

THE AFFILIATE TE ARAWA IWI/HAPU
and
THE TRUSTEES OF TE PUMAUTANGA O TE
ARAWA TRUST
and
RAUKAWA
and
THE RAUKAWA TRUST BOARD
and
THE SOVEREIGN
in right of New Zealand

Agreement
in relation to a Co-Management Framework for
the Waikato River

4 September 2008

TABLE OF CONTENTS

PART I – OVERVIEW	3
PART II – CONTEXT OF THE AGREEMENT	7
PART III – CO-MANAGEMENT	12
Subpart A – Overview	12
Subpart B – Whole Of River Elements	14
Subpart C – Upper Waikato River Elements	18
Subpart D – Other Matters	27
Subpart E – Funding Relating To Co-Management.....	28
PART IV – OTHER WAIKATO RIVER AND LAND RELATED COMPONENTS OF RAUKAWA’S HISTORICAL CLAIMS.....	29
PART V – PROCESS FOR COMPLETION.....	30
APPENDIX – DEFINITIONS.....	36
SCHEDULES TO THE AGREEMENT.....	37

PARTIES TO THE AGREEMENT

Te Pumautanga o Te Arawa Trust (“**Te Pumautanga Trustees**”), on behalf of the Affiliate Te Arawa Iwi/Hapu and in particular Ngati Tahu - Ngati Whaoa, Ngati Kearoa Ngati Tuara and Tuhourangi Ngati Wahiao

The Raukawa Trust Board, on behalf of Raukawa

The Sovereign in right of New Zealand acting by the Minister in Charge of Treaty of Waitangi Negotiations (the “**Crown**”)

PART I - OVERVIEW

REASONS FOR AGREEMENT

- 1 All parties agree that protective measures are essential to safeguard the Waikato River as one of the great natural and cultural treasures of Aotearoa New Zealand, and that the highest standards of protection should be applied to the Waikato River. The co-management framework set out in this Agreement is intended to support these viewpoints.
- 2 The parties maintain their own viewpoints in respect of the Waikato River that converge in the objective to care for, protect, and enjoy the Waikato River. This Agreement does not address nor preclude further discussion about sovereignty, title or ownership.
- 3 Raukawa believe they are kaitiaki of the Waikato River within their own tribal boundaries, subject to the collective and individual rights of their hapu and uri. This responsibility is hereditary: uri, whanau, hapu and iwi have the right and responsibility to protect their tribal River. Raukawa hold mana whenua and express mana whakahaere, kaitiakitanga and ahi kaa roa within their rohe, including the Waikato River. Raukawa do not accept they have ever ceded authority or rights of ownership over the River, or its tributaries, to anybody.
- 4 The Relevant Affiliate Te Arawa Iwi/Hapu believe that within their rohe they maintain their mana whenua, kaitiakitanga, ahi kaa, and mana whakahaere. The Waikato River and its tributaries run through their rohe, and its catchments include their traditional lands. All of their natural resources (including the River and its tributaries) are taonga to them, and integral to their tribal identities; the mauri of the people and the mauri of their waterways is indivisible. Therefore, and according to their tikanga, kawa and whakapapa, the Relevant Affiliate Te Arawa Iwi/Hapu are responsible for the protection and management of their taonga and they long to see the restoration of the mauri of their waterways. They have never agreed to cede their authority over or rights in the River or tributaries.

- 5 The Crown believes that it has responsibilities in relation to the Waikato River on behalf of the regional community and the nation as a whole. The Waikato River and its catchment play a significant strategic role for Aotearoa New Zealand as a source of energy, the location of significant primary industry, and recreational activities. There are important values and relationships between the River and people and communities that the Crown must respect, including private and public interests associated with the River and its environs. There are also existing statutory frameworks and Treaty of Waitangi obligations. In recognising the national importance of the River and its catchment, the Crown considers that a new era of co-management in respect of the Waikato River is an appropriate way to secure the longer-term sustainability and health of the River for present and future generations.

OTHER CLAIMS OF RAUKAWA

- 6 The Crown and Raukawa acknowledge that:
- a Raukawa and the Crown (among other parties) entered into the CNI Settlement Deed for the settlement of the Historical CNI Forests Land Claims (as that term is defined in the CNI Settlement Deed) of Raukawa; and
 - b to avoid doubt, nothing in this Agreement limits the redress provided to Raukawa under the CNI Settlement Deed.
- 7 The Crown and Raukawa further acknowledge that:
- a this Agreement relates to the development of a co-management framework for the Waikato River;
 - b the Crown and Raukawa have not yet had the opportunity to negotiate in relation to Raukawa's claims to the Waikato River, nor their other historical Treaty of Waitangi claims; and
 - c to avoid doubt, nothing in this Agreement limits the ability or obligation of the Crown to provide redress to Raukawa in settlement of their claims to the Waikato River, or other historical Treaty of Waitangi claims, or the nature of that redress. A process for negotiating the Raukawa historical claims is set out in Part IV of this Agreement.

OTHER CLAIMS OF THE RELEVANT AFFILIATE TE ARAWA IWI/HAPU

- 8 The Crown and the Relevant Affiliate Te Arawa Iwi/Hapu acknowledge that:
- a the Affiliate Te Arawa Iwi/Hapu and the Crown entered into the TPT Settlement Deed for the settlement of the Historical Claims (as that term is defined in the TPT Settlement Deed) of the Affiliate Te Arawa Iwi/Hapu;
 - b the Affiliate Te Arawa Iwi/Hapu and the Crown (among other parties) entered into the CNI Settlement Deed for the settlement of the Historical CNI Forests Land Claims (as that term is defined in the CNI Settlement Deed) of the Affiliate Te Arawa Iwi/Hapu;

- c pursuant to clause 11.21 of the TPT Settlement Deed, the Crown undertook to provide co-management arrangements for specific Affiliate Te Arawa Iwi/Hapu with interests in the Waikato River and its environs from Huka Falls to Pohaturoa (Atiamuri). The co-management arrangements were to be:
 - i no less than those provided to Waikato-Tainui; and
 - ii provided to specific Affiliate Te Arawa Iwi/Hapu either through amendment to the TPT Legislation or through other arrangements agreed by the Crown and Affiliate Te Arawa Iwi/Hapu;
- d pursuant to clause 11.21 of the TPT Settlement Deed, the Crown has entered into these negotiations with Te Pumautanga Trustees to give effect to the co-management arrangements outlined in that clause 11.21; and
- e to avoid doubt, nothing in this Agreement limits the redress provided to the Affiliate Te Arawa Iwi/Hapu under the TPT Settlement Deed or the CNI Settlement Deed.

GENERAL ACKNOWLEDGMENTS

- 9 The Parties acknowledged that the Crown, Raukawa and the Relevant Affiliate Te Arawa Iwi/Hapu have different views regarding relationships with the Waikato River (including "ownership") and that this Agreement is not intended to resolve those differences but is primarily concerned with co-management of the Waikato River to restore and protect the health and wellbeing of the Waikato River for present and future generations and to recognise the special relationship of Raukawa and the Relevant Affiliate Te Arawa Iwi/Hapu with the Waikato River.
- 10 Without derogating from the statement of differences in clause 9 as to "ownership" of the Waikato River, it is acknowledged that nothing in this Agreement affects any rights and interests including any rights that Raukawa, the Relevant Affiliate Te Arawa Iwi/Hapu, or the Crown, may have including any right arising:
 - a according to tikanga or custom law;
 - b from Te Tiriti o Waitangi/the Treaty of Waitangi or its principles;
 - c under legislation;
 - d at common law (including in relation to aboriginal title or customary law);
 - e from a fiduciary duty; or
 - f otherwise.
- 11 Except as provided in this Agreement, nothing in this Agreement:
 - a is intended to affect any action or decision under the deed of settlement between Maori and the Crown dated 23 September 1992 in relation to Maori fisheries claims; or

- b affects any action or decision under any legislation and, in particular, under:
 - i the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992;
 - ii the Fisheries Act 1996;
 - iii the Maori Fisheries Act 2004; or
 - iv the Maori Commercial Aquaculture Claims Settlement Act 2004.
- 12 This Agreement is not intended to settle, or to have any effect on, any claims other claimants may have relating to the Waikato River or its catchment and nothing in this Agreement shall preclude the Crown from negotiating with other claimants to resolve their historical Treaty of Waitangi claims in respect of the Waikato River or its catchment.
- 13 The Crown acknowledges that other iwi may have differing views than the Relevant Affiliate Te Arawa Iwi/Hapu and Raukawa and those views will be reflected in their respective settlements.
- 14 Clauses 12 and 13 do not permit the Crown to enter into an agreement that adversely affects this Agreement, without first obtaining the agreement of the Relevant Affiliate Te Arawa Iwi/Hapu and Raukawa.

PURPOSE OF THE AGREEMENT

- 15 Under this Agreement the Crown, Raukawa and the Relevant Affiliate Te Arawa Iwi/Hapu commit to enter a new era of co-management over the Waikato River with the purpose being to restore and protect the health and wellbeing of the Waikato River for present and future generations.
- 16 This Agreement aims to enhance the relationship between the Crown, Raukawa, and the Relevant Affiliate Te Arawa Iwi/Hapu, and to restore the honour of the Crown.

INTEGRITY OF THE AGREEMENT

- 17 The Crown, the Relevant Affiliate Te Arawa Iwi/Hapu and Raukawa share a commitment to act:
 - a to protect the integrity of this Agreement; and
 - b in a manner that is consistent with and achieves co-management of the Waikato River.
- 18 The Crown acknowledges that:
 - a Te Pumautanga Trustees have entered into this Agreement as mandated representatives of the Relevant Affiliate Te Arawa Iwi/Hapu; and

- b The Raukawa Trust Board has completed a mandating process to represent Raukawa in negotiations for all Raukawa historical Treaty claims and the Deed of Mandate is currently being assessed by the Crown.
- 19 A reference under this Agreement to Te Pumautanga Trustees is deemed to be a reference to any entity that the Te Pumautanga Trustees notify the Crown has been established by the Relevant Affiliate Te Arawa Iwi/Hapu is recognised by the Crown to receive the redress under, and exercise rights pursuant to, the deed of settlement.

PART II – CONTEXT OF THE AGREEMENT

- 20 The clauses below contain statements of the significance of the Waikato River to the Raukawa and the Relevant Affiliate Te Arawa Iwi/Hapu. The Parties agree that the statements will be further defined in the deed of settlement and in the subsequent legislation.

SIGNIFICANCE OF THE WAIKATO RIVER TO RAUKAWA

- 21 The Raukawa nation has a unique and ancient relationship with the Waikato Awa. The Waikato Awa and her tributaries are metaphorically speaking the veins carrying the lifeblood of Papatuanuku. If events or activities affect the Awa, they in turn affect Papatuanuku. The Waikato Awa carries life force for the Raukawa people, and therefore, that which affects the River, affects the people.
- 22 The Waikato Awa holds ‘mana’ in its own right, (spiritual authority and power, or a right to exist in a pristine state for intrinsic reasons) and its life essence or life force is the ‘mauri’ of the Awa.
- 23 For over 600 years Raukawa have held that the mauri of the Waikato Awa and the mauri of the Raukawa are inextricably linked. As tangata whenua within the region which the River flows, our relationship that exists with the Awa is paramount. It includes the enhancement of our respective tribal mana. However, this also gives rise to the responsibilities to protect the Awa, its mana and mauri. These responsibilities are woven within our customary assertion of mana whakahaere, which is encompassed within long established kawa and tikanga. The purpose of mana whakahaere is simply ‘to ensure the wellbeing of the Awa’.
- 24 Raukawa continue to exercise our mana, along with customary rights and exert the rights and responsibilities of kaitiakitanga over the entire stretch of the Waikato Awa within our rohe. In accordance with the principles of ahi kaa roa; marae, hapu and whanau still reside next to and live every day with the Waikato Awa. The Awa has provided a source of spiritual, cultural, social, and physical sustenance for our people, and in turn our role as kaitiaki embraces respect and an inter-generational responsibility.

- 25 The Waikato Awa is a taonga to the Raukawa nation. It is a whole and indivisible entity that flows from Ruapehu to Te Puaha o Waikato (the mouth) and includes its waters, banks, beds (and all minerals under them), and its streams, waterways, tributaries, lakes, aquatic life, vegetation, flood plains, wetlands, islands, springs, water column, airspace and substratum as well as its metaphysical elements.

