

Agreement for transferring administration of land

The Sovereign in right of New Zealand acting by and through the
Chief Executive of Toitū Te Whenua - Land Information New
Zealand

The Sovereign in right of New Zealand acting by and through the
Chief Executive of Te Tūāpapa Kura Kāinga - Ministry of Housing
and Urban Development

Mount Crawford
Wellington

GreenwoodRoche
PROJECT LAWYERS

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Date:

PARTIES

The Sovereign in right of New Zealand acting by and through the Chief Executive of Toitū Te Whenua - Land Information New Zealand (*LINZ*)

The Sovereign in right of New Zealand acting by and through the Chief Executive of Te Tūāpapa Kura Kāinga - Ministry of Housing and Urban Development (*HUD*)

BACKGROUND

- A The Former Corrections Land was previously the site of Mount Crawford prison and is currently held for Justice Purposes under the PWA and administered by LINZ.
- B The Former Defence Land is currently held for Defence Purposes under the PWA and is administered by LINZ.
- C The Land is currently held by His Majesty the King (*Crown*) but is no longer required for the public works for which it is held, and LINZ is the Government department responsible for the disposal of the Land.
- D HUD requires the Land to be set apart for another public work, being State housing purposes.
- E The parties have agreed to request the Minister for Land Information to set apart the Land for State housing purposes by declaration pursuant to section 52 of the PWA.
- F This Agreement records the agreement of the parties and the terms on which administration of the Land shall be transferred to HUD in the event a section 52 PWA declaration is made.

OPERATIVE PART

1 DEFINED TERMS AND INTERPRETATION

Defined terms

- 1.1 In this Agreement, unless the context requires otherwise:

Agreement means this agreement for the transfer of administration of the Land.

Book Value means the current book value of the Land as recorded by LINZ, being \$23,000,000.00.

Former Corrections Land means the land located at 6, 7 and 20 Main Road and 209-234 Nevay Road, Miramar, Wellington, comprised in records of title 760897, 760898, WN46B/923, WN46B/926 and WN46B/927 subject to and together with all tenancies and occupancies, easements, encumbrances and interests affecting the same and outlined in yellow on the indicative site plan in Schedule 1.

Former Defence Land means the land legally described as part of Section 100 Survey Office Plan 528811, being the balance parcel for Part Sections 1, 2, & 3 District Watts Peninsula held pursuant to Proclamation 55 New Zealand Gazette 1886, page 694 subject to and together with all tenancies and occupancies, easements,

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Commented [GR1]: New definitions required for "Encroachment area" and "Right of Way Easement" – currently defined in clause 5.

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encumbrances and interests affecting the same and outlined in green on the indicative site plan in Schedule 1 (subject to survey in accordance with clause 5.1 of this Agreement).

Land means the Former Corrections Land and the Former Defence Land.

Leases means any tenancy, lease, licence to occupy or other right of occupation in relation to the whole or any part of the Land including any document, letter, deed or agreement recording, varying or relating to such tenancy, lease, licence to occupy or other right of occupation before the date of this Agreement.

Minister means the Minister for Land Information.

PWA means the Public Works Act 1981.

Settlement Date means the date which is 5 Working Days after the date that the signed declaration setting apart the Land has been published in the New Zealand Gazette.

Unconditional Date means the date that the last of the conditions set out in clause 3 of this Agreement is satisfied or waived (as applicable).

Working Day means any day of the week other than:

- (a) Saturday, Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereigns Birthday and Labour Day;
- (b) if Waitangi Day or Anzac Day falls on a Saturday or Sunday, the following Monday;
- (c) the day on which a public holiday is observed to acknowledge Matariki (Te Rā Aro ki a Matariki/Matariki Observance Day) pursuant to Schedule 1 of Te Ture mō te Hararei Tūmatanui o te Kāhui o Matariki 2022/the Te Kāhui o Matariki Public Holiday Act 2022;
- (d) a day in the period commencing on the 25th day of December in any year and ending on the 15th day of January in the following year, both days inclusive;
- (e) Auckland or Wellington Anniversary Day; and

a working day shall be deemed to commence at 9:00am and terminate at 5:00pm.

Interpretation

1.2 In this Agreement, unless the context requires otherwise:

- (a) words importing the singular include the plural and vice versa;
- (b) the words "includes" or "including" do not imply any limitation;
- (c) references to a party includes references to that party's:
 - (i) successors and permitted assigns; and

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- (ii) employees, contractors, subcontractors, agents, representatives and invitees;
- (d) headings are for ease of reference only;
- (e) derivations of a defined term have similar meanings to the defined term;
- (f) any provision to be performed by two or more persons binds those persons jointly and severally;
- (g) a reference to a statute or regulation includes all amendments to that statute or regulation and any substitute statute or regulation;
- (h) a reference to a statute includes all regulations, bylaws, orders, notices and other instruments made under that statute;
- (i) a "person" includes any individual, company, corporation, firm, partnership, joint venture, association, organisation, trust, estate, government, agency of state, municipal authority or statutory body, whether or not having separate legal identity; and
- (j) a prohibition against doing ~~any thing~~~~anything~~ also includes a reference not to permit, suffer or cause that thing to be done.

