 2030**

Section D: Are there any special conditions about how/where the Organisation does these activities?

Special Conditions for this Agreement are in Schedule 3 (including any specific health and safety matters).

Section E: The Activity

E.1 The Activity of the Organisation is:

Refer to **Appendix C - Community Activity Template – Animal Pest Control**

E.2 DOC's contribution to the Activity is:

Refer to **Appendix C - Community Activity Template – Animal Pest Control**

Section F

Consultation with whanau, hapū and iwi about the Activity:

F.1 The Organisation is mindful that whanau, hapū and iwi have a role as kaitiaki of natural and cultural resources on public conservation land and waters.

F.2(a) DOC will consult with whanau, hapū and iwi and/or the relevant post Treaty settlement governance entity where applicable.

F.2(b) DOC will provide advice and support to the Organisation to consult with iwi, hapū and whānau as appropriate.

F.3 DOC will advise the Organisation if any specific provision under a Treaty of Waitangi Partnership or Accord applies or if there are Treaty settlement obligations under a Deed of Settlement or Deed of Recognition with implications for the Activity.

Section G: What procedures, guides and standards apply to the Activity?

G.1 The Organisation must follow DOC's Standard Operating Procedures, guidelines or standards, listed below:

Animal Pest Control:

- *DOC's Intro to Animal Pest Monitoring (DOCDM-340712)*
- *DOC's tracking tunnel guide (DOCDM-1199768)*
- *Best practice – Kill Trapping for Rat Control (DOCDM-29390)*
- *Best practice – Stoat Control - Kill Trapping (DOCDM-29448)*
- *Best practice – Ferret Control - Kill Trapping (DOCDM-29433)*
- *Pesticide information reviews (DOCDM-25413)*
- *Trapping App Support – Walk the Line*

Pest Plant Control:

- *Weed Planner – Available on the DOC public website ([Link](#))*

General

- *Kauri Dieback Best Practice Guidelines*

G.2 (a) DOC will provide to, and discuss with, the Organisation the relevant sections of DOC's Standard Operating Procedures (SOPs), guidelines and standards that apply to the conduct of the Activity.

G.2(b) DOC will inform the Organisation of any new and updated SOP, guideline and standard during the term of this Agreement, and advise the Organisation if it will need to continue to follow the earlier version or change to the new version.

Section H: Health and Safety

H.1 DOC will specify in the Special Conditions in Schedule 3 any:

- (i) place within the Site that is not covered by this Agreement;
- (ii) equipment or tools that must not be used except with DOC's prior written agreement.

Refer to **Appendix D** for the Health and Safety Plan

Section I: What happens if the Organisation causes damage?

I.1 Where the Organisation can be covered by DOC's General Liability Policy for third-party personal injury and property damage the Organisation agrees to accept that cover and abide by the conditions outlined in this Agreement.

See **Appendix F** for the Guide to Community Group Cover

Section J: Staying in touch with each other

J.1 DOC and the Organisation will meet yearly around **October** to review progress with achieving the aims outlined in section A, or work plan if appropriate.

J.2(a) DOC and the Organisation have appointed the following persons to communicate on their behalf on all matters relating to this Agreement:

For the Organisation:

Name: 9(2)(a)
Position: Pest Control Coordinator
Phone contact: 9(2)(a)
Postal Address: 9(2)(a)
Email: 9(2)(a)

For DOC:

Name: 9(2)(g)(ii)
Position: Ranger - Community
Phone contact: 9(2)(g)(ii)
Postal Address: PO Box 276, Whitianga, 3542
Email: 9(2)(g)(ii)

from Jan. 21:
9(2)(g)(ii)
9(2)(g)(ii)
9(2)(g)(ii)

J.2(b) If the appointed representative for either party changes, the affected party will notify the other party of the change as soon as practicable.

9(2)(a)

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J.3(a) In each year during the term of the Agreement, the Organisation will keep a record of the number of volunteers and workday equivalents (8 hours including travel) involved in undertaking the Activity and will share the data collected with the DOC.

