

Memorandum of Understanding – Ngā Manga Atawhai

Ko koe ki tēnā, ko ahau ki tēnei kīwai o te kete.

KAI TOHU (PARTIES)

Te Roroa Commercial Development Ltd (Te Roroa)	Top Energy Limited (together the Power Companies)
Northland Regional Council	Ministry of Primary Industries (MPI)
Whangarei District Council	Ministry of Social Development (MSD)
Kaipara District Council	Rural Support Trust (RST)
Far North District Council (together the Councils)	
The Councils and Waka Kotahi (collectively as Northland Transportation Alliance; together the Road Controlling Authorities)	Ministry of Business, Innovation, and Employment (MBIE)
Northpower Limited	Manawa Ora Healthy Homes Initiative (Te Whatu Ora)

KUPU TAKI (BACKGROUND)

- A Following Cyclone Gabrielle and recent Te Taitokerau weather events, the Councils and a wide range of partner agencies are implementing a Regional Recovery Plan, coordinated by Northland CDEM and led by the statutory role of Group Recovery Manager.
- B Cyclone Gabrielle had widespread negative impacts on roading and access, and power connections across Te Taitokerau. State Highways were closed in nine places and 450 District Council-maintained roads were impacted. Approximately 60% of the total power network was affected. 70 high voltage lines and five sub-transmission lines suffered damage and at least 400 lines were down during the event.

- C Fallen trees over roads and power lines was the largest contributor to impacted access to roading and power. Hundreds of trees remain fallen under existing powerlines or next to roads and rivers, and tens (if not hundreds) of thousands of standing trees remain at risk of falling over roads, rivers, and powerlines.
- D The Councils have identified roading restoration and resilience as key priorities for short, medium, and long-term regional recovery from Cyclone Gabrielle.
- E The Power Companies apply a risk-based identification of powerlines that are, or are potentially, negatively impacted by vegetation, and intend to take steps mitigate those risks.
- F Te Roroa intends to increase whānau capacity and capability to assist with the removal and processing of vegetation which poses a risk to Te Taitokerau's roading and power infrastructure, providing employment and economic gain for Te Taitokerau whānau.
- G MPI supports the rural sector through the Rural Support Recovery Programme.
- H MSD facilitates training and employment opportunities for Tai Tokerau communities including for Tangata Whenua, taitamariki, and forestry kaimahi.
- I MBIE recognises the impact of electricity outages during severe weather events to Te Tai Tokerau businesses (for example, interrupted manufacturing, office and retail outlet closure, EFTPOS unavailability, and possibly affecting petrol station operations). MBIE acknowledges this kaupapa is one of the main ways to ensure continued electricity supply during severe weather events, and therefore business continuity.
- J As identified through MBIE's Energy Hardship Expert Panel, and regional projects such as Manawa Ora Healthy Homes Initiative, many whānau of Taitokerau experience energy poverty. Some households have woodstoves but lack resource to purchase firewood.

WHAKAAETANGA (AGREEMENT)

1. **Acknowledgements:** The Parties, by entering into this Memorandum of Understanding, acknowledge:
 - a. That restoring and creating resilient roading and power infrastructure will take a great deal of time, effort, and financial resource;
 - b. That there are significant commitments that will need to be made over time by the Parties;
 - c. Restoration and resilience of roading and power infrastructure will require a collaborative and adaptive management approach;

- d. Ngā Manga Atawhai is not owned by any particular party. The Parties to this Memorandum are equal partners;
- e. That the Regional Recovery Plan is expected to run until at least June 2025, with Ngā Manga Atawhai potentially extending indefinitely;
- f. The success of Ngā Manga Atawhai relies upon communication and mahitahi between the parties, other agencies, and landowners.

2. Vision

The Parties have entered into this memorandum of understanding to formally engage with each other to restore and increase the resilience of Te Taitokerau's power and roading network, increase employment opportunities for Te Taitokerau whānau, and support members of the community who are suffering from energy poverty and the rural sector.

3. Key principles:

The relationship between the parties will be based upon Rangapu (partnership), a working relationship based upon:

- a. Mutual trust and equality;
- b. Kia tika: to operate in the right and appropriate ways and with a shared intention to achieve (by constructively and harmoniously working together) maximised outcomes sought under this memorandum;
- c. Kia mārama: to operate with openness and transparency, and ensure consistency and fairness in all dealings and communications between the parties and their representatives;
- d. Kia pono: to operate with integrity and correct representation and process that build relationships and ensure non-adversarial dealings between the Parties, including members of the community;
- e. Open, prompt and fair notification and resolution between the Parties of any differences or disputes that may arise;
(together the **Key Principles**).