2 SETTLEMENT AND POSSESSION

Settlement and Transfer

2.1 On the Settlement Date:

- (a) responsibility for the administration of the Land shall pass from LINZ to HUD; and
- (b) a balance sheet adjustment (equity transfer) will be made to give effect to the transfer of responsibility for the Land from LINZ to HUD by way of:
 - (i) a non-cash capital withdrawal from LINZ of an amount equal to the Book Value of the Land; and
 - (ii) a non-cash capital injection to HUD for the equal amount.
- (c) The transfer of the Land between LINZ and HUD will be neutral for the Crown (no impact on net core Crown debt).

Apportionments

- 2.2 The parties will separately conduct a reconciliation of any income and outgoings that need to be apportioned between the parties as at the Settlement Date.

3 CONDITIONAL AGREEMENT

Conditions

- 3.1 This Agreement is conditional on:

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- (a) HUD obtaining written approvals from the Minister of Housing and the Minister of Finance, in their absolute discretion, to the terms of, and entry into, this Agreement, within 60 Working Days of the date of this Agreement, or such extended period as the parties may agree in writing (with HUD using its best endeavours to obtain those approvals as soon as reasonably practicable);

~~(b)~~ LINZ providing HUD with evidence that it has:

~~(i) successfully negotiated the Right of Way Easement pursuant to clause 5.13, the Dwelling and Retaining Wall Easement pursuant to clause 5.16 and the Carport and Driveway Easement pursuant to clause 5.19 with the adjacent registered owners; and~~

~~(ii) registered the three easements over the Encroachment area, the Second Encroachment area and the Third Encroachment area;~~

~~and HUD confirming to LINZ that HUD considers that the encroachment issues have been satisfactorily resolved on or before the date that is 60 Working Days from the date of satisfaction of the condition in clause 3.1(a); and~~

~~(e)(b)~~ the Minister, within 20 Working Days of the date that HUD submits the declaration setting apart the Land as contemplated by clause 5 below, approving and executing the declaration.

Operation of conditions

- 3.2 The ~~conditions condition~~ in clause 3.1(a) ~~and 3.1(b)~~ are ~~is~~ for the sole benefit of HUD. If the ~~conditions condition~~ cannot be satisfied or waived by the due date for satisfaction then either party may cancel this Agreement on immediate written notice to the other following which this Agreement will be at an end and neither party shall have any claim against the other.

- 3.3 The condition in clause ~~3.1(b)(i)(ii)(iii)(b)~~ cannot be waived by either party. If the Minister declines to set the Land apart in accordance with this Agreement, this Agreement shall be at an end and neither party shall have any claim against the other.

4 PROVISION OF INFORMATION AND ACCESS

LINZ to provide information

- 4.1 LINZ confirms that, to the best of LINZ's knowledge, HUD has been provided with all material and information, which LINZ has in its control or possession, in relation to all or any part of the Land, including but not limited to copies of any:

- (a) report listed in Schedule 2;
- (b) Leases or other occupation arrangements in relation to the Land;
- (c) environmental reports held by LINZ in relation to the Land;
- (d) asbestos reports in relation to the Land or any buildings constructed on the Land;

Commented [GR2]: While HUD is happy with the proposed solution of LINZ negotiating the easements with the adjacent owners with the encroachments, the resolution of this issue prior to the transfer of responsibility for the Land to HUD for State housing purposes is absolutely essential.

HUD does not want to have to conclude these negotiations directly after the settlement date. As a result, the only option is that the Agreement needs to be conditional on LINZ registering these three easements.

Commented [GR3R2]: From Trish

We are only going to enter into a ROW easement with the owners of 208, 204 and 206 Nevay Rd.

Following a site visit and after further discussions with Colliers, we are not going to resurvey the boundary concerning the encroachments at 208 WN603/226 and 202 WN596/200 Nevay Rd.

Letters will be drafted for Colliers to forward to the owners at 208, 206 WN594/281 & 204 WN695/91 Nevay Rd concerning the ROW. Will also explain to the owners at 208 & 202 that further to the advice contained in previous letters from Colliers that the property is in disposal and that a resurvey for a boundary adjustment realignment is not possible.

Will then terminate the licence to occupy by giving a months notice as per clause 14 in the licence and reiterate that we require the structures to be removed etc quote that clause.

Deleted as we cannot comply with this condition, we cannot bind third parties to sign such documentation

In accordance with your discussion with David, LINZ will try to procure agreements in principal with the landowners for the ROW.

In light of this new approach, we have deleted the condition and inserted as new clause 5.15.

Following the deletion of the condition, we have also deleted the reference to clause 3.1 (b) as per deleted part throughout the Agreement.

Commented [TG4]: Refer comment above

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- (e) reports detailing the extent of any contamination of the Land and possible rehabilitation measures;
- (f) results of any geotechnical investigations carried out by or on behalf of LINZ in relation to the Land; and
- (g) material and information previously held by the Department of Corrections and the Ministry of Defence in relation to all or any part of the Land, which would be reasonably considered to be material to a potential purchaser of the Land.

Access to property

4.2 The parties acknowledge that HUD and its development partner through their consultants, contractors, agents or employees may require access to the Land. LINZ will provide or cause to be provided to HUD, access to all parts of the Land to enable HUD and its development partner, their consultants, contractors, agents or employees to undertake any investigations and tests necessary to prepare reports for HUD. HUD will ensure that its consultants, contractors, agents or employees undertake their inspection and investigations of the Land:

- (a) as far as practicable, in a manner likely to cause the least possible interference with LINZ, any tenant or other occupier of the Land;
- (b) in accordance with the LINZ's reasonable requirements and directions; and
- (c) in compliance with all relevant laws and regulations.