SIGNIFICANCE OF THE WAIKATO RIVER TO THE RELEVANT AFFILIATE TE ARAWA IWI/HAPU

- 26 The Waikato River flows from its source on the south side of Ruapehu to Te Puaha o Waikato (the mouth) and includes its waters, banks and beds (and all minerals under them) and its streams, waterways, tributaries, lakes, fisheries, vegetation, flood plains, wetlands, islands, springs, geothermal springs, water column, airspace, substratum and mauri.
- 27 The Waikato River and its catchment is a resource of great cultural, historical, traditional and spiritual significance to the people of Ngati Tahu - Ngati Whaoa, Ngati Kearoa Ngati Tuara and Tuhourangi Ngati Wahiao.
- 28 Our relationship with the Waikato River and its tributaries, and our respect for it, gives rise to our responsibilities to protect the River and all it encompasses, and to exercise our mana whakahaere in accordance with long established tikanga to ensure the well being of the River.
- 29 The following statements of association are summarised from the TPT Settlement Deed.

Ngati Tahu - Ngati Whaoa

- 30 Mai i te waiheke o Huka, whakarawhiti atu ki te mania o Kaingaroa, te tihi o Maunga Kakaramea, puta atu ki te pae maunga o Paeroa, ko Orakei Korako te ukaipo, tae rawa atu ki Pohaturua.
- 31 Our people have occupied these lands since the arrival of our Tupuna Ariki Tahumatua, more than 900 years ago. Tahumatua arrived here in Aotearoa, i mua i te ahuatanga mai o nga waka e whitu i Hawaiki. Our Tupuna Whaoa arrived some generations later. Whaoa descends from Tahumatua on his mother's side, Hinewai, and he descends from Atuatua on his father's side, Paengatu.
- 32 Through successive generations of inter-marriage with neighbouring iwi, our tribal members also descend from ancestors who arrived on the Arawa, Matatua and Tainui waka.
- 33 The Waikato River is integral to the identity of Ngati Tahu - Ngati Whaoa. It is a source of mahinga kai from which the physical wellbeing of Ngati Tahu - Ngati Whaoa was sustained as well as nourishing the spiritual wellbeing. It was an access way, and is rich with traditional settlements, ancestral sites and sacred places. The Waikato River has always been an integral part of the social, spiritual, and physical lifestyle of Ngati Tahu - Ngati Whaoa.

34 From Pohaturoa in the north to Te Waiheke o Huka in the south, the banks of the Waikato River provide for a number of historic sites that are significant to Ngati Tahu - Ngati Whaoa. Importantly, the principal papakainga (settlement) of Ngati Tahu - Ngati Whaoa, Orakei-Korako, lay on the west bank of the River and remained so for many generations.

35 The close connection Ngati Tahu - Ngati Whaoa have with the Waikato River is illustrated by the significant number of places held sacred to them along the River between Pohaturoa and Te Waiheke o Huka. Some of these sites are described below:

Te Waiheke o Huka

36 Te Waiheke o Huka provided a place of residence for Ngati Tahu - Ngati Whaoa and many Ngati Tahu - Ngati Whaoa ancestors were buried there. The area also provided many food crops, including potatoes.

Nihoroa

37 Nihoroa was a Ngati Tahu - Ngati Whaoa settlement on the banks of the Waikato River. Kokowai (cockabully) and kokopu (trout) were gathered from this part of the River, and the settlement was also a favoured place for gathering ducks. Nihoroa also had one of the largest kainga of the Ngati Tahu - Ngati Whaoa people.

38 A rahui post was placed on the track leading from Nihoroa. Another rahui post stood above Otamarauhuru, between the Waikato River and Lake Rotokawa. Rahui were often set in place in areas where food needed to be conserved. In this instance, it is mentioned that the area was a favourite place for gathering birds. The rahui ensured that the birds continued to flourish in the area.

Orakei Korako

39 Orakei Korako was the principal papakainga (settlement) of Ngati Tahu - Ngati Whaoa and remained so for many years. In 1960, land at Orakei Korako, on the Waikato River, was taken from its Ngati Tahu owners and the area subsequently flooded for hydro-electric purposes (which remains the case to the present day). While Ngati Tahu received compensation for the loss of a house on the land, the Maori Land Court determined that no compensation should be paid for the loss of the thermal resources, papakainga, urupa and other wahi tapu in the area because the majority of owners were no longer living on the land. Those who did live there were relocated to other places. The main papakainga and urupa were returned to Ngati Tahu in the 1980s.

Rua Hoata

40 Rua Hoata was a very large cave that was used primarily as a kainga, but also as a place of refuge from invading iwi. Situated on the banks of the Waikato River, Rua Hoata was flooded when the hydro-electric dam was built at Aratiatia.

Matauraura

- 41 Matauraura was a kumara cultivation inland of the Parehawa hot spring, not far from Ohaaki. The remnants of a cave kumara pit are still visible today. A pa was built at Matauraura for protection during the time of Te Kooti, and remains of this Pa are located on the bend of the Waikato River, upstream from the Ohaaki Bridge.

Tahunatara

- 42 Located south of Reporoa in the Waikato River, the man-made island of Tahunatara was formed after a trench was dug across the headland of the River. Tahunatara was formerly a raupo reserve situated on the Waikato River, where it flows through Broadlands. Both kokopu (trout) and duck were caught at Tahunatara; kumara and other crops were also grown; and the first willow trees in the area were planted there.

Ngaawapurua Pa and Cultivation

- 43 Occupied by Ngati Whaoa, Ngaawapurua Pa was flooded when the Ohakuri Dam was built. The cultivations extended along the Waikato River, located at the southern part of the Ohakuri Dam.

Piripekapeka Pa

- 44 Piripekapeka Pa was located above Orakei Korako and is the burial place of the chief, Matarae.

Orakei Korako, Rotokawa, Nga Tamariki and Ohaaki

- 45 Many of the geothermal taonga of Ngati Tahu - Ngati Whaoa lie along and in the Waikato River. Those geothermal taonga provided Ngati Tahu - Ngati Whaoa with heat sources, rongoa, mahinga kai and were sources of materials such as paru.

Ngati Kearoa Ngati Tuara

- 46 The traditions of Ngati Kearoa Ngati Tuara illustrate their cultural, historical and spiritual association with their rohe. For Ngati Kearoa Ngati Tuara, traditions such as these represent the links between nga atua (the gods) and present generations. These histories reinforce tribal identity, connection and continuity between generations and confirm the importance of the Matahana Ecological Area to Ngati Kearoa Ngati Tuara.
- 47 Ngati Kearoa Ngati Tuara tradition tells of how Kahumatamomoe, who came on the Arawa waka, came to Horohoro Mountain and became affected by a tapu. In order to cleanse himself, he bathed in a small stream just in behind the north end of the mountain. The stream was given the name Waikarakia and the mountain became known as "*Te Horohoroinga o Nga Ringa o Kahumatamomoe*", or "*The Washing of the Hands of Kahumatamomoe*" (Horohoro for short).

- 48 The traditional association can also be traced back to Haukapuanui and Tangiharuru's visit to the area, where they were amazed at its fruitfulness. The streams were full of eels and water birds abounded. The bush likewise was full of birds and from that time on, the people lived well due to the plentiful resources.
- 49 The Matahana area is a significant source from which the physical wellbeing of Ngati Kearoa Ngati Tuara was sustained, and the spiritual wellbeing nourished. It provided the people with valuable food resources, and continued to do so for hundreds of years. The young men of Ngati Kearoa Ngati Tuara would often hunt pigs, trap eels, snare ducks, pukeko, matuku (water fowl) and rats (brought from Hawaikii) in the Waikarakia Stream.
- 50 There are many sites of cultural, historical and spiritual significance to Ngati Kearoa Ngati Tuara within the Matahana Ecological Area, including the sources of the Waikarakia and Pokaitu Streams which are in deep bush. They flow through steep-sided gorges and have many small caves. In some of these caves lie the bones of ancestors, and they are therefore considered tapu. The Waikarakia Stream, in particular, has a mystique to this day.

RAUKAWA HISTORICAL ACCOUNT

- 51 The Crown and Raukawa agree to develop and agree a full historical account as part of the settlement of the River claims of Raukawa, which will follow this Agreement.
- 52 The Raukawa traditional river boundary begins at Te Waiheke o Huka and continues to Te Tihi o Ihingarangi. Raukawa acknowledge that other iwi and hapu have shared interests within these boundaries and Raukawa acknowledge Ngati Tahu's particular interests from Te Waiheke o Huka to Pohaturoa.
- 53 Raukawa are named after their ancestor Raukawa who is connected to Tainui through his father Turongo who was in turn descended from Hoturoa. Raukawa claim interests in the Upper Waikato catchment on the basis of conquest, occupation and unextinguished ahi kaa roa.
- 54 Raukawa interests in the Waikato River have been severely affected by land alienation. Substantial parts of the riverbed, and lands adjacent to it have been alienated to the Crown as a result of acquisitions under Public Works Acts for the purposes of hydro-electric works construction. In some parts, subdivision and sale of land has followed public works acquisitions, resulting in further loss of connection between Raukawa and their River.

RELEVANT AFFILIATE TE ARAWA IWI/HAPU HISTORICAL ACCOUNT

- 55 The historical account for the Relevant Affiliate Te Arawa Iwi/Hapu is set out in the TPT Settlement Deed and will be further defined in the deed of settlement.

CROWN ACKNOWLEDGEMENTS

- 56 The Crown acknowledges:
- a the importance to the Relevant Affiliate Te Arawa Iwi/Hapu and to Raukawa of the Waikato River and their special relationship with the Waikato River;

- b that to the Relevant Affiliate Te Arawa Iwi/Hapu and Raukawa, their relationship with the Waikato River, and their respect for it, gives rise to their responsibilities to protect the mana and mauri of the Waikato River;
 - c the deterioration of the health of the Waikato River has been a source of distress for the people of the Relevant Affiliate Te Arawa Iwi/Hapu and Raukawa;
 - d that it has failed to respect, provide for and protect the special relationship of the Relevant Affiliate Te Arawa Iwi/Hapu and Raukawa with the Waikato River;
 - e the deeply felt obligation of the Relevant Affiliate Te Arawa Iwi/Hapu and Raukawa to protect the Waikato River; and
 - f their commitment to integrated management in respect of the Waikato River.
- 57 The Crown seeks an agreement that will recognise and sustain the special relationship Raukawa and the Relevant Affiliate Te Arawa Iwi/Hapu each have with the Waikato River. The Crown undertakes to provide assistance to the Relevant Affiliate Te Arawa Iwi/Hapu and Raukawa and to work with them to assist the restoration of their mana whakahaere.
- 58 The Crown, the Relevant Affiliate Te Arawa Iwi/Hapu and Raukawa agree that the Crown acknowledgements will be further developed in the deed of settlement.

THE RELATIONSHIP BETWEEN RIVER IWI AND THE WAIKATO RIVER

- 59 The Crown, the Relevant Affiliate Te Arawa Iwi/Hapu and Raukawa acknowledge that each River Iwi has its own unique relationship with the River and its own long established tikanga in relation to the River. Nothing in this Agreement is intended to impinge on those relationships. Nor is there any intention to question or disregard the tikanga of any River Iwi.
- 60 Recognition of the relationship between the Relevant Affiliate Te Arawa Iwi/Hapu and Raukawa and the Waikato River by the Crown is not intended to affect the rights, interests, or mana whakahaere of any River Iwi who is not a party to the settlement, but is intended to reflect a unity of purpose to respect and care for the River.

PART III – CO-MANAGEMENT

SUBPART A – OVERVIEW

- 61 The Parties acknowledge their commitment to enter into a new era of co-management over the Waikato River, with the underlying purpose being to restore and protect the health and wellbeing of the Waikato River for present and future generations.

- 62 Co-management requires a commitment to working in partnership, and in a spirit of collaboration. The successful implementation of co-management, and of the arrangements proposed under this Agreement, require a new approach to management of the Waikato River. Accordingly, the Crown, Raukawa and the Relevant Affiliate Te Arawa Iwi/Hapu acknowledge that co-management includes:
- a a collaborative approach that reflects partnership;
 - b the highest level of good faith engagement; and
 - c consensus decision-making as a general rule,
- while having regard to statutory frameworks and the mana whakahaere of the Relevant Affiliate Te Arawa Iwi/Hapu and Raukawa and other River Iwi.
- 63 The Parties acknowledge that:
- a aspects of co-management affecting the whole of the Waikato River ("**Whole of River Elements**") have already been provided for in the Waikato-Tainui River Agreement, and will be given effect to in subsequent legislation;
 - b Raukawa and the Relevant Affiliate Te Arawa Iwi/Hapu sought collective negotiations in respect to Whole of River Elements of the Waikato-Tainui River Agreement. This did not occur. The lack of direct involvement was a source of distress to Raukawa and the Relevant Affiliate Te Arawa Iwi/Hapu;
 - c while holding concerns regarding the process followed in developing the Whole of River Elements, Raukawa and the Relevant Affiliate Te Arawa Iwi/Hapu endorse the underlying philosophy behind those elements, being:
 - i the Vision and Strategy for the Waikato River;
 - ii the Guardians of the Waikato River; and
 - iii the Waikato River Clean-Up Trust.
- 64 In addition to these Whole of River Elements, this Agreement provides for:
- a Raukawa and the Relevant Affiliate Te Arawa Iwi/Hapu to develop their own Objectives for the Waikato River ("**Objectives**"); and
 - b further co-management arrangements in respect of the Upper Waikato River, in particular the:
 - i Statutory Entity;
 - ii Advisory Groups;
 - iii Statutory Entity Establishment Committee;
 - iv Iwi Management Committees; and

- v other co-management arrangements, including the Upper Waikato River Integrated Management Plan.