J.3(b) The Organisation will also provide the following information requested by DOC:

- *GPS locations of traps (DOCcm Link)*
- *Trap Catch Data (DOCcm Link)*
- *Data collected regarding pest plant (infestation or eradication)*
- *Operational Plans for baiting programme*
- *Contributions by volunteers (workday equivalents)*
- *Group Strategic Plan (DOCcm Link)*

J.3(c) DOC will use the information supplied under this provision by the Organisation in a report to Government on voluntary contributions to conservation.

GROUP/ORGANISATION

SIGNED for and on behalf of

Habitat Tuatēawa
.....
Habitat Tuatēawa Inc:

by [redacted] 9(2)(a)
[redacted] 9(2)(a)
.....

Date: *16/7/2020*
Address: [redacted] 9(2)(a)
Phone number/email: [redacted] 9(2)(a)
[redacted] 9(2)(a)

DIRECTOR-GENERAL OF CONSERVATION

SIGNED by **Nick Kelly (Operations Manager)**
pursuant to an Instrument of Delegation dated
9 September 2015 from the DOC of
Conservation:

[redacted] 9(2)(g)(ii)
.....

Date: *10/7/2020*

Nick Kelly
Operations Manager
Coromandel District

nkelly@doc.govt.nz
027 540 6165

The seal of *Habitat Tuatēawa* was affixed in the presence of:

.....
Authorised Signatory

Note:

- A copy of the Instrument of Delegation may be inspected at DOC's office at 18-32 Manners Street, Wellington 6011.

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Schedule 2

STANDARD TERMS AND CONDITIONS

1 What activity has been authorised?

- 1.1 The [Group/Organisation] is authorised to carry out the Activity (described in **Section E of Schedule 1**) in accordance with this Agreement, subject to any consents that may be required to undertake the Activity.
- 1.2 The [Group/Organisation] will:
- (a) exercise reasonable skill, care and diligence in carrying out the Activity;
 - (b) take responsibility for the actions and omissions of its workers (including volunteers and contractors) and others who carry out the Activity under its direction and control;
 - (c) not commence the Activity until the Agreement has been signed by both parties and the safety plan has been reviewed and accepted by DOC in accordance with clause 6.4 of this Schedule.

2 Renewals

- 2.2 If **Section C of Schedule 1** provides for a right of renewal and if the [Group/Organisation] has, in the opinion of DOC, complied with all the terms and conditions of this Agreement. DOC will offer the [Group/Organisation] a renewal of this Agreement on the same terms or on any amended terms agreed between the parties (but excluding the right of renewal) for a further period agreed between the parties. DOC will provide three (3) months' written notice to the [Group/Organisation] of the offer.
- 2.3 The [Group/Organisation] may accept the offer of renewal in writing to DOC before the Agreement ends. In that case, the Agreement will be renewed and will then end on or before the Final End Date set out in **Section C of Schedule 1**.

3 What if things change?

- 3.1 The [Group/Organisation] must not transfer this Agreement to another party or allow another party to carry out the Activity without the prior written consent of DOC. DOC may choose to decline consent under this clause or grant consent subject to conditions.
- 3.2 Any change to the Activity or to the boundary of the Site will be subject to a prior Variation of Agreement at DOC's reasonable discretion.

4 What about protecting the environment?

- 4.1 The [Group/Organisation] must take every care to avoid damaging indigenous flora and fauna or the habitat of indigenous fauna when carrying out the Activity.
- 4.2 The [Group/Organisation] must take every care not to transfer unwanted organisms such as weed seeds, pathogens or pests, such as Argentine ants and plague skinks (as listed under the Biosecurity Act 1993), when carrying out the Activity.
- 4.3 Except where permitted by this Agreement, the [Group/Organisation] must ensure it does not:

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- (a) cut down vegetation; or
- (b) damage any natural feature or historic resource on the land; or
- (c) light any fire on the Site;

without DOC's prior written approval.