4.3 HUD acknowledges that all people entering on to the Land must sign the Access Agreements, annexed as Schedules 3 and 4, prior to entry on to the Land.

Geotechnical and invasive testing

4.4 Subject to HUD complying with clauses 4.2 and 4.3 above, LINZ acknowledges that prior to the Settlement Date, HUD may commission:

- (a) a detailed geotechnical investigation of the Land, which may include drilling to confirm soil suitability and stability; and
- (b) invasive testing (where necessary) in relation to the existing buildings on the Land.

HUD liable for damage

4.5 If HUD, its development partner or their consultants, contractors, agents or employees cause any damage to the Land or to any property of any tenant of the Land, HUD shall make good such damage immediately at its cost.

5. LEGALISATION

Survey

5.1 Promptly after the date of this Agreement:

- (a) LINZ will arrange the preparation of a survey plan generally in accordance with the plan attached as Schedule 1 to separate the Former Defence Land from the

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balance of Section 100 on Survey Office Plan 528811, such survey plan to be sufficient for the Former Defence Land to be set apart for State housing purposes by declaration in the New Zealand Gazette for the purposes of section 52 of the PWA;

- (b) LINZ will provide the survey plan to HUD for comment at the first draft stage and as it is developed; and
- (c) prior to lodging the final survey plan with LINZ for approval as to survey, LINZ will provide the final survey plan to HUD for final approval (such approval not to be unreasonably withheld or delayed where the final survey plan is generally in accordance with the plan attached as Schedule 1).

LINZ to approve final survey plan

- 5.2 Once finalised, LINZ will arrange for the survey plan to be approved as to survey by LINZ.

Gazetting

- 5.3 Within 10 Working Days following the later of:

- (a) HUD satisfying or otherwise waiving the ~~conditions~~ condition in clause 3.1(a) and 3.1(b); and
- (b) the survey plan of the Former Defence Land being approved as to survey in accordance with clauses 5.1 and 5.2,

HUD will arrange for the preparation of a declaration to set apart the Land for State housing purposes pursuant to section 52 of the PWA and submit it to the Minister or their delegate for execution, but such execution shall at all times remain at the absolute discretion of the Minister or delegate.

- 5.4 HUD will notify LINZ in writing as soon as reasonably practicable after the declaration referred to in clause 5.3 has been signed.

- 5.5 Within 10 Working Days of HUD receiving the signed declaration referred to in clause 5.3, HUD will:

- (a) promptly arrange for publication of the declaration in the New Zealand Gazette; and
- (b) following publication, lodge for registration:
 - (i) the gazette notice against the records of title comprising the Former Corrections Land; and
 - (ii) the gazette notice and the necessary request for a new record of title to allow a new freehold title to issue in the name of the Crown for State housing purposes for the Former Defence Land.

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Commented [TG5]: Refer comment above clause 3.1

Commented [GR6]: HUD is happy to promptly arrange for the publication and lodgement for registration of the relevant gazette notices. As registration itself is dependent on LINZ processing times, HUD can't commit to registration of the Gazette Notices within this timeframe.

Commented [TG7R6]: Agree

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Assistance

- 5.6 The parties agree that each party shall, if requested by the other, do all such acts and other things and execute all documents that are necessary for the survey and legalisation [actions required under this Agreement].

Commented [GR8]: Delete – proof-read?

Chorus Easement

- 5.7 HUD has been advised that LINZ is currently negotiating a [telecommunications and right of way] easement in gross over the Former Defence Land in favour of Chorus New Zealand Limited (*Chorus*) to protect and service existing infrastructure owned by Chorus (*Additional Chorus Easement*).

Commented [GR9]: While we understand LINZ has not received the detail of the easement received by Chorus, this will be required prior to HUD signing the Transfer Agreement (as it is important that HUD and its development partner understand what is being proposed here).

- 5.8 In negotiating and registering the easement, LINZ will ensure that:

- (a) the Additional Chorus Easement is granted over those parts of the Former Defence Land that are currently subject to existing [telecommunications and right of way] easements in favour of Chorus; and
- (b) the Additional Chorus Easement does not affect any other part of the Former Defence Land.

Commented [TG10R9]: Refer comment below under clause 5.12

- 5.9 LINZ will use its best endeavours to ensure that the Additional Chorus Easement is registered over the Former Defence Land prior to the Settlement Date.

- 5.10 If the Additional Chorus Easement is not registered prior to the Settlement Date:

- a) LINZ will use its best endeavours to complete all necessary actions required to complete the subsequent registration of the Additional Chorus Easement; and
- b) HUD will execute any documentation necessary to enable registration of the Additional Chorus Easement after Settlement Date, provided that LINZ will ensure that HUD's reasonable costs in reviewing and executing any necessary documentation are reimbursed.

Commented [GR11]: Format change

- 5.11 Notwithstanding that LINZ will use its best endeavours to complete all necessary actions to complete the subsequent registration of the Additional Chorus Easement, HUD acknowledges that LINZ will not be liable should negotiations with Chorus fail and the Additional Chorus Easement is not registered.

- 5.12 Where despite using its best endeavours, LINZ is not able to complete the subsequent registration of the Additional Chorus Easement, HUD will be under no obligation to continue to negotiate with Chorus to finalise the registration of the Additional Chorus Easement.

Commented [GR12]: HUD understands that factors outside of LINZ's control may prevent LINZ completing the negotiation and registration of the Chorus easement. However, in those circumstances, HUD should have no obligation to continue with negotiations or complete the registration of the easement.