- 65 Raukawa and the Relevant Affiliate Te Arawa Iwi/Hapu expect that the legislation implementing Whole of River Elements will be in an appropriate neutral form to recognise that it has implications for all River Iwi.
- 66 The deed of settlement and subsequent legislation will provide that the Crown and local authorities, when developing policies or laws impacting on the Waikato River, or affecting use rights in relation to the Waikato River (including in relation to water), shall engage with the Relevant Affiliate Te Arawa Iwi/Hapu and Raukawa to ensure policies and laws are implemented in accordance with the requirements of co-management.

SUBPART B – WHOLE OF RIVER ELEMENTS

OBJECTIVES FOR THE WAIKATO RIVER

- 67 Following this Agreement, the Relevant Affiliate Te Arawa Iwi/Hapu and Raukawa will develop their respective Objectives for the Waikato River.
- 68 These Objectives must be consistent with the purpose of this Agreement.
- 69 The Relevant Affiliate Te Arawa Iwi/Hapu Objectives:
- a will be prepared by the Relevant Affiliate Te Arawa Iwi/Hapu; and
 - b will be available to the public for inspection at the offices of the Te Pumautanga Trustees and the relevant agencies, including local authorities.
- 70 The Raukawa Objectives:
- a will be prepared by Raukawa; and
 - b will be available to the public for inspection at the offices of the Raukawa Trust Board and the relevant agencies, including local authorities.
- 71 Raukawa and the Relevant Affiliate Te Arawa Iwi/Hapu may amend their respective Objectives at any time if:
- a Raukawa, or the Relevant Affiliate Te Arawa Iwi/Hapu advise the Crown that they propose to amend their respective Objectives and provide to the Crown a copy of the proposed amendments; and
 - b the amendments proposed are consistent with the purpose of this Agreement.
- 72 Raukawa and the Relevant Affiliate Te Arawa Iwi/Hapu may provide to the Minister for the Environment a copy of any amendments made to their respective Objectives, certified in writing either by the Te Pumautanga Trustees on behalf of the Relevant Affiliate Te Arawa Iwi/Hapu or the trustees of the Raukawa Trust Board on behalf of Raukawa as the case may be.

- 73 The amendment to the Objectives becomes effective when the Minister for the Environment publically notifies the amendments.

VISION AND STRATEGY FOR THE WAIKATO RIVER

- 74 The Parties acknowledge that:
- a the initial Vision and Strategy for the Waikato River was developed by the Guardians Establishment Committee, which was established by the Waikato-Tainui Agreement in Principle for the Settlement of the Historical Claims of Waikato-Tainui in relation to the Waikato River; and
 - b the Guardians Establishment Committee included one representative from the Affiliate Te Arawa Iwi/Hapu and one representative from Raukawa.
- 75 The Relevant Affiliate Te Arawa Iwi/Hapu and Raukawa endorse the initial Vision and Strategy for the Waikato River as part of the co-management framework set out in this Agreement. The Vision and Strategy is set out in Part 1 of Schedule One to this Agreement.
- 76 The Vision and Strategy will have the statutory recognition as set out in Part 2 of Schedule One to this Agreement, including:
- a as a national policy statement;
 - b as a statement of general policy; and
 - c otherwise decision makers will have particular regard to the Vision and Strategy.
- 77 The Parties agree that the deed of settlement and subsequent legislation will give effect to any modifications to the provisions of Schedule One to this Agreement necessary pursuant to the terms of this Agreement.

GUARDIANS OF THE WAIKATO RIVER

- 78 Legislation will provide that a statutory body called the Guardians of the Waikato River (“**Guardians**”) is established. The Relevant Affiliate Te Arawa Iwi/Hapu and Raukawa recognise the establishment of the Guardians as part of the co-management framework set out in this Agreement. The provisions relating to the Guardians are set out in Schedule Two to this Agreement.
- 79 The Guardians’ responsibilities will apply to the Waikato River and activities in the catchments affecting the Waikato River from Huka Falls to Te Puaha o Waikato and the Waipa River from its junction with the Puniu River to its confluence with the Waikato River, in the areas marked A and B on the map attached to the Agreement. The mana whakahaere of each of the River Iwi remains with each iwi.
- 80 The Guardians will consist of 10 members being the following representatives:
- a 1 representative appointed by Te Pumautanga Trustees;
 - b 1 representative appointed by the Raukawa Trust Board;

- c 1 representative appointed by the trustees of the Waikato Raupatu River Trust;
- d 1 representative appointed by the Tuwharetoa Maori Trust Board;
- e 1 representative appointed by the Maniapoto Maori Trust Board;
- f 4 representatives appointed by the Minister for the Environment in consultation with the Minister of Maori Affairs and the Minister for Local Government to represent the interests of all New Zealanders in the Waikato River; and
- g 1 representative appointed by the Minister for the Environment on the recommendation of Environment Waikato to represent the regional community interest in the Waikato River.

Purpose

- 81 The purpose of the Guardians is to:
- a promote, and work to achieve, the restoration and protection of the health and wellbeing of the Waikato River for future generations; and
 - b promote, co-ordinate, facilitate and supervise the implementation of the Vision and Strategy to achieve an integrated, holistic and co-ordinated approach to its implementation and to the management of the Waikato River.

Functions

- 82 The Guardians will have the functions set out in Part 1 of Schedule Two to this Agreement.

Review of the Vision and Strategy

- 83 The Guardians will review the Vision and Strategy in the manner set out in Schedule Two of this Agreement.
- 84 The Guardians must consider the Relevant Affiliate Te Arawa Iwi/Hapu Objectives and Raukawa Objectives in reviewing the Vision and Strategy.

Review of Guardians

- 85 The Guardians will be reviewed in the manner set out in clauses 6.6 to 6.9 of Part 1 of Schedule Two to this Agreement with the following additional requirements:
- a that prior to setting a date for the first review meeting the Crown will agree suitable dates with Raukawa and the Relevant Affiliate Te Arawa Iwi/Hapu;
 - b the Crown will agree with the Relevant Affiliate Te Arawa Iwi/Hapu and Raukawa as to other persons that should attend review meetings; and
 - c the reference to "Te Arawa" in clause 6.9.4 of Schedule Two means the Relevant Affiliate Te Arawa Iwi/Hapu.

Functional aspects

- 86 The Guardians will have the functional aspects set out in Part 2 of Schedule Two to this Agreement with the following additional requirement that if Raukawa or the Relevant Affiliate Te Arawa Iwi/Hapu have not appointed a replacement member of the Guardians pursuant to clause 1.14 within three weeks of the date that the vacancy occurs:
- a if the vacant position is to be filled by Raukawa, the Chairperson of the Raukawa Trust Board will automatically be appointed as the interim representative of Raukawa on the Guardians; and
 - b if the vacancy is to be filled by the Relevant Affiliate Te Arawa Iwi/Hapu, the Chairperson of Te Pumautanga Trustees will automatically be appointed as the interim representative of the Relevant Affiliate Te Arawa Iwi/Hapu on the Guardians.
- 87 The Parties agree that the deed of settlement and subsequent legislation will give effect to any modifications to the provisions of Schedule Two to this Agreement necessary pursuant to the terms of this Agreement.

WAIKATO RIVER CLEAN-UP TRUST

Acknowledgement to Raukawa and the Relevant Affiliate Te Arawa Iwi/Hapu

- 88 The Crown acknowledges the forbearance and commitment of Raukawa and the Relevant Affiliate Te Arawa Iwi/Hapu in affirming the health and wellbeing of the Waikato River and their leadership and generosity in supporting the establishment of the Guardians and the Waikato River Clean-Up Trust.
- 89 The Relevant Affiliate Te Arawa Iwi/Hapu and Raukawa acknowledge the establishment of the Waikato River Clean-Up Trust as set out in Schedule Three to this Agreement.

Establishment of trust and scoping study

- 90 The terms of the trust deed for the Waikato River Clean-Up Trust will be drawn up by the Crown in consultation with Waikato-Tainui, Raukawa, the Relevant Affiliate Te Arawa Iwi/Hapu, other River Iwi and relevant local authorities. Raukawa and the Relevant Affiliate Te Arawa Iwi/Hapu intend to be settlors.
- 91 The Waikato River Clean-Up Trust will be established in the manner set out in Schedule Three to this Agreement provided that before issuing joint terms of reference under clause 6.20, the Crown will obtain the agreement of Raukawa and the Relevant Affiliate Te Arawa Iwi/Hapu as to the proposed joint terms.
- 92 The Parties agree that the Relevant Affiliate Te Arawa Iwi/Hapu and Raukawa will provide their views on projects or initiatives that relate to matauranga Maori and are necessary for the clean-up and rehabilitation of the Upper Waikato River. The Crown will ensure that the projects, initiatives and associated costings are included in the scoping study described in clauses 6.19 and 6.20 of Schedule 3 of this Agreement.

- 93 Following receipt by the Crown of the scoping study:
- a the Crown will consider the size of the fund available to the Waikato River Clean-Up Trust; and
 - b if the scoping study identifies that additional funds are required beyond that already contributed to the Waikato River Clean-Up Trust because of those projects and initiatives referred to in clause 92, the Crown will decide whether any additional funds will be provided and, if so, whether those funds will be provided directly to Raukawa and the Relevant Affiliate Te Arawa Iwi/Hapu or to the Waikato River Clean-Up Trust to be applied to those projects and initiatives.
- 94 The Parties agree that the deed of settlement and subsequent legislation will give effect to any modifications to the provisions of Schedule Three to this Agreement necessary pursuant to the terms of this Agreement.

SUBPART C – UPPER WAIKATO RIVER ELEMENTS

STATUTORY ENTITY

- 95 The provisions of this Agreement relating to the Statutory Entity will apply to the Upper Waikato River as shown in the area marked B on the map attached to this Agreement.

Overview

- 96 This Agreement provides for a Statutory Entity that will:
- a have membership that reflects a coordinated approach to its functions, including the principle of equal Iwi and Crown appointments;
 - b have the appropriate authority, mandate and resourcing to undertake its roles and functions under all relevant legislation. The Statutory Entity will have a regional environmental focus that will include high level decision making roles;
 - c have a work programme to be implemented over time. The phased introduction of both the work programme and the functions of the Statutory Entity will allow for capacity building and the development and implementation of co-management and the application of the Vision and Strategy;
 - d be assisted by the enhanced relationships and trust between the Statutory Entity and other bodies over time; and
 - e take an integrated approach to carrying out its functions by implementing specific projects and developing policy for the Upper Waikato River. These projects and policies will take into account the effects of past practices and ensure that current and future practices are aligned with the purpose of this Agreement.

Purpose of the Statutory Entity

- 97 The purpose of the Statutory Entity is to:
- a give effect to co-management in the Upper Waikato River;
 - b promote the restoration and protection of the quality, health and well-being of the Waikato River for present and future generations;
 - c recognise and respect the kawa, tikanga, mana whakahaere and kaitiakitanga of the iwi and hapu of the Upper Waikato River; and
 - d acknowledge the importance of relationships within the Upper Waikato River communities.