4. Purpose

The purpose of this memorandum is to record the Parties' commitment to develop a working relationship, based on the Key Principles, to achieve the Vision by undertaking the objectives.

This memorandum of understanding is a voluntary agreement and is not legally binding on any of the Parties.

5. Objectives and commitments

5.1 Northland Regional Council will provide support via:

- a. Northland CDEM Group Recovery Manager (or their appointee) will Chair the Reference Group

- b. Northland CDEM Communications Manager will provide overall communications support for the project
- c. the Biodiversity Team will provide advice on the Ramial Chipped Wood / processing tree crowns to improve pasture growth, soil, and water retention on landscape
- d. the Climate Action and Natural Hazards Team will provide advice on tree planting / offsets, and longer-term advice on low-emissions options for the capital equipment
- e. the Māori Relationships Team gifted the name of the project and will provide ongoing support where possible.
- f. the Rivers Team will provide details of trees removed from rivers after weather events.

5.2 Te Roroa will:

- a. assess the viability of providing vegetation removal services on a case-by-case basis;
- b. arrange for the necessary consents from landowners to access affected properties;
- c. undertake the felling, removal, and processing of vegetation identified as posing a risk to Te Taitokerau's power and roading infrastructure;
- d. apply to the power companies for Close Approach Consents for any felling around powerlines, in accordance with the requirements of ECP 34;
- e. deliver processed firewood to affected landholders and low-income whānau. This will comprise the majority of trees processed. Some firewood and timber may be sold commercially to pay for ongoing operating costs incurred after June 2025;
- f. if requested, provide woodchip to landholders whose trees have been processed (for example, for animal bedding, mulch, or spread on paddocks as Ramial Chipped Wood to improve soil nutrients and structure).

5.3 The Power Companies will identify the areas and properties that are suitable for referring landowners to Te Roroa (i.e. sufficient material in safe state to be a viable option for Te Roroa to manage the processing of material) and will inform landholders of Te Roroa's activities described in clause 5.2. Landholders who are willing to collaborate with Te Roroa in processing felled trees will directly contact them. Landholders who desire the removal of other trees will also be encouraged to contact Te Roroa's directly.

Power line safety: Felling and clearing of vegetation around powerlines requires specialised skills, training, equipment and safety management procedures. The power companies retain specialised in-house teams to perform this specialised work to ensure it can be done safely, and not damage the Network.

It is not the intention of this MOU that any party condones or accepts that Te Roroa, its employees, or its subcontractors undertake any work that contravenes the requirements of New Zealand Electrical Code of Practice 34:2001 for Electrical Safe Distances (ECP 34), or the Approved Code of Practice for Safety and Health in Tree Work Part: 2 Maintenance of Trees Around Power Lines (ACOP). Any work or tasks undertaken by Te Roroa or its employees would only be in the "Any Tree Workers Zone" specified in the ACOP, and when appropriate, with written "Close Approach Consents" provided by the respective line owner as required by ECP 34.

In order to comply with the requirements of the Electricity (Hazards From Trees) Regulations 2003, the power company will fell, trim, and clear debris of any tree in its first cut and trim cycle. Landowners can be informed of Te Roroa's services in the second cut and trim cycle, only when any work occurring will be within the "Any Tree Workers Zone" as specified in ACOP -Part 2: Maintenance of Trees Around Powerlines.

Once the Power company has cleared vegetation from lines and the landowner has been given the option and elects to use Te Roroa's services for clean-up and site vegetation removal, the working relationship is then between Te Roroa and the landowner.

Any arrangement made between Te Roroa and the landowner to fell trees within two tree lengths of a powerline (Notifiable work), will be subject to the requirements of ECP 34 and the ACOP.

- 5.4 The Road Controlling Authorities and Te Roroa will work together to facilitate the necessary safe site traffic management (planning, approval, and implementation) to the affected areas/properties and will attempt to do so in a coordinated and cost-effective manner.
- 5.5 Subject to availability, MSD will look to source funding for training and other support for kaimahi new to the Te Roroa-led mahi.
- 5.6 Te Whatu Ora (via the Manawa Ora Healthy Homes Initiative), Te Roroa, and other providers will identify those in the community who are suffering from energy poverty and make referrals to Te Roroa for firewood requests.
- 5.7 MPI and Rural Support Trust will identify those in the rural sector who would benefit from the on-ground services provided by Te Roroa and seek opportunities to facilitate funding for those services where possible.
- 5.8 The District Councils will endeavour to provide staff to facilitate coordination of the above objectives as required – for example, in providing communications support when needed.
- 5.9 MBIE will advocate for funding for the project where possible.