Right of Way Easement

- 5.13 HUD has been made aware that adjacent to 208 Nevay Road there is a portion of a driveway that is encroaching on the Former Corrections Land (*the Encroachment area*).

Commented [TG13R12]: Agree with wording in Clause 5.12

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5.14 The parties agree that LINZ will use its best endeavours to negotiate with the appropriate registered owners a right of way easement over the Encroachment area in favour of WN603/226, WN594/281 and WN695/91 (*Right of Way Easement*).

5.15 HUD acknowledges that the registered owners of WN603/226, WN594/281 and WN695/91 have signed an agreement in principle with LINZ in relation to registering the Right of Way Easement. However, both parties acknowledge that this agreement in principle does not guarantee that the Right of Way Easement will be registered.



5.15.16 In negotiating and registering this easement, LINZ will ensure the Right of Way Easement is granted over the Encroachment area and will not affect any other part of the Former Corrections Land.

Dwelling and Retaining Wall Easement

5.16 HUD has also been made aware that adjacent to 208 Nevay Road there is a portion of a northern wall of a residential dwelling, a retaining wall, and a portion of a garden that is encroaching on the Former Corrections Land (*the Second Encroachment area*).

Commented [TG14]: In accordance with your discussion with David, LINZ will try to procure agreements in principle with the landowners for the ROW.

Have entered new clause 5.15 in this manner, not to show that LINZ is trying to "back out" of the responsibility but that it all circles back that we cannot bind other third parties to sign the document on.

For example, there could be delay in the registered owners signing the ROW document on (which could be because they are waiting advice from a solicitor, they could be away on holiday, or they just disagree to sign it completely & LINZ might need to undertake dispute resolution tactics etc).

This risk is minimal in light that the ROW benefits the landowners, but it is best to avoid a situation where LINZ is guaranteeing that the ROW will be registered when it involves third parties.

Further to that, we are still agreeing to use best endeavours to get it done even after settlement date (clause 5.18).

Commented [GR15R14]: the resolution of this issue prior to the transfer of responsibility for the Land to HUD for State housing purposes is absolutely essential – noting third parties are involved and the risk of impact on HUD's development is too significant (due to complaints)

Does HUD want to buy the land without the ROW issue being resolved?

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5.17 The parties agree LINZ will use its best endeavours to negotiate and procure the registration of the Right of Way Easement prior to the Settlement Date.

5.18 If the Right of Way Easement is not registered prior to the Settlement Date:

- a) LINZ will use its best endeavours to complete all necessary actions required to complete the subsequent registration of the Right of Way Easement; and
- b) HUD will execute any documentation necessary to enable registration of the Right of Way Easement after Settlement Date, provided that LINZ will ensure that HUD's reasonable costs in reviewing and executing any necessary documentation are reimbursed.

5.17 Notwithstanding that LINZ will use its best endeavours to negotiate with the registered owner a dwelling and retaining wall easement over the Second Encroachment area in favour of complete all necessary actions to complete the subsequent registration of the Right of Way Easement, HUD acknowledges that LINZ will not be liable should negotiations with the registered owners of WN603/226 (Dwelling, WN594/281 and Retaining Wall Easement).

5.18 In negotiating WN695/91 fail, and registering this easement, LINZ will ensure the Dwelling and Retaining Wall Easement is granted over the Second Encroachment area and will not affect any other part of the Former Corrections Land.

Garage and Driveway Easement

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5.19 In addition, HUD has also been made aware that adjacent to 202 Nevay Road there is portion of a carport and part of a driveway that is encroaching on the Former Corrections Land (the Third Encroachment area):

5.20 The parties agree that LINZ will use its best endeavours to negotiate with the registered owner a carport and right of way easement over the Third Encroachment area in favour of WN596/200 (Carport and Driveway Easement):

5.21.19 In negotiating and registering this easement, LINZ will ensure the Carport and Driveway Right of Way Easement is granted over the Third Encroachment area and will not affect any other part of the Former Corrections Land not registered.

If an encroachment no longer exists

5.22 The parties acknowledge that the encroachments referred to in clauses 5.12, 5.18 and 5.24 may have changed over time. If HUD, while undertaking its investigations pursuant to clauses 4.2 and 4.3 of this Agreement, becomes aware that any or all of such encroachments no longer exist, HUD will provide LINZ with written notice of this as soon as reasonably practicable. Following this notice, both parties acknowledge that LINZ will no longer be responsible for negotiating or registering the easement in relation to such encroachment(s):

6 RELIANCE ON REPORTS

6.1 Prior to the Settlement Date, LINZ will procure and provide to HUD confirmation (in a form acceptable to HUD) that HUD may rely upon the reports listed in Schedule 2:

7 HERITAGE COVENANT

7.1 The parties acknowledge that a heritage covenant for the benefit of Heritage New Zealand Pouhere Taonga will be agreed and registered on the record of title of the part of the Former Corrections Land that comprises Mount Crawford prison before, on or after the Settlement Date.

7.2 If the heritage covenant is not registered prior to the Settlement Date, HUD will assume responsibility for negotiations with Heritage New Zealand in relation to the heritage covenant.

8 REMOVAL OF DESIGNATION

8.1 LINZ will procure the Department of Corrections (Corrections) to, at its own cost, as soon as practicable following this Agreement becoming unconditional:

- (a) arrange for the removal of Designation K1 – Justice (Map ref. 13 in the Wellington City District Plan) from the Former Corrections Land; and
- (b) notify HUD in writing, when the removal of the designation by Corrections has been completed.