Functions of the Statutory Entity

- 98 The functions of the Statutory Entity will include to:
- a achieve its purpose;
 - b provide the highest level of recognition of the Vision and Strategy in the Upper Waikato River;
 - c work in close liaison with the Crown, iwi authorities, the Guardians, local authorities, statutory authorities and Iwi Management Committees to achieve the purpose;
 - d make recommendations to the Minister for the Environment and, if appropriate, any other Minister with regard to the restoration and protection of the Upper Waikato River and any other matters that the entity may deem necessary;
 - e receive and exercise any transferred or delegated functions, powers or duties and participate in any joint management arrangement;
 - f promote the integrated management of the Waikato River, including by leading the development, implementation and review of an Upper Waikato River Integrated Management Plan;
 - g oversee and audit compliance with the Vision and Strategy of statutory policy, planning and other processes affecting the Upper Waikato River;
 - h make recommendations, give strategic advice, and support local authorities and other interested stakeholders on any issues relevant to the Upper Waikato River;
 - i commission, receive, share and monitor information, research, reports and undertake projects relevant to the Upper Waikato River;
 - j report annually on the operations of the entity to the Crown, the Raukawa Trust Board, Te Pumautanga Trustees, the Guardians and relevant local authorities;

- k develop and maintain protocols with the relevant management agencies, including local authorities, who have responsibility for matters relating to the Upper Waikato River;
 - l work collaboratively with the Raukawa Trust Board and Te Pumautanga Trustees to assist with and support the implementation of mana whakahaere;
 - m request the attendance or participation in the deliberations of the Upper Waikato River Statutory Entity of any person exercising management functions related to, or affecting, the Waikato River and activities that affect the Waikato River in the area marked B on the map attached to this Agreement;
 - n exercise any other function given to the entity under the deed of settlement or subsequent legislation, or that the entity may exercise under any other legislation; and
 - o take any other action reasonably necessary to give effect to the entity's purpose and functions.
- 99 Where the Statutory Entity makes recommendations to a Minister under clause 98d, that Minister will acknowledge the receipt of the recommendation within 20 working days and advise what action (if any) is intended to be taken on the recommendation. The Minister will report to the Statutory Entity in due course on the actions taken as a result of the recommendation.

Membership

- 100 Membership of the Statutory Entity will consist of:
- a three (3) representatives appointed by the Raukawa Trust Board;
 - b three (3) representatives appointed by the Relevant Affiliate Te Arawa Iwi/Hapu; and
 - c six (6) Crown / community representatives appointed by the Minister for the Environment comprising:
 - i. one or two representatives appointed by the Minister for the Environment on the recommendation of Environment Waikato; and
 - ii. five or four other Crown representatives appointed by the Minister for the Environment in consultation with the Minister of Maori Affairs, and the Minister of Local Government including:
 - (i) one central government representative; and
 - (ii) at least one representative of relevant territorial authorities.
- 101 In making appointments under clause 100, the Minister for the Environment will aim to achieve a balanced and mixed membership in terms of skills, knowledge and experience.

102 The Statutory Entity will also have the power to co-opt additional members as agreed by the Statutory Entity members.

Advisory Groups

103 As part of the co-management framework, and in order to carry out its duties, the Statutory Entity may establish advisory groups to provide necessary expertise, advice and capacity. Officials from relevant local authorities and management agencies that are responsible for carrying out duties in relation to the Upper Waikato River may form such an advisory group.

104 The roles of advisory groups may include but not be limited to:

- a providing advice, technical and other support to the Statutory Entity and to Iwi Management Committees when required;
- b receiving and implementing direction from the Statutory Entity;
- c assisting the Statutory Entity to carry out its functions; and
- d reporting to the Statutory Entity on the relevant local authorities' and management agencies' contribution to the implementation of the Vision and Strategy, including outcomes.

Public Authorities

105 The deed of settlement and subsequent legislation will provide that the Statutory Entity, the Te Pumautanga Trustees and the Raukawa Trust Board are deemed to be:

- a public authorities for the purposes of sections 33 and 36B of the Resource Management Act 1991;
- b advisory committees under section 56 of the Conservation Act 1987; and
- c such other bodies or to hold such status under other legislation as agreed.

Review

106 The deed of settlement will provide for a formal independent review of the functions and effectiveness of the Statutory Entity, which will inform any review under clauses 153-158 of this Agreement.

ESTABLISHMENT COMMITTEE

107 In recognition of the need for the transition into a new era of co-management for the Upper Waikato River, and the progress required to occur prior to the formal constitution of the Statutory Entity, as soon as practicable after the signing of this Agreement, a committee to be called the Statutory Entity Establishment Committee ("**Establishment Committee**") will be appointed.

- 108 The Crown, the Relevant Affiliate Te Arawa Iwi/Hapu and Raukawa will agree the process (including dispute resolution), membership (including local authorities) and appropriate timing for the creation of the Establishment Committee, and its resourcing.
- 109 The functions of the Establishment Committee will include, but not be limited to:
- a developing a draft Terms of Reference for the Statutory Entity;
 - b developing a communications strategy about the implementation of the co-management framework;
 - c developing appropriate dispute resolution processes for the Statutory Entity, including escalation clauses;
 - d developing a work programme for the development of a staged process for growing capacity and expertise to fulfil the Statutory Entity's full roles and responsibilities including the transfer of functions and powers to the Statutory Entity and/or relevant Iwi Authorities; and
 - e developing and reviewing any other matters necessary for the Statutory Entity to be an effective and functioning body as soon as it is constituted.
- 110 The Establishment Committee will identify functions, powers or duties under the Resource Management Act 1991 and Local Government Act 2002, that could potentially be the subject of a transfer, delegation or joint management agreement ("**transfer**") to or with the Statutory Entity or the relevant Iwi Authority.
- 111 The Establishment Committee will operate in accordance with the following guiding principles:
- a there is a presumption that transfers will be able to occur;
 - b the overriding objective will be to analyse and report on how transfers can occur as opposed to why they may not occur; and
 - c while there may be impediments to a transfer, or conditions that may have to be satisfied prior to a transfer taking place, the Establishment Committee will approach these in a constructive and solution-focussed manner and will make recommendations as to how any impediment can be overcome or any pre-condition satisfied,

but, for the avoidance of doubt, the local authority retains discretion as to whether to make any transfer.

- 112 The deed of settlement will provide that if the Crown, Raukawa and the Relevant Affiliate Te Arawa Iwi/Hapu are not satisfied that recommendations of the Establishment Committee have been or will be implemented then the Crown must, as soon as reasonably practicable, introduce an amendment to the settlement legislation that will provide that persons exercising functions, powers or duties under the Resource Management Act 1991 and Local Government Act 2002 must have particular regard to the Raukawa Environmental Plan and the Relevant Affiliate Te Arawa Iwi/Hapu Environmental Plan and the relevant components of the Upper Waikato River Integrated Management Plan, when preparing, reviewing and changing any statutory planning documents under those Acts.

IWI MANAGEMENT COMMITTEES

- 113 Raukawa and the Relevant Affiliate Te Arawa Iwi/Hapu, will each establish an Iwi Management Committee as part of the co-management framework.
- 114 The purpose of the Committees is to support the implementation of mana whakahaere, the implementation of the Vision and Strategy and any other co-management responsibilities of the respective iwi.
- 115 Key functions of the committees may include, but will not be limited to:
- a developing, prioritising and contributing to research, policy and operational projects within the rohe to ensure long term implementation and achievement of the respective iwi Objectives and the Vision and Strategy;
 - b providing key relationship support, liaison and acting as a reference group for the Statutory Entity, local authorities, the Crown, or any other relevant persons or organisations involving roles such as but not limited to:
 - i providing key liaison between the Statutory Entity and the respective iwi authorities, including liaison with hapu, whanau and marae;
 - ii liaison between the respective iwi with local authorities, non-governmental organisations and community groups in relation to the Vision and Strategy;
 - iii advising the Guardians, the Statutory Entity, local authorities, the Crown and any other relevant persons or organisations on how to recognise and provide for the relationship of Raukawa, and of the Relevant Affiliate Te Arawa Iwi/Hapu with the Waikato River; and
 - iv agreeing protocols (in line with the Accords where appropriate) with other agencies, and monitoring their implementation;
 - c playing a key role in providing Matauranga Maori advice to the Guardians, Statutory Entity and local authorities;
 - d playing a key role in the development and implementation of Iwi Environmental Management Plans as they relate to the Upper Waikato River, the Vision and Strategy and the proposed Upper Waikato River Integrated Management Plan; and

- e providing environmental monitoring and reporting to the Statutory Entity and any other relevant agency on request.

116 The structure, representation, review and other issues relating to each Committee shall be determined by the Raukawa Trust Board and Te Pumautanga Trustees respectively.

CO-MANAGEMENT ARRANGEMENTS

117 The deed of settlement and subsequent legislation will provide that:

- a an Upper Waikato River Integrated Management Plan is to be prepared and approved within 3 years of the settlement date;
- b Raukawa may prepare an Environmental Management Plan and serve it on relevant local authorities, the Director-General of Conservation, the Chief Executive of the Ministry of Fisheries, the Chief Executive of the Ministry for the Environment, or any other relevant agency;
- c the Relevant Affiliate Te Arawa Iwi/Hapu may prepare an Environmental Management Plan and serve it on relevant local authorities, the Director-General of Conservation, the Chief Executive of the Ministry of Fisheries, the Chief Executive of the Ministry for the Environment, or any other relevant agency;
- d within an agreed timeframe, the power to make regulations for the Upper Waikato River for the management of aquatic life, habitats and natural resources managed under both conservation and fisheries legislation consistent with the purpose of restoring and protecting the health and wellbeing of the Waikato River for present and future generations will be developed; and
- e customary activities are recognised and provided for.

UPPER WAIKATO RIVER INTEGRATED MANAGEMENT PLAN

118 The purpose of the Upper Waikato River Integrated Management Plan is to achieve an integrated approach between the Relevant Affiliate Te Arawa Iwi/Hapu and Raukawa, relevant Crown agencies and local authorities to the management of the River, its catchment and its aquatic life, habitats and natural resources consistent with the overarching purpose of restoring and protecting the health and wellbeing of the Waikato River for present and future generations.

119 The Upper Waikato River Integrated Management Plan will include:

- a a component on issues related to conservation management under the Conservation Act 1987 and the other acts listed in the first schedule to that Act (conservation component);
- b a component on issues related to fisheries management under the Fisheries Act 1996 (fisheries component);

- c a component on issues related to the resource management, biosecurity and local government functions of Environment Waikato under the Resource Management Act 1991, Biosecurity Act 1993, Local Government Act 2002 and any other relevant legislation (regional council component); and
 - d any other component agreed between the Relevant Affiliate Te Arawa Iwi/Hapu and Raukawa and any appropriate agency, including territorial authorities, responsible for administering or exercising functions, power and duties under any legislation that affects the Upper Waikato River and activities in its catchments that affect the Upper Waikato River (other component).
- 120 The deed of settlement will provide a process for developing, approving, amending and reviewing the Upper Waikato River Integrated Management Plan.
- 121 The effect of the Upper Waikato River Integrated Management Plan will be agreed in the deed of settlement.

THE RELEVANT AFFILIATE TE ARAWA IWI/HAPU ENVIRONMENTAL MANAGEMENT PLAN AND THE RAUKAWA ENVIRONMENTAL MANAGEMENT PLAN

- 122 The deed of settlement will provide that:
- a the Relevant Affiliate Te Arawa Iwi/Hapu may prepare and serve on relevant local authorities, the Director-General of Conservation, the Chief Executive of the Ministry of Fisheries or any other relevant agency the Relevant Affiliate Te Arawa Iwi/Hapu Environmental Management Plan; and
 - b Raukawa may prepare and serve on relevant local authorities, the Director-General of Conservation, the Chief Executive of the Ministry of Fisheries or any other relevant agency the Raukawa Environmental Management plan.
- 123 The Relevant Affiliate Te Arawa Iwi/Hapu Environmental Management plan:
- a will be prepared by the Relevant Affiliate Te Arawa Iwi/Hapu;
 - b may be reviewed and amended from time to time by the Relevant Affiliate Te Arawa Iwi/Hapu; and
 - c will be available to the public for inspection at the offices of Relevant Affiliate Te Arawa Iwi/Hapu and the relevant agencies, including local authorities.
- 124 The Raukawa Environmental Management plan:
- a will be prepared by Raukawa;
 - b may be reviewed and amended from time to time by Raukawa; and

- c will be available to the public for inspection at the offices of Raukawa and the relevant agencies, including local authorities.

125 The deed of settlement will also provide that:

- a where a local authority is preparing, reviewing or changing a Resource Management Act planning document, that local authority must take into account the Relevant Affiliate Te Arawa Iwi/Hapu Environmental Management Plan and the Raukawa Environmental Management Plan in the same manner as would be required for an iwi management plan;
- b a consent authority must have regard to the Affiliate Te Arawa Iwi/Hapu Environmental Management Plan and the Raukawa Environmental Management Plan when considering an application for resource consent under section 104 of the Resource Management Act 1991, where the consent authority considers the Affiliate Te Arawa Iwi/Hapu Environmental Management Plan and the Raukawa Environmental Management Plan relevant and reasonably necessary to determine the application; and
- c any person exercising functions, powers and duties under sections 12 to 14 of the Fisheries Act 1996 will recognise and provide for the Affiliate Te Arawa Iwi/Hapu Environmental Management Plan and the Raukawa Environmental Management Plan to the extent its contents relate to those functions, powers and duties.