5 What about obligations and breaches of the Agreement?

- 5.1 In conducting the Activity the [Group/Organisation] must comply with all statutes, regulations, by-laws or other enactments, or any Conservation Management Strategy or Plan affecting or relating to the Site and facilities or affecting or relating to the Activity as well as the procedures, guidelines and standards set out in **Section G of Schedule 1** and all other reasonable notices and directions of DOC. DOC may in his/her discretion appoint a person to monitor and review compliance of these requirements.
- 5.2 A breach by the [Group/Organisation] of any provision referred to in clause 5.1 of this Schedule is deemed to be a breach of this Agreement.
- 5.3 If the [Group/Organisation] breaches clause 5.1 of this Schedule, in any way that is not insignificant in DOC's view, DOC will give notice to the [Group/Organisation] of the breach and provide a reasonable opportunity for the [Group/Organisation] to remedy it.
- 5.4 If there is no proof of the [Group/Organisation] working to remedy the breach DOC may choose to fix the breach after giving notice to the [Group/Organisation].
- 5.5 DOC will advise the [Group/Organisation] of what DOC's reasonable cost to fix the breach is and the [Group/Organisation] must pay that sum to DOC unless the [Group/Organisation] can show to DOC's satisfaction that there are special circumstances as to why DOC should either waive or reduce that sum.

6 How will the Group/Organisation address Health and Safety?

- 6.1 The [Group/Organisation] must carry out the Activity in a safe and reliable manner to provide and maintain, as far as is reasonably practicable, a safe working environment for its members and other persons (including any employees, volunteers and contractors) while carrying out the Activity.
- 6.2 DOC and the [Group/Organisation] are committed to working together to ensure, so far as reasonably practicable, that safety hazards and risks related to the Activity are identified, assessed and managed.
- 6.3 Each party must notify the other of any adverse natural event, hazard or activity on the Site or the surrounding area of which it becomes aware during the term of this Agreement which may affect the [Group's/Organisation's] activities or public safety on the Site.
- 6.4 The [Group/Organisation] must appoint a spokesperson or persons with whom DOC will communicate on all health and safety matters relating to the Activity.
- 6.5 The [Group/Organisation] must:
 - (a) ensure that its members (and any contractors), agents, and invitees are competent and physically able to carry out the work and receive appropriate training before carrying out the Activity.
 - (b) ensure that all contracts between the [Group/Organisation] and any contractor contains, at a minimum, the same requirements as clauses 5.1 and 6.4 of this Schedule.

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9(2)(a)

- (c) unless otherwise agreed, take on-site responsibility for the safety of members and the public while carrying out the Activity.
- 6.6 The [Group/Organisation] must:
- (a) prepare, and provide to DOC, a safety plan which meets the Department's requirements relating to the Activity.
 - (b) not start the Activity until DOC has reviewed and accepted the safety plan.
 - (c) schedule an annual review of its safety plan, and if it makes any amendments ensure these are reviewed and accepted by DOC. This review is in addition to any review that DOC requires under clause 6.8 of this Schedule.
- 6.7 DOC will:
- (a) check and provide advice to help the [Group/Organisation] complete or improve its safety plan;
 - (b) support the [Group/Organisation] to be able to identify and manage risks associated with the Activity where the Activity is on public conservation land.
- 6.8 If, either in the opinion of DOC, or if the [Group/Organisation] notifies DOC of a safety incident or risk on the Site, circumstances warrant a review of the safety plan, the [Group/Organisation] must review the safety plan and, DOC must, where appropriate, review and decide whether to accept it.
- 6.9 The [Group/Organisation] must record and report to the DOC any significant event, such as a death or an injury which requires immediate hospitalisation, any near misses with the potential for a fatality or serious injury, within 24 hours of its occurrence and within 3 days for a less serious incident.

7 What if the Group/Organisation causes damage?

7.1 DOC's General Liability Insurance Policy covers the [Group/Organisation] for third-party personal injury and property damage associated with all or part of the Activity it carries out on the Site if:

- (a) The [Group/Organisation] has a safety plan in place for the Activity accepted by DOC in accordance with clause 6.6 of this Schedule and the [Group/Organisation], its contractors, clients and invitees, comply with DOC's Standard Operating Procedures and guidelines and standards listed in **Section G of Schedule 1** and the safety plan accepted by DOC when carrying out the Activity.

OR

- (b) The [Group/Organisation], its contractors, clients and invitees follow their own operating procedures and safety plan accepted by DOC.