9 STATUTORY ROLES

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Commented [TG16]:

Commented [TG17R16]: After further discussions with Colliers & a site visit to view the carport from the Corrections land we have decided to not enter into easements with the owners of 208 & 202 Nevay Rd who have licence to occupy agreements with LINZ for these encroachments. Colliers will write to both owners explaining that further to the advice contained in Colliers' letters from 2019 that the property is in disposal and that a resurvey for a boundary realignment was not possible, that the adjoining land is now under contract for sale. We will then terminate the licence by giving one months notice as per the licence and reiterate that we require the structures to be removed etc.

Commented [GR18R16]: Likely to be issues to ensue with unhappy landowners from this approach. Do we have copies of these LTOs?

Deal breaker? Quite likely the cause is that LINZ are unwilling to survey the areas – refer to Trish's comment that Beca have completed the survey.

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9.1 The parties acknowledge that they are agencies of the single indivisible entity of His Majesty the King in right of New Zealand so are incapable of creating a legally binding agreement with each other. However, the parties confirm their common intention to honour the intent of this Agreement to the intent that the parties would be bound as if they were capable of creating a legally binding contractual relationship and that further they shall use their best endeavours to carry out and perform all obligations and requirements in terms of this Agreement in good faith and in a timely manner.

9.2 The parties acknowledge that they have statutory obligations, responsibilities, powers, functions and decision-making processes. Notwithstanding any other provision in this Agreement, the parties acknowledge that they are each required to carry out their statutory functions in accordance with the provisions of the relevant statute.

10 COSTS

10.1 Each party shall bear their respective costs incurred in the negotiation of this Agreement, complying with obligations under this Agreement, including but not limited to, obtaining Ministerial consent and drafting, publication and registration of the gazette notice setting the Land apart.

11 GENERAL

Entire agreement

11.1 This Agreement constitutes the entire understanding and agreement of the parties relating to the subject matter of this agreement and supersedes and extinguishes all prior agreements.

Amendments

11.2 No amendment to this Agreement will be effective unless it is in writing and signed by LINZ and HUD.

Partial Invalidity

11.3 The illegality, invalidity or unenforceability of a provision of this Agreement under any law will not affect the legality, validity or enforceability of that provision under any other law, or the legality, validity or enforceability of any other provision of this Agreement.

Further assurances

11.4 The parties will each sign, execute and do all deeds, schedules, acts, documents and things as may be reasonably required by the other to effectively carry out, and give effect to, the terms and intentions of this Agreement.

Waiver

11.5 Neither party is deemed to have waived any right under this Agreement unless the waiver is in writing. A failure to exercise or delay in exercising any right under this agreement will not operate as a waiver of that right. A single or partial exercise of any right under this Agreement will not prevent further exercises of that right. A

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waiver by either party of any rights arising from any breach of any term of this Agreement is not a continuing waiver of other breaches of the same term or other terms of this Agreement.

Not binding until executed

- 11.6 This Agreement will have no effect until both parties have signed it.

Counterparts

- 11.7 This Agreement may be signed in counterparts, which when read together (including where counterparts are sent by email), shall constitute one and the same document.

Confidentiality

- 11.8 Subject to clause 11.9, LINZ shall keep the Book Value confidential and shall not disclose it to anyone (except in any sale notice) without the prior consent of HUD unless required by law.
- 11.9 Where LINZ receives a request under the Official Information Act 1982 relating to this Agreement, LINZ will advise HUD as soon as practicable on receipt of the request and will in good faith liaise with HUD with regard to any response to such a request.

Disputes

- 11.10 Should any dispute arise between the parties concerning this Agreement (including the validity, breach or termination) or as to the application of this Agreement to any situation, or actions that ought to be taken under this Agreement, the parties, through their Chief Executives or nominees (as the case may be) will negotiate in good faith in an endeavour to resolve any such question or difference. If the parties are unable to resolve any matter on this basis within one month of such dispute arising, then the Chief Executives of each party may, by joint agreement, refer the matter in dispute to the respective Ministers for resolution.

Notices

- 11.11 All notices and other communications required or permitted under this Agreement shall be in writing and shall be delivered personally, sent by post (within New Zealand) or by email to the address set out below:

LINZ

Name: Sonya Wikitera
Email address: swikitera@linz.govt.nz

HUD

Name: Phil Stroud
Email address: philip.stroud@hud.govt.nz

- 11.12 Where notices or communications are:

- (a) sent by email notices shall be deemed served when sent to a notified email address and receipt acknowledged orally by the recipient or by writing including by a return, non-automated, email;

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- (b) personally delivered notices shall be deemed served when received at the recipients' notified address prior to 5pm on any Working Day; and
- (c) sent by post notices shall be deemed served within New Zealand on the second Working Day following the posting by the sender to the recipients' notified address.