REGULATIONS

126 The deed of settlement will provide:

- a regulations will be made for the Waikato River in relation to the management of fisheries subject to the Fisheries Act 1996 including:
 - i provision for the Relevant Affiliate Te Arawa Iwi/Hapu and Raukawa to manage customary fishing through the issuing of customary fishing authorisations;
 - ii provision for the Relevant Affiliate Te Arawa Iwi/Hapu and Raukawa to recommend to the Minister of Fisheries the making of bylaws restricting or prohibiting fishing; and
 - iii provision that the Minister of Fisheries will make the bylaws recommended by the Relevant Affiliate Te Arawa Iwi/Hapu and Raukawa under this clause, unless the Minister of Fisheries considers that an undue adverse effect on fishing would result if the proposed bylaws were made; and
- b for the power to make regulations for the Waikato River for the management of aquatic life, habitats, and natural resources managed under the conservation legislation consistent with the overarching purpose of restoring and protecting the health and wellbeing of the Waikato River for present and future generations.

CUSTOMARY ACTIVITIES

- 127 Following the signing of this Agreement, the Crown will facilitate an ongoing discussion between Raukawa and the Relevant Affiliate Te Arawa Iwi/Hapu and relevant local authorities and agencies for the purpose of exploring whether certain customary activities should not require resource consent under the Resource Management Act 1991, or other permit or authorisation.

SUBPART D – OTHER MATTERS

- 128 The parties agree that some redress provided for the purpose of settling the historical Treaty of Waitangi claims of the Relevant Affiliate Te Arawa Iwi/Hapu, or Raukawa may support the co-management framework.

UPPER WAIKATO RIVER ACCORDS

- 129 The Crown agrees to consider the development of accords or similar relationship instruments with relevant Ministers setting out how the Ministers and their departments will work with the Relevant Affiliate Te Arawa Iwi/Hapu and Raukawa to reflect a co-management relationship, sharing of information, and to support co-management within the Co-Management Framework in relation to the Upper Waikato River:
- a for the Affiliate Te Arawa Iwi/Hapu, Section 9 of the TPT Settlement Deed records the protocols and relationship instruments already entered into which, in accordance with clause 9.7 of that Deed may be amended or re-issued; and
 - b for Raukawa, accords or similar relationship agreements will form part of their later settlement agreements, and will cover all matters within their area of interest, including matters relating specifically to the Waikato River.
- 130 The deed of settlement will:
- a identify the specific matters to be addressed in such accords or protocols;
 - b specify the Ministers with whom they will be entered into;
 - c if required, provide for the review and reissue of the Affiliate Te Arawa Iwi/Hapu protocols or the issue of protocols to address the agreements reached in clauses 130a and 130b; and
 - d provide for the development of Raukawa accords reflecting the agreements reached in clauses 130a and 130b for inclusion in their later settlement agreements.
- 131 The Affiliate Te Arawa Iwi/Hapu and Raukawa record that, of all the matters they wish to address in such accords, they wish to particularly explore a process for engaging with the Crown in relation to the following:

- a where the Minister for the Environment is considering exercising powers to intervene under section 141A of the Resource Management Act 1991 and the subject matter of the intervention is likely to impact on the Upper Waikato River;
- b where the Minister for the Environment is considering appointing a board of inquiry under section 146 of the Resource Management Act 1991 and the subject matter of the inquiry is likely to impact on the Upper Waikato River; and
- c without overriding existing statutory obligations, where the Commissioner of Crown Land is considering the disposal of Crown-owned lands in respect of the Upper Waikato River.

RIGHT OF FIRST REFUSAL

132 The Crown agrees to further explore, prior to signing a deed of settlement, the possibility of a right of first refusal in favour of Te Pumautanga o Te Arawa over the geothermal assets of Mighty River Power in the Rotokawa and Nga Tamariki geothermal fields.

SUBPART E – FUNDING RELATING TO CO-MANAGEMENT

133 The Crown will provide funding for the implementation of co-management as set out below.

ESTABLISHMENT COMMITTEE

134 The Crown will meet the reasonable costs (including fees and allowances for the members) of the operation and administrative support of the Establishment Committee.

COSTS OF CO-MANAGEMENT ENTITIES

135 The subsequent legislation will provide that:

- a the Crown will bear the reasonable operational and administrative costs of the Statutory Entity;
 - b the Statutory Entity is deemed to be a statutory board within the meaning of the Fees and Travelling Allowances Act 1951; and
 - c there shall be paid to members of the Statutory Entity, out of money appropriated by Parliament, remuneration by way of fees, salary or allowances and expenses, and travel allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly.
- 136 The Crown will consult with Raukawa and Relevant Affiliate Te Arawa Iwi/Hapu about scoping these costs, including the relationship between the Statutory Entity and the Iwi Management Committees.

CO-MANAGEMENT FUNDING

- 137 Immediately following the signing of this Agreement, the Crown will settle the amount of \$3,000,000 on Te Pumautanga Trustees for and on behalf of the Relevant Affiliate Te Arawa Iwi/Hapu.
- 138 Immediately following the signing of this Agreement and the Crown approving the Deed of Mandate with the Raukawa Trust Board, the Crown will settle the amount of \$3,000,000 on the Raukawa Trust Board or such other appropriate entity as is agreed between the Crown and the Raukawa Trust Board.
- 139 On the settlement date and on each of the next 26 anniversaries of the settlement date the Crown will settle the amount of \$1,000,000 on Raukawa, and the Relevant Affiliate Te Arawa Iwi/Hapu, respectively.
- 140 The annual amount settled by the Crown pursuant to clause 139 will be reviewed by the Parties on the earlier of:
- a two years after the Settlement Date; and
 - b the date of any review undertaken under clause 14.6 of the Waikato-Tainui River Agreement.
- 141 The purposes of the review under clause 140 will be to determine whether the annual amount settled by the Crown pursuant to clause 139 will be sufficient to allow Raukawa and the Relevant Te Arawa Iwi/Hapu to properly engage in the co-management framework provided for in this Agreement.

TAX

- 142 The deed of settlement will include a tax indemnity and related acknowledgements to the same effect as similar provisions in recent settlements and will cover any payments made before the deed of settlement is signed pursuant to clauses 137, 138 and 152.

PART IV - OTHER WAIKATO RIVER AND LAND RELATED COMPONENTS OF RAUKAWA'S HISTORICAL CLAIMS

- 143 For Raukawa, their Waikato River claims form one of the most significant and distinctive elements of their claims against the Crown that have yet to be settled, and as such will be according primacy to these claims in negotiations with the Crown to settle all historical Treaty claims of Raukawa.
- 144 A key objective for Raukawa in these negotiations is to secure arrangements that will enable Raukawa to restore and protect their economic, social, cultural and spiritual relationship with the Waikato River.
- 145 Following the signing of this Agreement, Raukawa and the Crown will develop and agree a work programme to progress negotiations and reach agreement on a settlement of all Raukawa historical Treaty claims. These negotiations will take a staged approach with priority accorded to Raukawa claims in relation to the Waikato River, and associated lands and resources.

- 146 The Crown and Raukawa agree to explore the following redress components:
- a gifting, co-management, appropriate recognition and/or protection of sites of significance to Raukawa, including statutory acknowledgements and deeds of recognition;
 - b appropriate protocols and relationship agreements with relevant Ministers and Crown departments, including an annual hui between relevant Ministers of the Crown and the Raukawa Trust Board or other appropriate governance entity;
 - c letters of introduction/support to relevant local authorities, relevant State enterprises and other agencies;
 - d change of place names;
 - e vesting and/or other arrangements, such as rights of first refusal and sale and lease back, in relation to specific land, properties and other assets (including hydro-electric and geothermal assets);
 - f the development of an appropriate financial package; and
 - g further mechanisms or arrangements as appropriate.
- 147 The details of this redress, including its nature, scale and location, will be further negotiated and agreed following this Agreement.
- 148 The Crown and Raukawa acknowledge that:
- a the co-management arrangements have been negotiated in the context of the historical claims of Raukawa in respect of the Waikato River;
 - b further negotiations will follow for all remaining Raukawa historical claims, including their Waikato River claims; and
 - c all historical claims, including Waikato River claims, will be settled as a result of further negotiations.

PART V – PROCESS FOR COMPLETION

NEXT STEPS

- 149 The Relevant Affiliate Te Arawa Iwi/Hapu and Raukawa acknowledge the Crown will engage with Ngati Tuwharetoa in relation to their interests in the context of this Agreement.
- 150 The Crown, Relevant Affiliate Te Arawa Iwi/Hapu and Raukawa agree that following the signing of this Agreement a process will be developed to engage with those persons, including local authorities, iwi authorities and other stakeholders, who may have an interest in the subject matter of this Agreement. This engagement will take place between the signing of this Agreement and the deed of settlement.

- 151 The Parties intend to sign a deed of settlement as soon as possible following this Agreement and therefore agree to continue negotiating matters that have not yet been agreed.

COST OF NEGOTIATIONS

- 152 The Crown agrees to discuss a significant contribution to the costs of negotiations incurred by the Relevant Affiliate Te Arawa Iwi/Hapu and Raukawa in recognition that other sources of funding are not available for this work.

REVIEW

- 153 The deed of settlement will provide for representatives of the Crown to meet with representatives of the Relevant Affiliate Te Arawa Iwi/Hapu and Raukawa.
- 154 The purpose of the meetings shall be to review the operations and outcomes of the co-management framework and the other measures taken pursuant to the deed of settlement and settlement legislation and to consider what appropriate action might be taken so that the integrity of the settlement is protected.
- 155 Participants in the meetings are to be:
- a two individuals nominated by the Relevant Affiliate Te Arawa Iwi/Hapu;
 - b two individuals nominated by Raukawa;
 - c the Prime Minister (or any Minister nominated by him or her);
 - d the Minister for the Environment (or another Minister nominated by him or her);
 - e the Chairperson of Environment Waikato (or another Councillor nominated by him or her); and
 - f any other participants that Raukawa and the Relevant Affiliate Te Arawa Iwi/Hapu and the Crown agree should attend a particular meeting.
- 156 The Relevant Affiliate Te Arawa Iwi/Hapu, Raukawa or the Crown may give notice calling for a meeting and the meeting shall be held on a date to be agreed between the Crown, the Relevant Affiliate Te Arawa Iwi/Hapu and Raukawa which shall not be more than three months after the date of the notice.
- 157 Despite clause 156, only one meeting shall be held in any period of 12 months.
- 158 The Crown and the Relevant Affiliate Te Arawa Iwi/Hapu and Raukawa shall conduct a review of the arrangements for those meetings 15 years after the first meeting to discuss:
- a whether the meetings have been successful in achieving their purpose;
 - b whether changes to the arrangements for meetings should be made to assist with achieving their purpose; and
 - c whether or not there is still a need to hold the meetings.

CONDITIONS

STATUS OF THIS AGREEMENT

- 159 This Agreement has been entered into on a without prejudice basis, is subject to negotiation of outstanding matters, and is also subject to amendment following consultation, negotiation, and additional information becoming available.
- 160 Once the Parties have reached agreement on the outstanding matters, the Parties will work together to enter into a deed of settlement substantially based on this Agreement as soon as possible.

NOT BOUND UNTIL DEED OF SETTLEMENT

- 161 Raukawa and the Relevant Affiliate Te Arawa Iwi/Hapu, and the Crown agree that:
- a this Agreement is not binding;
 - b any agreements concerning Upper Waikato River claims reached with the Relevant Affiliate Te Arawa Iwi/Hapu and Raukawa in subsequent negotiation discussions will not be binding until embodied in a deed of settlement;
 - c any overlapping claims issues must be addressed to the Crown's satisfaction before it can enter into a deed of settlement; and
 - d settlement legislation will be needed to implement certain aspects of any deed of settlement entered into by the Crown, Raukawa and the Relevant Affiliate Te Arawa Iwi/Hapu.
- 162 Clauses 107-111, 137 and 138 of this Agreement are (despite clause 161(a)) binding from the date of this Agreement.