6. Reference Group

- 6.1 Within 20 working days of entering into this Memorandum the parties will form a reference group (**the Reference Group**) which will meet at the times and the in the manner set out in its Terms of Reference.
- 6.2 The Reference Group will adhere to the Key Principles and operate in accordance with the Terms of Reference.
- 6.3 A party who appoints its representative to the Reference Group may, on written notice to the other parties, appoint a person to replace its appointee either permanently or temporarily.

- 6.4 The Chair of the Reference Group will be the Group Recovery Manager, Northland Regional Council, or their appointee.
- 6.5 The Reference Group will provide stewardship and will actively work towards achieving the Purpose by providing input and assistance to:
- a. funding arrangements required to achieve the Purpose;
 - b. the member parties' monitoring and reporting obligations;
 - c. the purpose, functions and structure of the arrangements required to undertake operational activities to achieve the Purpose.
- 6.6 The Reference Group may invite guests or experts to participate in discussions and assist in consideration of matters that are on the agenda.
- 6.7 The Reference Group will minute all meetings and decisions.
- 6.8 Intellectual property owned by member parties but bought to the Reference Group to achieve the Purpose will retain ownership in that intellectual property. All new intellectual property created through the work of the Reference Group will be jointly owned by the member parties. Intellectual property rights in this clause means all intellectual property rights whether conferred by statute, at common law or in equity, including all copyright, and know-how and rights in relation to designs and trademarks (whether registered or unregistered).

7. Funding

- 7.1 Nothing in this Memorandum guarantees or commits any of the parties to any financial commitments or funding until any contracts are entered into.

8. Term of Memorandum

- 8.1 This Memorandum commences on the date that the parties' duly authorised representatives sign it, and it continues in force until it is terminated by agreement of all of the parties (**the Term**).
- 8.2 A breach of this Memorandum by one or more parties does not entitle any of the other parties to terminate this Memorandum.
- 8.3 Any party may, on three months' written notice to the other parties, terminate their participation in this Memorandum. If one or more party terminates their participation, the Memorandum will continue between the remaining parties with the intent that they continue to perform their obligations under the Memorandum.
- 8.4 If a party materially breaches, or fails to perform, any of its material obligations under this Memorandum (the Breaching Party) and fails to remedy the breach or perform the obligation within 10 days after receiving written notice to do so from another party, the other parties may, by unanimous agreement between them and by written notice, terminate the Breaching Party's participation in the Memorandum. If a party's participation

in the Memorandum is terminated, the Memorandum will continue between the remaining parties with the intent that they continue to perform their obligations under the Memorandum.

- 8.5 If a party's participation in this Memorandum is terminated in accordance with clauses 8.3 or 8.4 above, the Reference Group:
- a. will promptly meet to review the terms of the Memorandum and determine whether any amendments are appropriate or whether to terminate the Memorandum in accordance with clause 8.1; and/or
 - b. may choose to identify and invite an alternative party to be a party to this Memorandum for the Purpose.

9. Dispute Resolution

- 9.1 If a dispute or difference arises out of or in connection with this Memorandum between any of the parties (Disputing Parties), the parties will be guided by, and behave and act, in accordance with the Key Principles, and in a spirit of goodwill and cooperation to try and resolve the dispute.
- 9.2 The Party that has the dispute will promptly give full written particulars of the dispute, including the name of the other Disputing Party or Parties, to all of the other parties to this Memorandum (**Dispute Notice**). The Disputing Parties will hui at a Te Taitokerau venue chosen by the Party that issued the Dispute Notice on a date and time agreed by the Disputing Parties, all acting reasonably and promptly. If the dispute is not resolved at the first hui, a second hui will take place at a venue chosen by the other Disputing Parties, on a day and time to be agreed by the Disputing Parties, all acting reasonably and promptly.
- 9.3 Any party to the Memorandum who is not a Disputing Party may attend the hui as an observer or, if agreed by the Disputing Parties, as a participant.
- 9.4 If the dispute is not resolved within 30 days of the Dispute Notice being given (or any longer period as agreed between the Disputing Parties) the dispute will be referred to mediation by any of the Disputing Parties giving written notice of referral to mediation to the other Disputing Parties and to all the other parties to this Memorandum (**Mediation Notice**).
- 9.5 The mediation will be conducted in accordance with the Key Principles of this Memorandum, by a mediator appointed by agreement of the Disputing Parties.
- 9.6 The mediation will commence within 10 working days of the mediator being appointed (or such later date as agreed by the Disputing Parties) and take place at a location the mediator considers appropriately neutral.
- 9.7 The mediation will be conducted on a without prejudice basis.