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EXECUTION

Signed for and on behalf of **Sovereign in right of New Zealand acting by and through the Chief Executive of Toitū Te Whenua - Land Information New Zealand** by:

.....
Signature of authorised signatory

.....
Name of authorised signatory

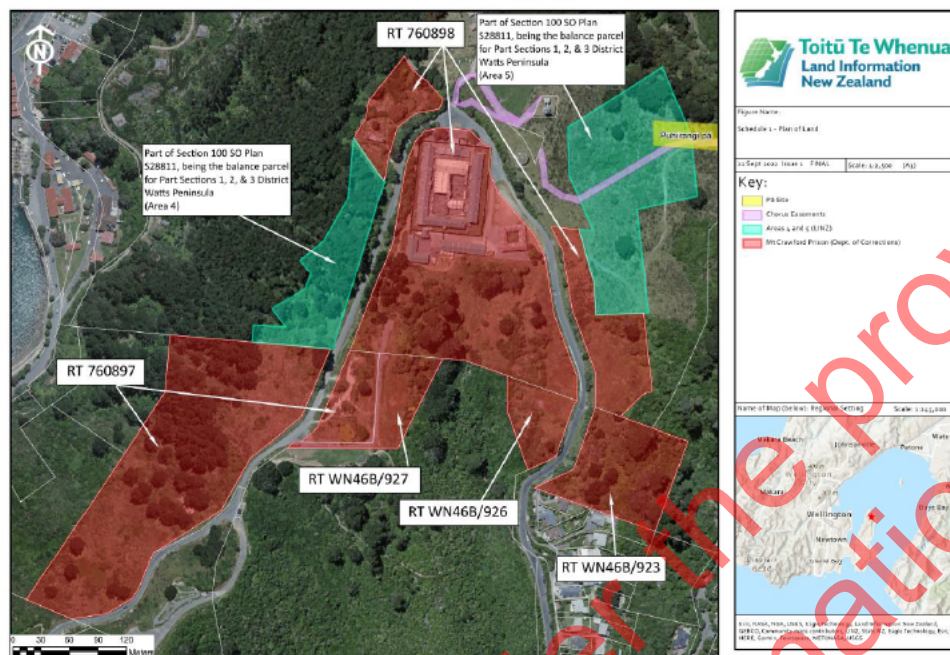
Signed for and on behalf of the **Sovereign in right of New Zealand acting by and through the Chief Executive of Te Tūāpapa Kura Kāinga - Ministry of Housing and Urban Development** by:

.....
Signature of authorised signatory

.....
Name of authorised signatory

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SCHEDULE 1 – PLAN OF LAND

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Topic	Report Title	Supplier	Commissioned	Date
Heritage	Executive Summary - Heritage Assessment	Opus	Department of Corrections	10 May 2012
Seismic	National Property Portfolio Seismic Assessment	Opus	Department of Corrections	December 2012
Demolition	Demolition of Buildings	WT Partnership	Department of Corrections	27 February 2013
Contamination	Asbestos Management Survey	WSP	LINZ	15 July 2020
Structural	Structural Condition Assessment	WSP	LINZ	16 July 2020
Demolition	Mt Crawford Prison Demolition Update Estimate	LINZ Demolition & Hazard Management Team	LINZ	30 November 2020
Planning	Planning Assessment Report	Land Matters	LINZ	30 June 2021

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SCHEDULE 3 - MT CRAWFORD PRISON ACCESS LETTER & INDEMNITY FORM TEMPLATE

Commented [GR19]: The mix of images and copied and pasted images for the two forms of agreement are very messy. Can LINZ insert PDF versions (or provide us with PDF versions) of these documents in the final Transfer Agreement.



Wellington Office
Radio New Zealand House
155 The Terrace
PO Box 5501
Wellington 6145
New Zealand
T 0800 665 463
F +64 4 472 2244
E customersupport@linz.govt.nz
W www.linz.govt.nz

Ref: 2837531

Date

Name

Address

Address

Address

By Email:

Dear

Re: Access onto Crown owned Land administered by LINZ to undertake *INSERT ACTIVITY* at Mt Crawford Prison, Wellington, being LINZ 2837531.

Consent is granted by Toitū Te Whenua Land Information New Zealand (LINZ) for Insert name to enter on to Crown owned Land being Pt Lot 1 DP 4741, Pt Lot 4 Blk XII DP 858, & Sections 1,3,4,6 & 7 SO 477035 being LINZ property 2837531 (the Land), as shown outlined in purple on the attached plan, for the purpose of insert activity (the activity).

Consent to access the Land to undertake the activity is granted to Insert name subject to the following conditions:

1. Insert name is permitted onto the Land between insert hours and date
2. Insert name has the right to access the Land on foot, with motorised vehicles with or without machinery for the purpose of the activity and in terms of the period of time permitted;
3. Insert name must familiarise itself with all hazards on the Land and take all reasonably practicable steps to ensure the health and safety of all persons entering the Land and will ensure that all persons that access the land will sign the attached release of liability, waiver of claims, assumption of risks and indemnity discharge and return to Colliers New Zealand Limited at PO Box 1748, Wellington 6140 prior to accessing the Land;
4. Insert name has non-exclusive access over any roadways or tracks on the Land;

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E customersupport@linz.govt.nz
 nz.govt.nz
 W www.linz.govt.nz