SIGNED THIS DAY OF SEPTEMBER 2008

For and on behalf of the Crown:

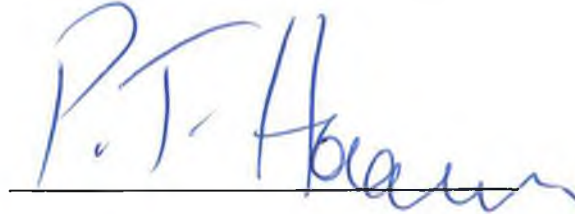
Authorised Signatory



Printed name:

Hon Dr Michael Cullen
Minister in Charge of Treaty of Waitangi
Settlements

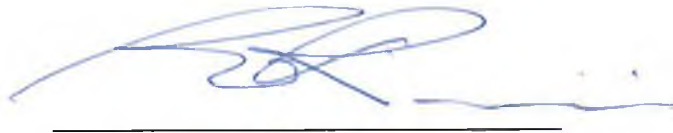
Authorised Signatory



Printed name:

Hon Parekura Horomia
Minister of Māori Affairs

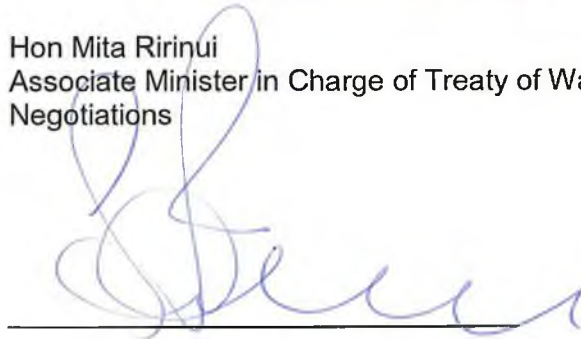
Authorised Signatory



Printed name

Hon Mita Rinui
Associate Minister in Charge of Treaty of Waitangi
Negotiations


Authorised Signatory

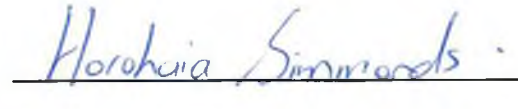


Printed name


Hon Shane Jones
Associate Minister in Charge of Treaty of Waitangi
Negotiations


For and on behalf of Raukawa by the Trustees of the Raukawa Trust Board:


George Whakatoai Rangitūtia
Chairperson


Horohuia Simmonds
Trustee


Rangitiriata Hodge
Trustee


Thomas Tomairangi Smith
Trustee


John Taka Edmonds
Trustee


Miriata Te Hiko
Trustee


P. T. Manaid

W. H. Tabb

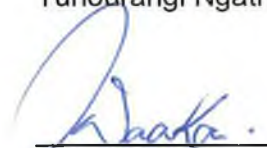
For and on behalf of the Affiliate Te Arawa Iwi/Hapu by the following Trustees of the Te Pumautanga o Te Arawa Trust:

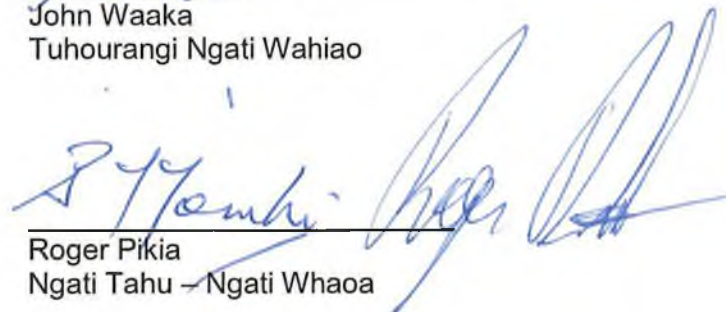
B. J. J. J.
W. J. J. J.
Kain Te Arawa


Eru George
Ngati Kearoa Ngati Tuara

Wi K. Te R. Maika
Wikeepa Te Rangipuawhe Maika
Tuhourangi Ngati Wahiao

Anaru Rangihueua
Anaru Rangihueua
Tuhourangi Ngati Wahiao


John Waaka
Tuhourangi Ngati Wahiao


Roger Pikia
Ngati Tahu - Ngati Whaoa

Pare Bray
Manahi Bray

Appendix Definitions

CNI Settlement Deed means the deed of settlement entered into between the Crown, the Affiliate Te Arawa Iwi/Hapu, Raukawa and other iwi and hapu with interests in the Central North Island Crown forest licensed land dated 25 June 2008;

deed of settlement means:

- I. in relation to the Relevant Affiliate Te Arawa Iwi/Hapu a deed of settlement discharging clause 11.21 of the TPT Settlement Deed; and
- II. in relation to Raukawa a document setting out the agreements relating to co-management in respect of their interests in the Waikato River.

Relevant Affiliate Te Arawa Iwi/Hapu means:

- I. Ngati Tahu - Ngati Whaoa in respect of the Waikato River and its catchments; and
- II. Ngati Kearoa Ngati Tuaroa and Tuhourangi Ngati Wahiao in respect of the catchments of the Waikato River;

River Iwi means the iwi who have interests in the Waikato River;

Te Pumautanga Trustees means the trustees of Te Pumautanga o Te Arawa Trust and includes the trustees appointed from time to time under the deed of trust establishing the Te Pumautanga o Te Arawa Trust in their capacity as trustees;

TPT Legislation means the Affiliate Te Arawa Iwi and Hapu Claims Settlement Bill and, when that bill has become law, means (if the context requires) the Act resulting from the passing of that bill;

TPT Settlement Deed means the deed of settlement entered into between the Crown, the Affiliate Te Arawa Iwi/Hapu and the Te Pumautanga Trustees dated 11 June 2008;

Upper Waikato River means the Waikato River from the Huka Falls to the base of Karapiro Dam as shown located within the area marked B on the map attached to this Agreement;

Waikato-Tainui has the meaning given to that term in the Waikato-Tainui River Agreement;

Waikato-Tainui River Agreement means the deed of settlement entered into between the Crown and Waikato-Tainui dated 22 August 2008;

SCHEDULES TO THE AGREEMENT

SCHEDULE ONE: VISION AND STRATEGY FOR THE WAIKATO RIVER

SCHEDULE TWO: GUARDIANS OF THE WAIKATO RIVER

SCHEDULE THREE: WAIKATO RIVER CLEAN-UP TRUST

SCHEDULE ONE:

VISION AND STRATEGY FOR THE WAIKATO RIVER

PART 1

VISION FOR THE WAIKATO RIVER

Tooku awa koiora me oona pikonga he kura tangihia o te maataamuri

“The river of life, each curve more beautiful than the last”

Our vision is for a future where a healthy Waikato River sustains abundant life and prosperous communities who, in turn, are all responsible for restoring and protecting the health and wellbeing of the Waikato River, and all it embraces, for generations to come.

OBJECTIVES FOR THE WAIKATO RIVER

In order to realise the vision, the following objectives will be pursued:

- A. The restoration and protection of the health and wellbeing of the Waikato River.
- B. The restoration and protection of the relationship of Waikato-Tainui, with the Waikato River, including their economic, social, cultural, and spiritual relationships.
- C. The restoration and protection of the relationship of Waikato River Iwi according to their tikanga and kawa, with the Waikato River, including their economic, social, cultural and spiritual relationships.
- D. The restoration and protection of the relationship of the Waikato Region’s communities, with the Waikato River, including their economic, social, cultural and spiritual relationships.
- E. The integrated, holistic and co-ordinated approach to management of the natural, physical, cultural and historic resources of the Waikato River.
- F. The adoption of a precautionary approach towards decisions that may result in significant adverse effects on the Waikato River, and in particular those effects that threaten serious or irreversible damage to the Waikato River.
- G. The recognition and avoidance of adverse cumulative effects, and potential cumulative effects, of activities undertaken both on the Waikato River and within its catchments on the health and wellbeing of the Waikato River.
- H. The recognition that the Waikato River is degraded and should not be required to absorb further degradation as a result of human activities.
- I. The protection and enhancement of significant sites, fisheries, flora and fauna.

- J. The recognition that the strategic importance of the Waikato River to New Zealand's social, cultural, environmental and economic wellbeing, requires the restoration and protection of the health and wellbeing of the Waikato River.
- K. The restoration of water quality within the Waikato River so that it is safe for people to swim in and take food from over its entire length.
- L. The promotion of improved access to the Waikato River to better enable sporting, recreational, and cultural opportunities.
- M. The application to the above of both maatauranga Maaori and latest available scientific methods.

STRATEGIES FOR THE WAIKATO RIVER

To achieve the objectives, the following strategies will be followed:

1. Ensure that the highest level of recognition is given to the restoration and protection of the Waikato River.
2. Establish what the current health status of the Waikato River is by utilising matauranga Maaori and latest available scientific methods.
3. Develop targets for improving the health and wellbeing of the Waikato River by utilising maatauranga Maaori and latest available scientific methods.
4. Develop and implement a programme of action to achieve the targets for improving the health and wellbeing of the Waikato River.
5. Develop and share local, national and international expertise, including indigenous expertise, on rivers and activities within their catchments that may be applied to the restoration and protection of the health and wellbeing of the Waikato River.
6. Recognise and protect waahi tapu and sites of significance to Waikato-Tainui and other Waikato River iwi (where they do decide) to promote their cultural, spiritual and historic relationship with the Waikato River.
7. Recognise and protect appropriate sites associated with the Waikato River that are of significance to the Waikato regional community.
8. Actively promote and foster public knowledge and understanding of the health and wellbeing of the Waikato River among all sectors of the Waikato regional community.
9. Encourage and foster a "whole of river" approach to the restoration and protection of the Waikato River, including the development, recognition and promotion of best practice methods for restoring and protecting the health and wellbeing of the Waikato River.

10. Establish new, and enhance existing, relationships between Waikato-Tainui, other Waikato River iwi (where they so decide), and stakeholders with an interest in advancing, restoring and protecting the health and wellbeing of the Waikato River.
11. Ensure that cumulative adverse effects on the Waikato River of activities are appropriately managed in statutory planning documents at the time of their review.
12. Ensure appropriate public access to the Waikato River while protecting and enhancing the health and wellbeing of the Waikato River.

PART 2

The vision and strategy is included in legislation

- 5.4 The settlement legislation will provide that, on establishment of the Guardians of the Waikato River in accordance with part 6, the Guardians will adopt the vision and strategy for the Waikato River.
- 5.5 The settlement legislation will:
- 5.5.1 set out the vision and strategy in a schedule to the settlement legislation; and
 - 5.5.2 provide that the Governor-General may, from time to time on the advice of the Minister for the Environment in accordance with clause 5.6, by Order in Council, amend the schedule to the settlement legislation that sets out the vision and strategy with effect from a date specified in the Order in Council.
- 5.6 The Minister for the Environment must advise the Governor-General to make an Order in Council under clause 5.5.2 to amend the vision and strategy if:
- 5.6.1 the Crown, Waikato-Tainui and the other appointers each receive a written recommendation from the Guardians of the Waikato River to amend the vision and strategy;
 - 5.6.2 the written recommendation sets out in full the amended vision and strategy; and
 - 5.6.3 the Crown, Waikato-Tainui and the other appointers agree in writing with each other to accept the recommendation.

STATUTORY RECOGNITION OF VISION AND STRATEGY

The vision and strategy is a national policy statement

- 5.7 For the purposes of clause 5.8, local authority means Waikato Regional Council, Franklin District Council, Waikato District Council, Hamilton City Council, Waipa District Council, South Waikato District Council, Matamata-Piako District Council, Rotorua District Council, Taupo District Council, Otorohanga District Council and Waitomo District Council.
- 5.8 The settlement legislation will provide that:
- 5.8.1 the vision and strategy is a national policy statement for the purposes of:
 - (a) the Resource Management Act 1991; and

- (b) any other Act that refers to a national policy statement under the Resource Management Act 1991;
- 5.8.2 despite clause 5.8.1, sections 45 to 55 of the Resource Management Act 1991 do not apply to the vision and strategy or its amendment under clauses 5.5 and 5.6;
- 5.8.3 a local authority must:
- (a) amend a Resource Management Act planning document to give effect to a provision in the vision and strategy, or any amendment to the vision and strategy under clauses 5.5 and 5.6, that affects the document; and
 - (b) make the amendment using the process set out in Schedule 1 of the Resource Management Act 1991 by the earlier of:
 - (i) the date on which the local authority is next required to review the document in accordance with section 79 of the Resource Management Act 1991; and
 - (ii) the third anniversary of the date of commencement of the settlement legislation; and
- 5.8.4 clauses 5.8.1-5.8.3 have effect to the extent that the content of the vision and strategy relates to matters covered by the Resource Management Act 1991.