- 9.8 If the dispute is not resolved within 30 days of the Mediation Notice being given (or any longer period as agreed to by the Disputing Parties and the mediator), either both or all of the Disputing Parties may terminate their participation in the Memorandum with immediate effect. Subject to clause 8.5, the Memorandum will continue between the remaining parties with the intent that they continue to perform their obligations under the Memorandum.
- 9.9 Any other party who is not a Disputing Party may attend the mediation as an observer or, if agreed by the Disputing Parties, a participant.
- 9.10 Unless the Disputing Parties agree otherwise or disclosure is required by law or for the purpose of enforcing the decision of the Disputing Parties, information:
- a. disclosed during the hui or mediation processes; or
 - b. contained in the decision of the mediation;
- will not be disclosed to any person not present at the mediation.
- 9.11 The parties will bear their own costs relating to any hui or mediation.
- 9.12 Nothing in clause 9 affects performance of the parties' obligations under any funding agreements or service contracts. The parties must continue to comply with their obligations under this Memorandum during the dispute resolution process.
- 9.13 Nothing in clause 9 precludes any party from taking action to obtain urgent interlocutory relief.

10. Notices

- 10.1 All notices under this Memorandum shall be in writing and will be considered to have been properly given or sent only if personally delivered or sent by pre-paid post or email to the addresses of the other parties.
- 10.2 Notices shall be deemed to have been delivered: on the third day after posting in the case of notices sent by post; or on the date of transmission in the case of email; or on the date of delivery in the case of personal service.

11. Counterparts

- 11.1 This Memorandum may be executed in any number of counterparts, all of which when taken together shall constitute one and the same instrument.

12. Changes to Memorandum

- 12.1 Any changes to this Memorandum shall only be effective if they are made in writing, signed by the parties, and signed by all persons authorised to do so on behalf of each of the parties and such changes shall be attached to and form part of this Memorandum.

- 12.2 Any changes made pursuant to clause 8.5 (b) are to be made in accordance with clause 12.1 above.

13. Confidentiality

- 13.1 Unless otherwise mutually agreed between the parties, the parties must keep all information and data (in any form) disclosed by one party to the other in connection with this Memorandum confidential, except to the extent that disclosure is required:
- a. by law (including obligations under the Official Information Act 1982, the Local Government Official Information and Meetings Act 1987, and the Privacy Act 1993) provided that the disclosing party advises the other parties of the requirement as soon as practicable before such disclosure is made;
 - b. to allow each of the parties to comply with their obligations to its respective leadership and internal governance obligations;
 - c. with the exception of matters which fit the criteria to be withheld pursuant to Part 7 of the Local Government Official Information and Meetings Act 1987, to enable each of the parties to deal with landowners on the activities undertaken pursuant to this Memorandum;
 - d. to its directors, employees or contractors who need to know such information for the purpose of this Memorandum; and to its professional advisers or auditors for a proper purpose, provided that the disclosing party ensures that each such person to whom it discloses confidential information complies with the restrictions in this clause as if such person were a party to this Memorandum;
 - e. to the extent the information:
 - was known to the receiving person before the information was disclosed to it; or
 - is disclosed to the receiving person on a non-confidential basis by a third party who has the right to make such disclosure; or
 - is generally available to the public through no fault of the receiving person; or
 - is developed by the receiving person independently of the information disclosed by the disclosing party.

SIGNED ON BEHALF OF:

Northland Regional Council

Te Roroa Commercial Development Ltd

<div><div></div><div>[Name and title]</div></div> <div><div></div><div>[Date]</div></div>	<div><div></div><div>[Name and title]</div></div> <div><div></div><div>[Date]</div></div>
Top Energy Limited	Northpower Limited
<div><div></div><div>[Name and title]</div></div> <div><div></div><div>[Date]</div></div>	<div><div></div><div>[Name and title]</div></div> <div><div></div><div>[Date]</div></div>
Ministry of Social Development	Whangārei District Council

<div><div></div><div>[Name/title]</div></div> <div><div></div><div>[Date]</div></div>	<div><div></div><div>[Name and title]</div></div> <div><div></div><div>[Date]</div></div>
Far North District Council	Te Whatu Ora
<div><div></div><div>[Name and title]</div></div> <div><div></div><div>[Date]</div></div>	<div><div></div><div>[Name/title]</div></div> <div><div></div><div>[Date]</div></div>
Kaipara District Council	Waka Kotahi New Zealand Transport Agency

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