5. Insert name must display appropriate visible signage in the areas where the activity is taking place notifying the public if there is hazardous activity on the Land and warning members of the public accessing the Land;
6. Insert name and its contractors shall ensure compliance, at all times and at their own cost, with all statutes, regulations, ordinances and by-laws for the activity on the Land, including but not limited to complying with the provisions of the Health and Safety at Work Act 2015;
7. **Insert name** must not cause unnecessary damage to the Land during the course of its activity, must not deposit any dangerous, unsightly matter on the Land and must keep any environmental disturbance to a minimum;
8. **Insert name** must leave the Land in no worse condition that it was in before the activity took place;
9. **Insert name** must have a minimum cover of \$1,000,000 public liability insurance;
10. **Insert name** agrees that the activity undertaken on the Land is undertaken at their sole risk and **Insert name** releases to the full extent permitted by law the Crown (LINZ) and its employees and agents from all claims and demands of any kind and from all liability which may arise in respect of any accident, damage or injury occurring to any person or property on or about the Land in accordance with the attached Deed of Indemnity;
11. **Insert name** agrees to comply with all statutory and regulatory consents required to undertake the activity;
12. **Insert name** agrees that the activity to be undertaken on this Land is to be at no cost to LINZ now or in the future;
13. **Insert name** is advised that Wellington Prison buildings are seismically non-compliant (below 33%) against current building code standards;

Please indicate your acceptance of these conditions by signing the copy of this letter and returning it to Colliers New Zealand Limited, PO Box 1748, Wellington 6140 or by email to **s 9(2)(a)**

New Zealand Government

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Should you have any queries regarding the above, please do not hesitate to contact Camrin Williams at Colliers International on 021 909 469.

Yours faithfully

We/I act for and on behalf of **Insert name** and its contractors and We/I accept the above conditions

Signed by the Applicant

Date

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[New Zealand Government](#)

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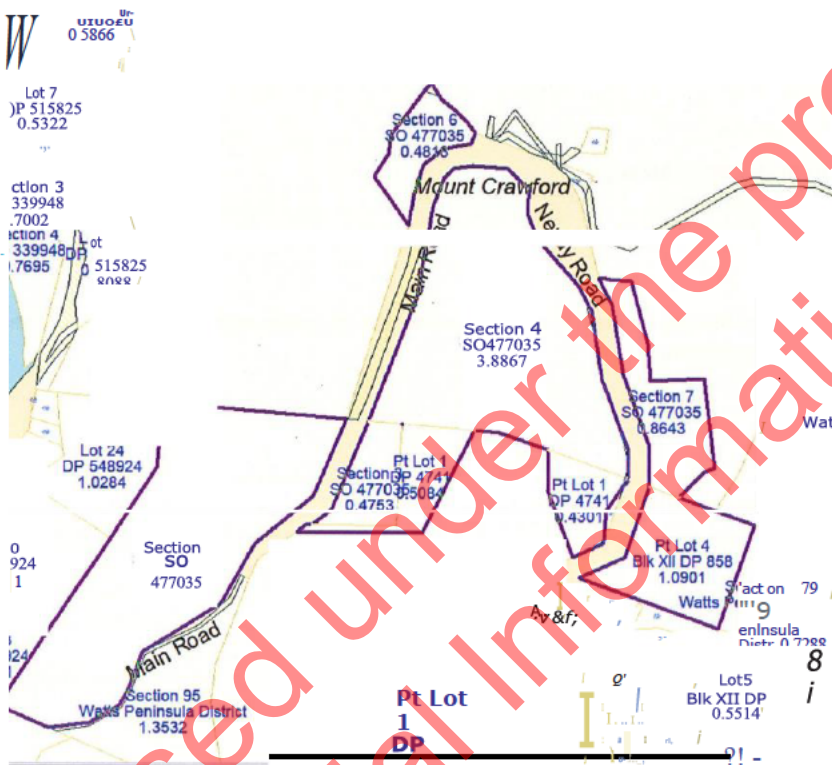
2843621-1
2907499-1

Field Code Changed

E: customersupport@linz.govt.nz

W: www.linz.govt.nz

Aerial Plan



EASE OF LIABILITY, WAIVER OF CLAIMS, ASSUMPTION OF RISKS AND INDEMNITY DISCHARGE

Please read carefully before agreeing to this waiver, release and liability assumption of risks and indemnity discharge.

I understand that any entry on to the Wellington Prison grounds and buildings involves access to or contact with buildings that are seismically non-compliant (below 33%) against current building code standards and there is asbestos present and that I am aware of the hazards involved (which include but are not limited to the above).

I HEREBY WAIVE, RELEASE AND DISCHARGE from any and all liability for the death, disability, personal injury and all other foreseeable risks, claims or actions of any kind (including negligence) whatever and however occurring which may arise, at any time from or in connection with, directly or indirectly, my entry into any area or building located on the grounds of Wellington Prison, His Majesty the King (being the Crown) acting by and through Land Information New Zealand (and including the Commissioner of Crown Lands) and all other respective officers, employees, independent contractors or representatives.

I HEREBY INDEMNIFY AND HOLD HARMLESS His Majesty the King being the Crown acting by and through Toitū Te Whenua Land Information New Zealand or the persons mentioned above from any and all liabilities, claims or actions (including negligence) whatever and however caused which may arise at any time, as a result of or in connection with, directly or indirectly my accessing of the land and buildings of Wellington Prison.

This Release shall be effective and binding upon my heirs, next of kin, executors, administrators, assigns and representatives in the event of my death or incapacity .

I confirm that I have read, understand, and voluntarily sign this Release of Liability, Waiver of Claim, Assumption of Risks and Indemnity Discharge Form and explicitly agree to its content.

I confirm that all persons entering the site have read and understood the Asbestos Management Plan (includes Asbestos Management Survey) & Structural Condition Assessment Report and understand the restricted areas where access is not allowed.