Statements of general policy under the Conservation Act 1987 and Acts in Schedule 1 of that Act

5.9 The settlement legislation will provide that:

- 5.9.1 for the purposes of each of the following Acts, the vision and strategy is a statement of general policy approved under the following specified sections:
- (a) Conservation Act 1987, section 17B;
 - (b) Wildlife Act 1953, section 14C;
 - (c) Reserves Act 1977, section 15A;
 - (d) National Parks Act 1980, section 44;
 - (e) New Zealand Walkways Act 1990, section 4; and
 - (f) Wild Animal Control Act 1977, section 5;

- 5.9.2 where a conservation management strategy or a conservation management plan made under an Act listed under clause 5.9.1 derogates from a statement of general policy created by clause 5.9.1, the requirement that the strategy or plan must not derogate from a statement of general policy does not take effect for any statement of general policy made under clause 5.9.1 until the date that the strategy or plan is next amended or reviewed;
- 5.9.3 a strategy or plan affected by clause 5.9.2 must be amended or reviewed:
- (a) within 3 years of the settlement date; and
 - (b) within 3 years of the date on which the vision and strategy is amended under clauses 5.5 and 5.6; but
 - (c) does not have to be amended or reviewed more than once in any three year period; and
- 5.9.4 clauses 5.9.1 and 5.9.2 have effect in respect of an Act specified in those clauses to the extent that the content of the vision and strategy relates to the exercise of powers or the carrying out of functions for the Waikato River and activities in its catchments that affect the Waikato River under that Act.

Obligation to have particular regard to vision and strategy

5.10 The settlement legislation will provide that:

- 5.10.1 a person exercising powers or carrying out functions relating to the Waikato River and activities in its catchments that affect the Waikato River under any Act specified in clause 5.10.2 must, in addition to any other requirement specified in those Acts for the exercise of that power or the carrying out of that function, have particular regard to the vision and strategy;
- 5.10.2 the Acts are:
- (a) Biosecurity Act 1993;
 - (b) Conservation Act 1987;
 - (c) Fisheries Act 1996;
 - (d) Forests Act 1949;
 - (e) Health Act 1956;
 - (f) Historic Places Act 1993;

- (g) Land Drainage Act 1908;
- (h) Local Government Act 1974;
- (i) Local Government Act 2002;
- (j) National Parks Act 1980;
- (k) Native Plants Protection Act 1934;
- (l) New Zealand Geographic Board (Nga Pou Taunaha o Aotearoa) Act 2008;
- (m) New Zealand Walkways Act 1990;
- (n) Queen Elizabeth the Second National Trust Act 1977;
- (o) Reserves Act 1977;
- (p) Resource Management Act 1991;
- (q) River Boards Act 1908;
- (r) Soil Conservation and Rivers Control Act 1941;
- (s) Wild Animal Control Act 1977; and
- (t) Wildlife Act 1953;

5.10.3 clause 5.10.1 does not have effect in relation to:

- (a) the Resource Management Act 1991, where clauses 5.8.1-5.8.4 affect the exercise of a power or the carrying out of a function; and
- (b) the Acts specified in clause 5.9.1 where clauses 5.9.1-5.9.4 affect the exercise of a power or the carrying out of a function.

SCHEDULE TWO:

GUARDIANS OF THE WAIKATO RIVER

PART 1

FUNCTIONS OF THE GUARDIANS

6.4 The settlement legislation will provide that:

6.4.1 the principal function of the Guardians of the Waikato River is to achieve their purpose; and

6.4.2 the other functions of the Guardians are to:

- (a) engage with local authorities, the Waikato River Statutory Board, Waikato-Tainui, other Waikato River iwi and other appropriate persons to achieve the purpose;
- (b) receive, commission, review and share information on the state of the Waikato River;
- (c) carry out research into, promote education programmes relating to, and advocate for, and provide advice in relation to, activities or changes required to restore or protect the health and wellbeing of the Waikato River for future generations;
- (d) monitor whether appropriate recognition has been given to the vision and strategy in policies, plans and processes related to the Waikato River and activities in its catchments that affect the Waikato River;
- (e) promote appropriate recognition of the vision and strategy in policies, plans and processes related to the Waikato River and activities in its catchments that affect the Waikato River;
- (f) propose how the vision and strategy could be provided for in policies, plans and processes related to the Waikato River and activities in its catchments that affect the Waikato River;
- (g) monitor the implementation of the vision and strategy, including through reports received from the Waikato River Statutory Board;
- (h) report at least every 5 years to the Crown, Waikato-Tainui and the other appointers on the progress being made towards achieving the vision and strategy; and

- (i) review the vision and strategy when the Guardians consider appropriate but at least every 10 years and recommend to the Crown, Waikato-Tainui and the other appointers any amendments considered necessary or that no amendment is necessary.

REVIEW OF THE VISION AND STRATEGY

6.5 The settlement legislation will provide that:

6.5.1 in reviewing the vision and strategy, the Guardians of the Waikato River must consider:

- (a) the Waikato-Tainui objectives for the Waikato River;
- (b) other objectives for the Waikato River; and
- (c) any documents considered relevant by the Guardians about the management of the Waikato River and activities in its catchments that affect the Waikato River, including iwi and hapuu management plans;

6.5.2 the Guardians may only make recommendations to amend the vision and strategy that are consistent with the overarching purpose of this settlement, being the restoration and protection of the health and wellbeing of the Waikato River for future generations;

6.5.3 before making a recommendation under clause 6.4.2(i), the Guardians must undertake consultation, in such manner as the Guardians consider appropriate, on any proposed amendments to the vision and strategy by:

- (a) consulting with persons who will or may be affected by, or have an interest in, the proposed amendments;
- (b) undertaking consultation with the public; and
- (c) giving public notice of the public consultations to be undertaken; and

6.5.4 for the purposes of clause 6.5.3, public notice means a notice published in one or more newspapers circulating in the Waikato region.

REVIEW OF GUARDIANS

6.6 Meetings will be held five yearly for the purposes set out in clause 6.7.

6.7 The purposes are to:

- 6.7.1 review the operations and outcomes of the Guardians of the Waikato River;
 - 6.7.2 review how effectively the Guardians have achieved their purpose and functions; and
 - 6.7.3 consider what action might be taken to enable the Guardians to achieve more effectively their purpose and functions, and any other purposes or functions that the participants in the meeting may consider appropriate.
- 6.8 The first meeting is to be held on a date to be agreed by the Crown and Waikato-Tainui that is within six months of the submission of the first report by the Guardians of the Waikato River under clause 6.4.2(h), with subsequent meetings to be held within six months of each subsequent report issued by the Guardians.
- 6.9 The proposed participants in the meetings are to be:
- 6.9.1 one individual nominated by Waikato-Tainui;
 - 6.9.2 one individual nominated by Maniapoto;
 - 6.9.3 one individual nominated by Raukawa;
 - 6.9.4 one individual nominated by Te Arawa;
 - 6.9.5 one individual nominated by Tuuwharetoa;
 - 6.9.6 the Prime Minister or nominee;
 - 6.9.7 the Minister for the Environment or nominee;
 - 6.9.8 the Chairperson of Environment Waikato or nominee; and
 - 6.9.9 any other individuals that Waikato-Tainui and the Crown agree should attend a particular meeting.

PART 2

FUNCTIONAL ASPECTS

Membership

- 1 The settlement legislation will provide that:
 - 1.1 the Guardians of the Waikato River is a body corporate separate from its members, employees, the appointers and Environment Waikato;
 - 1.2 the Guardians of the Waikato River consists of 10 members being the following representatives:
 - 1.2.1 1 representative appointed by the trustees of the Waikato Raupatu River Trust;
 - 1.2.2 1 representative appointed by the trustees of Te Puumautanga o Te Arawa;
 - 1.2.3 1 representative appointed by the Tuuwharetoa Maaori Trust Board;
 - 1.2.4 1 representative appointed by the Raukawa Trust Board;
 - 1.2.5 1 representative appointed by the Maniapoto Maaori Trust Board;
 - 1.2.6 4 representatives appointed by the Minister for the Environment in consultation with the Minister of Maaori Affairs and the Minister for Local Government to represent the interests of all New Zealanders in the Waikato River;
 - 1.2.7 1 representative appointed by the Minister for the Environment on the recommendation of Environment Waikato to represent the regional community interest in the Waikato River;
 - 1.3 in appointing members to the Guardians of the Waikato River under clauses 1.2.6 and 1.2.7, the Minister for the Environment:
 - 1.3.1 must have regard to the members already appointed to the Guardians of the Waikato River to ensure that the membership reflects a balanced mix of knowledge and experience in relation to the Waikato River; and
 - 1.3.2 must ensure that at least 2 members are ordinarily resident in the Waikato region;
 - 1.3.3 may seek recommendations from persons whom the Minister considers appropriate;

- 1.4 if the iwi groups represented by an entity named in clause 1.2.2-1.2.5 establish an approved governance entity as part of a settlement of their claims in relation to the Waikato River, the power of appointment will automatically transfer to that governance entity on the date that the governance entity is established and approved under the settlement;
- 1.5 a member is appointed when the appointer of the member gives notice in writing of the appointment to the other appointers and to the Guardians of the Waikato River;
- 1.6 a member may be appointed for a term not exceeding 3 years and may be reappointed for further terms not exceeding 3 years each;
- 1.7 despite clause 1.6:
 - 1.7.1 the initial members appointed by the trustees of the Waikato Raupatu River Trust, Raukawa Trust Board and Tuuwharetoa Maaori Trust Board will be appointed for terms of 3 years;
 - 1.7.2 the initial members appointed by the trustees of Te Puumautanga o Te Arawa and the Maniapoto Maaori Trust Board will be appointed for terms of 2 years; and
 - 1.7.3 2 of the initial members appointed by the Minister for the Environment will be appointed for 3 years and 3 of them will be appointed for terms of 2 years;
- 1.8 the appointer may, by notice in writing to the other appointers and to the Guardians of the Waikato River, remove a member appointed by that appointer from office at any time if the appointer is satisfied that the member:
 - 1.8.1 is unable to perform the functions of office;
 - 1.8.2 is under a legal incapacity;
 - 1.8.3 is bankrupt;
 - 1.8.4 has neglected his or her duty as a member; or
 - 1.8.5 has been guilty of misconduct;
- 1.9 a member may resign by giving 4 weeks' notice in writing to the appointers and to the other Guardians of the Waikato River;
- 1.10 the appointment of a person as a member of the Guardians of the Waikato River is not invalid because of a defect in the appointment;
- 1.11 in performing the functions and duties and in exercising the powers of the Guardians of the Waikato River, a person appointed as a member of the Guardians must act in a manner that achieves the overarching purpose of this settlement to restore and protect the health and well being of the Waikato River for future generations;

Vacation of membership

- 1.12 despite clause 1.6, a member of the Guardians of the Waikato River whose term of appointment has expired, continues to hold office until:
 - 1.12.1 the member is reappointed; or
 - 1.12.2 a successor for the member is appointed by the appointer of that member, in the manner in which the appointment was originally made;
- 1.13 clause 1.12 does not apply if the member has:
 - 1.13.1 died;
 - 1.13.2 been removed from office under clause 1.8; or
 - 1.13.3 has resigned under clause 1.9;
- 1.14 if a member should die, resign, be removed from office or the member's term of appointment expire and that person not be reappointed for a further term, the appointer must, as soon as reasonably practicable, appoint a successor to that member, and in any event within 4 weeks;
- 1.15 if there is a vacancy as a result of any of the appointers named in clauses 1.2.1-1.2.5 (**iwi appointers**) having not yet appointed a member or having not yet replaced a member under clause 1.14, then for any meetings held while there is a vacancy, the Crown will reduce its representation under clause 1.2.6 to ensure that at those meetings there are an equal number of members appointed by the iwi appointers and members appointed by the Crown;
- 1.16 if one of the iwi appointers named in clauses 1.2.2 to 1.2.5 has not yet appointed a member or not yet replaced a member under clause 1.16, the trustees of the Waikato Raupatu River Trust may appoint an interim member until such time as the iwi appointer appoints a member or replaces a member;

Appointment of co-chairpersons

- 1.17 the Guardians of the Waikato River must appoint 2 members to act as co-chairpersons at the first meeting of the Guardians and subsequently at the first meeting after each expiry of a term of office;
- 1.18 the co-chairpersons will each hold office for a period to be determined by the Guardians of the Waikato River at the first meeting;
- 1.19 the initial co-chairpersons will be the member appointed by the trustees of the Waikato Raupatu River Trust and one of the members appointed by the Minister for the Environment;
- 1.20 the co-chairpersons may be reappointed for further terms.