7.2 Where the [Group/Organisation] has its own insurance cover:

- (a) The [Group/Organisation] will indemnify DOC against all claims, action, losses and expenses of any nature by any person arising from the [Group's/Organisation's] conduct of the Activity.
- (b) The [Group/Organisation] has no responsibility or liability for costs, loss or damage arising from any act or omission or lack of performance by DOC or any contractor or supplier or employee or agent of DOC.
- (c) The two parties must review the insurance cover as part of the annual monitoring and reporting provided for in **Section J of Schedule 1**, and if necessary, DOC may require the

[Group/Organisation] to alter the amount and/or type of insurance or to take out additional insurance.

8 When can the Agreement be suspended?

8.1 DOC may suspend this Agreement in whole or in part where:

- (a) in DOC's opinion, there is a temporary risk to public safety or to any natural or historic resource, however arising; or
- (b) there has been a serious breach of the terms of this Agreement.

8.2 DOC may lift any suspension under clause 8.1 of this Schedule, in any of the following circumstances, when DOC decides (a) any risk to public safety or natural and historic resources caused by:

- (a) a natural event or activity has been remedied or mitigated;
- (b) any activity of the [Group/Organisation] has been eliminated, remedied or mitigated by the [Group/Organisation];
- (c) the [Group/Organisation] has rectified, remedied or mitigated any serious breach of this Agreement to DOC's satisfaction.

9 When can the Agreement be ended?

9.1 The [Group/Organisation] may surrender this Agreement either in whole or in part, with 14 days' written notice to DOC subject to any conditions DOC considers reasonable and appropriate.

9.2 DOC may end this Agreement either in whole or in part by 14 days' written notice to the [Group/Organisation] or such sooner period as appears necessary and reasonable to DOC where:

- (a) the [Group/Organisation] breaches any term of this Agreement that, in DOC's opinion, is capable of being rectified; and DOC has notified the [Group/Organisation] of the breach; and the [Group/Organisation] does not rectify the breach within 14 days of receiving notification, or such other time as specified by DOC; or
- (b) the [Group/Organisation] breaches any terms of this Agreement and in the opinion of DOC the breach is not capable of being rectified; or
- (c) the [Group/Organisation] ceases to conduct the Activity, or conducts it in a manner unacceptable to the DOC; or
- (d) where the [Group/Organisation] is convicted of an offence under legislation affecting or relating to the Site or Activity.

9.3 DOC may end this Agreement immediately without notice where:

- (a) any of the events leading to a suspension of the Agreement under clause 8 of this Schedule cannot be remedied to DOC's satisfaction; or
- (b) there is, in DOC's opinion, a permanent risk to public safety or to the natural and historic resources of the Site.

9.4 Notwithstanding any ending of this Agreement, any party who breaches the Agreement remains liable for the breach.

10 What if the parties have a dispute?

10.1 The parties will try to settle any dispute arising from this Agreement by full and frank discussion and negotiation or, if necessary, any other informal means for resolving it without harming any other rights they may have.

9(2)(g)(ii)

9(2)(a)

11 What is the relationship of the parties?

11.1 The parties agree to work together and, subject to the terms of this Agreement, to co-operate with each other in the carrying out of the Activity on the Site.

11.2 Nothing expressed or implied in this Agreement is to be construed as:

- (a) Constituting the parties as partners (in terms of the Partnership Act 1908), joint venture or agency.
- (b) Giving the [Group/Organisation] any right of exclusive occupation or use of the Site.
- (c) Granting any ownership or interest in the Site to the [Group/Organisation].
- (d) Affecting the rights of DOC and the public to have access across the Site.

12 Power, Rights and Authorities

All powers, rights and authorities of DOC under this Agreement and any notice required to be given by the DOC may be exercised and given by DOC or any officer, employee or agent of the DOC.

13. The Law

13.1 This Agreement is governed by, and to be interpreted in accordance with, the laws of New Zealand.

Schedule 3

SPECIAL CONDITIONS

1.1 This agreement outlines the permitted activities on Public Conservation Land (PCL), for any activities not covered within this agreement written authorisation is required.

Examples of non-permitted activities (on PCL) include but are not limited to:

- Use of ATV's
- Use of Powered tools
- Chainsaw Use
- Exclusions as outlined in the Departments' General Liability Policy-Appendix E