Date Print Name in full Signature

**SCHEDULE 4 – FORMER DEFENCE LAND WATTS PENINSULA ACCESS AUTHORITY
TEMPLATE**

All persons requesting access to Crown owned land contained within the Access Authority must complete this form and ensure they read and comply with LINZ Terms of Access

FOR ACCESS TO LAND OF THE CROWN

Dates for Access	
Person completing this request and Organisation	
Reason for Access	
List of Hazards	<p>The known risks on this site include, but are not limited, to:</p> <ul style="list-style-type: none"> • Remote work • Earthquake prone buildings • Asbestos containing materials on Magazine Structures • Hazardous trees • Animals/Insects/Noxious Plants • Site conditions (Overgrown/Slippery/Uneven Ground/Cliffs) • Weather Conditions (Extreme cold/heat/wind/flooding) • Antisocial behavior/vandalism • High media/public interest • Cross contamination of the site
Conditions for Access	<p>DO NOT ENTER ANY BUILDINGS ON SITE.</p> <p>No works / other than those detailed /are to be undertaken on the site. No rubbish is to be left on site. Gate/s are to be shut and secured when not in use. LINZ contractors who undertake regular maintenance have first right of access and applicant is required to move vehicle and trailer to accommodate. *Applicant will place cones/tape off the designated area of work in the attached map and shall not exceed this area*</p> <p>PPE gear to be worn at all times (hard hat, high viz, steel capped boots) ACCESS ONLY – no works to be done on site</p>

Primary Contact Details (Name)

Email

Mobile Number

List all persons included in this Access Authority

Mobile Number

Released under the provision of
the Official Information Act 1982

Terms of Access

1 Interpretation

1.1 These Terms of Access apply to all persons (including but not limited to contractors, agents and employees) entering Crown owned land.

2 Obligations

2.1 All persons accessing and working on the Site do so entirely at their own risk and are required to:

2.1.1 Undertake all activities in a manner that minimises any adverse impact on other users in the relevant area;

2.1.2 Have, or be covered by, a minimum insurance cover of \$1,000,000 for public liability;

2.1.3 Familiarise themselves with all hazards on the Site (if any) and take all practicable steps to ensure the health and safety of all persons entering the Site;

2.1.4 Immediately notify LINZ of any suspicious behaviour or evidence of unlawful entry or activities on the Site;

2.1.5 Immediately notify LINZ of any health and safety issues, incidents causing harm to persons or property, and/or media enquiries regarding the property; and,

2.1.6 Ensure all their employees/co-workers are aware of these Terms of Access and comply with them.

2.2 All activities on the Site are to be undertaken with due care and diligence and in a proper and workman like manner in accordance with:

2.2.1 The requirements of any local or central authority having jurisdiction;

2.2.2 The provisions of any statute or legislation, including but not limited to, any instructions relating to the Health & Safety Act, the

protection of infrastructure, or archaeological material on a property.

2.3 No ground disturbance is to take place unless expressly agreed by LINZ and Archaeological Authority is obtained following LINZ approvals.

2.3.1 Any items of archaeological interest (including human remains), discovered on the Site must be immediately protected, reported to LINZ and dealt with in accordance with the Pouhere Taonga Act. .

2.3.2 Works undertaken within the Pa sites show on the map below may require additional precautions.

2.4 All practicable steps must be taken to ensure that activities undertaken on the Site will not:

2.4.1 Cause a hazard, significant hazard, harm or serious harm to any person on the Site or in the vicinity of the Site

2.4.2 Be a breach of any duty or obligation under the Health and Safety at Work Act 2015;

2.4.3 Give rise to any action against LINZ under the Health and Safety at Work Act 2015;

2.5 LINZ must be immediately notified of the presence of any additional hazards discovered on the property. .

2.6 To the extent permitted by law, the Crown and its employees and agents are released from all claims and demands of any kind and from all liability which may arise in respect of any accident, damage or injury occurring to any person or property on or about the Site.

3 LINZ's rights and remedies

3.1 Without limiting any other rights and remedies available to LINZ, at any time and for any reason, LINZ may immediately suspend or cancel access under this authority.

Declaration

Topic	Declaration	Applicant's declaration
Access Authority and Terms of Access:	I/we have read and fully understand this Access Authority, including the Terms of Access. I/we confirm that I/we agree to be bound by them.	agree / disagree
Dates of Access	The Applicant/s is only authorised to enter the Site on the dates specified on this Access Authority. If the dates change LINZ must be notified immediately and new dates may be agreed.	agree / disagree
Health and Safety:	The Applicant/s acknowledges they has the appropriate health and safety policies and processes to conduct this work in accordance with the Health and Safety at Work Act 2015 and associated regulations. The Applicant/s is committed to consulting, cooperating and coordinating with LINZ to eliminate or minimise health and safety risks	agree / disagree

DECLARATION

I/we declare that in submitting the Access Authority and this declaration:

- the information provided is true, accurate and complete and not misleading in any material respect
- I/we have secured all appropriate authorisations to submit this Access Authority, to make the statements and to provide the information in the Access Authority.

I/we understand that the falsification of information, supplying misleading information or the suppression of material information in this declaration and the Access Authority may result in the Applicant being declined from further access in the future and may be grounds for termination of any long term agreement to access the Site.

By signing this declaration, the signatory below represents, warrants and agrees that they have been authorised by the Applicant/s organisation to make this declaration on its/their behalf.

Signature:	
Full name:	
Title / position:	
Name of organisation:	
Date:	

LINZ Use only	Access	Name	Signature	Date
	Approved / Declined			

Mark on the Map the area(s) of the site you will be accessing as part of this request.