Reporting

- 2 The settlement legislation will provide that:
 - 2.1 at the end of each financial year (as defined in the Public Finance Act 1989), the Guardians of the Waikato River must provide a report to the appointers;
 - 2.2 the report will include (but not be limited to) the following information:
 - 2.2.1 the dates and times of meetings of the Guardians of the Waikato River that occurred during that year;
 - 2.2.2 details of any advice and recommendations made by the Guardians of the Waikato River during that year;
 - 2.2.3 the outcomes achieved by the Guardians of the Waikato River during that year; and
 - 2.2.4 any other activities undertaken by the Guardians of the Waikato River during that year;
 - 2.3 the Guardians of the Waikato River must publish every report;
 - 2.4 that Schedule 4 of the Public Finance Act 1989 is amended by:
 - 2.4.1 inserting, in its appropriate alphabetical order, the following item:
 - 2.4.2 “the Guardians of the Waikato River”; and
 - 2.4.3 inserting ticks in the following columns to the right of the words inserted by clause 2.4.1:
“Annual Report 150”, “SSP 153”, “Securities 161”, “Borrowing 162”, “Guarantees 163”, “Derivatives 164” and “Surplus 165”;
 - 2.5 the obligations of the Guardians of the Waikato River under the Public Finance Act 1989 are the responsibility of the members of the Guardians of the Waikato River; and
 - 2.6 the Guardians of the Waikato River is a public entity as defined in section 4 of the Public Audit Act 2001 and, in accordance with that Act, the Auditor-General is its auditor.

Meetings and standing orders

- 3 The settlement legislation will provide that:
 - 3.1 the Guardians of the Waikato River must hold the meetings that are necessary for it to properly satisfy the purpose and functions of the Guardians of the Waikato River, being no less than 4 meetings in each financial year;

- 3.2 the Guardians of the Waikato River must convene its first meeting within 3 months of the settlement legislation coming into force;
- 3.3 a member of the Guardians of the Waikato River has, unless lawfully excluded, the right to attend any meeting of the Guardians of the Waikato River;
- 3.4 if a member is not able to attend a meeting the member may attend via teleconference or other electronic means;
- 3.5 members can request leave of absence from any particular meeting;
- 3.6 members will receive prior written notice of each meeting, which will be delivered by hand or sent to the members by post, facsimile or electronic mail message;
- 3.7 the co-chairpersons must give notice to each member of the time and place of a meeting by post, facsimile or electronic mail message:
 - 3.7.1 not less than 5 business days before a meeting; or
 - 3.7.2 if the Guardians of the Waikato River has adopted a schedule of meetings, not less than 5 business days before the first meeting on the schedule;
- 3.8 the Guardians of the Waikato River will meet within the first two months of each financial year;
- 3.9 at the initial meeting each year, the Guardians of the Waikato River will adopt a schedule of meetings for the coming year;
- 3.10 notification to members of the schedule or of any amendment to the schedule will constitute a notification of every meeting on the schedule or amendment;
- 3.11 a meeting of the Guardians of the Waikato River will not be invalid if notice of the meeting was not received or not received in time by a member unless:
 - 3.11.1 it is proved that the person responsible for giving the notice acted in bad faith or without reasonable care; and
 - 3.11.2 the member concerned did not attend the meeting;
- 3.12 a member may waive the requirement regarding the giving of notice of a meeting to that member;
- 3.13 a meeting is duly constituted if a quorum is present, whether or not all of the members are voting or entitled to vote;
- 3.14 business may not be transacted at any meeting unless at least a quorum of members is present during the whole of the time at which the business is transacted;

- 3.15 the quorum for meetings is 6 members, who must include at least one of the co-chairpersons and 3 members appointed by the iwi appointers and 3 members appointed by the Minister for the Environment;
- 3.16 the members of the Guardians of the Waikato River will reach decisions through:
 - 3.16.1 the highest level of good faith engagement; and
 - 3.16.2 consensus decision-making as a general rule;
- 3.17 members are to endeavour to reach a consensus on all matters discussed and decided by the Guardians of the Waikato River;
- 3.18 members are bound by each recommendation or decision made by the Guardians of the Waikato River and will not take steps outside the Guardians of the Waikato River or its meetings to undermine a consensus recommendation or decision;
- 3.19 decisions must be consistent with the vision and strategy;
- 3.20 a resolution of the Guardians of the Waikato River shall be valid if certified by the co-chairpersons;
- 3.21 the Guardians of the Waikato River will keep minutes of its proceedings and the minutes duly entered and approved by the Guardians will be prima facie evidence of those proceedings;
- 3.22 an act or proceeding of the Guardians of the Waikato River will not be invalidated by:
 - 3.22.1 a vacancy in the membership of the Guardians at the time of the act or proceeding; or
 - 3.22.2 the subsequent discovery of some defect in the appointment of a person acting as a member or that the person was incapable of being a member;
- 3.23 the members may bring to meetings such advisers as are necessary to facilitate the efficient transaction of the business of the Guardians of the Waikato River;

Escalation

- 3.24 if the Guardians of the Waikato River are unable to reach a decision by consensus through good faith engagement, then the issue shall be referred to the Minister for the Environment and a person nominated by the iwi authorities (**nominated iwi representative**);
- 3.25 the Minister and the nominated iwi representative will work in good faith to resolve the issue;

- 3.26 if the issue is resolved the Minister and the nominated iwi representative will advise the Guardians of the Waikato River of the agreed resolution and the Guardians will give effect to the resolution; and
- 3.27 if the issue is not resolved, the Minister and the nominated iwi representative will advise the Guardians of the Waikato River that the issue has not been able to be resolved.

Operational costs, fees and travelling expenses

- 4 The settlement legislation will provide that:
 - 4.1 the Crown will bear the reasonable operational costs of the Guardians of the Waikato River;
 - 4.2 the Guardians of the Waikato River is deemed to be a statutory board within the meaning of the Fees and Travelling Allowances Act 1951; and
 - 4.3 there shall be paid to members of the Guardians of the Waikato River, out of money appropriated by Parliament, remuneration by way of fees, salary, or allowances, and travelling allowances and expenses, in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly.

Members not liable for things done or omitted in good faith

- 5 The settlement legislation will provide that a member of the Guardians of the Waikato River is not liable for anything done or omitted in the performance of the Guardians of Waikato River's functions that is done or omitted in good faith.

No entitlement to compensation

- 6 The settlement legislation will provide that a member of the Guardians of the Waikato River is not entitled to compensation or other payment or benefit if he or she ceases for any reason to hold office as a member of the Guardians of the Waikato River.

SCHEDULE THREE:

WAIKATO RIVER CLEAN-UP TRUST

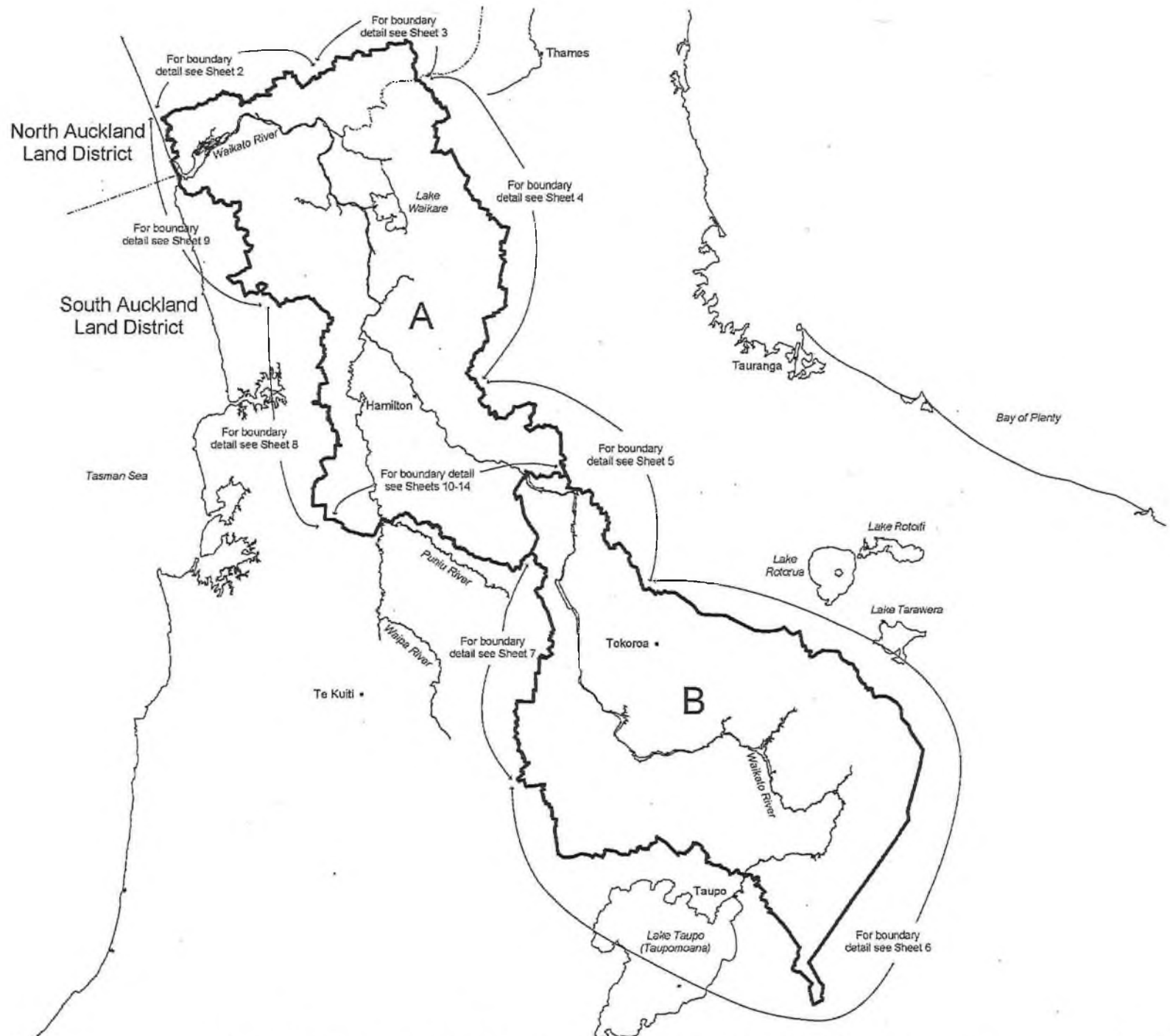
Establishment of trust

- 6.11 On the settlement date there will be established a trust to be known as the Waikato River Clean-up Trust.
- 6.12 The terms of the trust deed will be drawn up by the Crown in consultation with Waikato-Tainui, other River iwi and relevant local authorities.
- 6.13 Those terms will include the following:
- 6.13.1 the objects of the Waikato River Clean-up Trust will include the restoration and protection of the health and wellbeing of the Waikato River for future generations;
 - 6.13.2 the trustees of the trust will be appointed by the Guardians of the Waikato River; and
 - 6.13.3 the trust fund of the Waikato River Clean-up Trust will be available for use in such projects for the rehabilitation of the Waikato River as are:
 - (a) proposed by applicants (who may be Waikato-Tainui, other iwi, local authorities, landowners or others) furnishing to the trustees detailed applications in such form as the trustees may from time to time require; and
 - (b) considered by the trustees under a process devised by the trustees to ensure appropriate contestability and efficiency in allocation of the trust fund; and
 - (c) approved by the trustees after due consideration.
- 6.14 The Waikato River Clean-up Trust will be executed by the Crown and Waikato-Tainui as co-settlors.
- 6.15 The Crown will settle on the trustees of the Waikato River Clean-up Trust for the purposes of that trust:
- 6.15.1 the sum of \$7,000,000, on the settlement date; and
 - 6.15.2 further sums of \$7,000,000 on each anniversary of the settlement date up to and including the 29th anniversary of the settlement date.

- 6.16 Upon receipt of the scoping study under clauses 6.19 and 6.20, the Crown will consider whether any further contributions to the Waikato River Clean-up Trust should be made.
- 6.17 The Crown and other persons may settle amounts on the trustees of the Waikato River Clean-up Trust for the purposes of that trust and the trustees will accept such other settlements if the terms of such other settlements are appropriate.
- 6.18 The Crown acknowledges that the establishment of the Waikato River Clean-up Trust has been negotiated by Waikato-Tainui for the health and well-being of the Waikato River, but for the avoidance of doubt the settlement by the Crown on the Waikato River Clean-up Trust is not part of the redress provided to Waikato-Tainui in settlement of the raupatu claims and is not to be taken into account for the purpose of the relativity mechanism under the 1995 Deed.

Scoping study for clean-up fund

- 6.19 The Crown will, following the date of this deed, commission and fund a scoping study that is:
- 6.19.1 to be completed before the date on which this deed becomes unconditional;
 - 6.19.2 to be conducted by a person or entity independent of the parties;
 - 6.19.3 to identify rehabilitation priorities in relation to the Waikato River and the likely cost of those priority activities; and
 - 6.19.4 to provide useful background information to the establishment and operation of the Waikato River Clean-up Trust.
- 6.20 The Guardians establishment committee will act as a reference group for the scoping study. The Crown and Waikato-Tainui will issue joint terms of reference for that purpose.



UPPER WAIKATO RIVER STATUTORY ENTITY

